



# Agricultural and Seasonal Workforce Services Advisory Committee

## Meeting details

**Date:** Wednesday, November 8, 2023

**Time:** 2:00 p.m. – 4:00 p.m.

**Location:** Zoom

### Committee members present

- Jon DeVaney
- Michael Gempler
- Jeff Perrault
- Michele Besso
- Rosalinda Guillen & Diana Lopez Batista (Proxy for Rosalinda Guillen)
- Elizabeth Strader (Proxy for Victoria Ruddy)

### Non-voting agency representatives present

- Juan Gamez

### Committee / Agency members absent

- Delia Peña
- Edgar Franks
- Ignacio Marquez
- Uriel Iñiguez

### ESD Staff

- Joy Adams
- Bertha Clayton
- Vickie Carlson
- Petra Meraz
- Margarito Cabrera
- Gary Kamimura

## Summary

### Welcome and Introductions

Employment Security Department (ESD) Acting Policy Director, Chairperson, Joy Adams, welcomed everyone, roll call was taken. A quorum was established, six voting members were present. Motion to approve September meeting minutes: Jon DeVaney; second: Motion carried unanimously.

### Agenda

(Addendum I)

Chairperson Joy Adams reviewed the agenda for the meeting and asked if anyone had any questions.

### ASWS Office – Bertha Clayton, Director, ASWS Office, ESD (Addendum II.)

Recording timestamp **00:04:37**

- Resignation of Rene Maldonado (State Monitor Advocate)
- Status of OFLC Monitoring Report
- JLARC Audit
- Customer Experience Study
- ESD's comments to NPRM H-2A Rules
- Preview of ASWS Committee survey results

Questions & Answers / Comments:

**Rosalinda:** The comments that ESD is making; they are on behalf of the agency and not this committee?

**Gary:** Correct

**Rosalinda:** Is there any way that we can see those? **Gary:** Yes, Bertha, Dan and I were just discussing this- I don't think there is any reason why we can't share what we have to date with the committee. Again, our perspective on these things is to provide comment in terms of what impact the proposed rule changes had with respect to our ability to administer the program.

**Rosalinda:** Just curious of the logic of ESD sending in comments on behalf of the agency without this committee? **Gary:** There is a lot of different ways to approach rulemaking. We (ESD) take (and have historically taken) a pretty narrow focus and speak directly to the impact the proposed changes would have on our ability as the state workforce agency to administer the program.

**FLC Applications – Petra Meraz, Supervisor, FLC Program**Recording timestamp **00:18:39**

Data provided is from October 1, 2023- October 31, 2023

**Compliance Team update – Margarito Cabrera, Compliance Unit Supervisor**Recording timestamp **00:21:19**Questions & Answers / Comments:

**Rosalinda:** On those 7 complaints resolved by informal resolution- how do we find out what the resolutions were? **Margarito:** Do you mean how we resolve these complaints? **Rosalinda:** Yes (Margarito then explains complain process) **Rosalinda:** I mean how exactly were each of these resolved? Is there somewhere we can go to see this information? Is it public information?

**Bertha:** As per federal regulations, for a complaint to be resolved; it must meet criteria of at least one of the 7 listed items; one of which is if the complainant is satisfied with the outcome. Most of these cases that were informal resolution was with communication with us as a neutral liaison between the employer and the complainant.

**2024 ASWS Advisory Committee Legislative Report (Addendum III.)**Recording timestamp **00:33:50****Bertha Clayton, Director, ASWS Office, ESD**

- RCW 50.75.040(4): In even years, the committee shall submit a report to the governor and the legislature by October 31<sup>st</sup>
- Review of intended audience (who reads the report)?
- High level review of timeline and Committee role and responsibility

Questions & Answers / Comments:

**Jon:** The reports in the past have had some really useful charts of data- in days of yore the agency would publish an Ag Workforce report which is now in the data dashboard only. Have you given any thought to including, along with our recommendations and the mandated reporting, any general information on Ag Workforce trends pulled from that dataset? It would be useful information. **Bertha:** I agree. I think that is up to the committee.

**Michele:** I knew that you didn't publish the Workforce reports any longer, but didn't realize that we could still access that data. I would also appreciate knowing how to find that data. Thanks.

**Rosalinda:** I agree. I'd like to know where to go to find more detail on some of what's being presented here.

**Bertha:** A lot of those reports predate me, so I am wondering if Joy/Craig has additional information.

**Joy:** I can take this and find out about it before our January meeting.

2024 ASWS Committee Priorities (Addendum IV.)

Recording timestamp 00:50:53

**Bertha Clayton, Director, ASWS Office, ESD**

**Committee Focus Areas:**

2024: Improving recruitment of domestic farmworkers/reducing number of H2A positions requested

Committee Discussion :

**Jon:** (wordsmithing this a little) I think there is a strong consensus in this committee around improving domestic recruitment; but the second half of that phrase I think is a different goal that we don't necessarily agree on. (You could do that by a number of ways) I think there is strong agreement to reduce *the need* for the program by having a more efficient domestic labor market that identifies every potential worker out there and making sure that they are aware of the job market opportunities exist. I think that's where we have a consensus and that's a focus that making sure that the Worksource system is assessable to all current and potential workers; its a valuable tool for employers.

**Rosalinda:** I agree with reducing the need for the H-2A program instead of the positions.

**Elizabeth:** I agree.

**Bertha:** How can ESD facilitate this conversation? Do committee members wish to speak about any deliverables or a potential framework to have this discussion in 2024?

**Michele:** This is so connected with the Customer Experience Study. We really want to start a conversation about recruitment AND hiring.

What are the barriers (to hiring) and how we can reduce those barriers?

Some of those are at ESD WorkSource; but some of them are elsewhere. We know that only a very small percentage of workers get hired through the WS process. I think the informal hiring process is not working the way it did- in the sense of workers being hired by the supervisor through family connections- that may not be happening as much.

How is it happening now? So, then the question is; what are the alternative ways to get hired? And, to what extent is it 'how to recruit workers', but is it also 'how do we track and enforce the requirement that local workers be hired'?

**Mike:** I think we're looking at it from an incorrect perspective. We should be taking action that helps there be a **sufficient** labor force for agriculture while maximizing opportunity (the use of) the domestic workforce. I'd like to look at it from more of a supply perspective rather than a restrictive perspective.

**Rosalinda:** (to Mike) How is reducing the need for the H-2A program restrictive? We are moving forward trying to improve the recruitment & hiring of domestic farm workers- there is no question that the program will always be in place. I guess I don't think it is restrictive. It's part of setting a thought process (or an environment); really focusing on domestic recruitment; focusing on removing barriers for domestic farm workers. It's also domestic farm workers knowing they have the opportunities for these jobs.

**Jon:** We have made several recommendations on improving domestic recruitment where we ran into certain procedural or rule/roadblock. Have we had the opportunity to go back and review those again and maybe think of alternative methods of addressing the same issue?

I think that we should set aside some time to review these earlier in the next year before we get into drafting of recommendations in the report.

**Bertha:** Jon, we do have that document and will share it with the committee.

**Rosalinda:** I agree with Jon, it would be good every time we have this discussion to have that in front of us. Such as a list noting the status of each item.

I did want to say that improving recruitment and hiring of domestic farm workers can also not be without a measuring mechanism to know that that's happening. There are barriers to farm workers getting hired even after we agree to it. This is a unique group where we're having these open discussions and I think that it's good even though sometimes it sounds like you know we're not agreeing and I think that's totally appropriate.

**Michele:** I do think we need a bit more brainstorming as well. I hear it a lot in the community this issue of displacement and I'm wondering how we can look for alternatives; maybe holding some trainings for farm workers & then people could put their names down and that training would make them more attractive to hire?? We understand that the world has changed and the old system was just informal; people drove around looking for work- that no longer is working.

Please refer to the recording for a complete transcript of the committee discussion.

Recording timestamp **01:11:38**

**Good of the Order – Joy Adams**

Recording timestamp **01:36:44**

- Future Agenda Items
- Public Comment

**ASWS Committee Member Survey Results – not presented, all slides included**

(Addendum V.)

**Adjourned**

Joy Adams thanked everyone for their continued active participation and for their commitment to this work, then ended the meeting at 4:03 p.m.

**2024 Meetings**

The next Agricultural and Seasonal Workforce Services Advisory Committee meeting is on:

- **January 17, 2024 – 1:00 p.m. to 3:00 p.m. via Zoom**

**Addendums**

ADDENDUM I.



AGENDA

Agricultural and Seasonal Workforce Services (ASWS) Advisory Committee

Wednesday, November 8, 2023 | 2:00 pm – 4:00 pm | Zoom | 212 Maple Park Ave SE Olympia WA 98501

TIME	TOPIC
2:00 pm	Welcome Joy Adams, Deputy Director, ESD Employment System Policy & Integrity Division <ul style="list-style-type: none"> <li>• Roll Call – Vickie Carlson</li> <li>• Agenda Review – Joy Adams</li> <li>• <del>Approval of the October meeting minutes</del> (moved to Jan 2024)</li> </ul>
2:10 pm	ASWS Office Update – Bertha Clayton, Director, ASWS Office, ESD <ul style="list-style-type: none"> <li>• ASWS Office – Bertha Clayton</li> <li>• FLC Applications – Petra Meraz, Foreign Labor Certification Program Supervisor</li> <li>• ASWS Compliance Update – Margarito Cabrera, Compliance Unit Supervisor</li> </ul>
2:35 pm	2024 ASWS Advisory Committee Legislative Report, ASWS <ul style="list-style-type: none"> <li>• Project overview</li> <li>• Committee role &amp; expectations</li> </ul>
3:00 pm	Break
3:10 pm	2024 Planning <ul style="list-style-type: none"> <li>• Committee prioritization of discussion topics</li> </ul>
3:30 pm	Presentation of Committee Survey Results <ul style="list-style-type: none"> <li>• Analysis and Discussion</li> <li>• 2024 Committee Meeting Schedule Development</li> </ul>
3:50 pm	Good of the Order – Joy Adams
3:55 pm	Public Comment
4:00 pm	Adjourn <i>Reminder: NO ASWS Advisory Committee Meeting in December</i>

GROUND RULES

No side conversations | Phones on silent | Let people speak without interruption | Respect the opinion of others | Strive for understanding | Speak your mind | Strive for common ground | Assume good intent | Stay focused on task at hand and be willing to come back to the topic | Make sure everyone understands | Look out for each other | Take care of your own comfort | Ask for what you need

ADDENDUM II.

## ASWS Office Update November 2023



Bertha J. Clayton, ASWS Director, ESD

## Office Update - Happenings



- Resignation of Rene Maldonado, State Monitor Advocate
- Status of OFLC Monitoring Report
- Status of JLARC Audit
- Status of Customer Experience Study
- Status of ESD's comments to NPRM H-2A Rules (09/2023)
- Preview of ASWS Committee Survey Results

# FLC Applications



Petra Meraz, Foreign Labor Certification Program Supervisor, ASWS, ESD

## Commenced & Active – Oct 1-31



# FLC Applications – Oct 1-31



	2024	2023
■ # Applications	4	8
■ # Workers Requested	75	137
■ # Withdrawn Applications	0	1
■ # Withdrawn Workers	0	5
■ # DOL Denied Applications	0	1
■ # DOL Denied Workers	0	1
■ # Commenced Applications	7	6
■ # Commenced Workers	501	166
■ # Impossibilities Applications	0	0
■ # Impossibilities Workers	0	0
■ # Active Applications	7	6
■ # Active Workers	501	166

# Compliance Team update



**Employment  
Security  
Department**  
WASHINGTON STATE

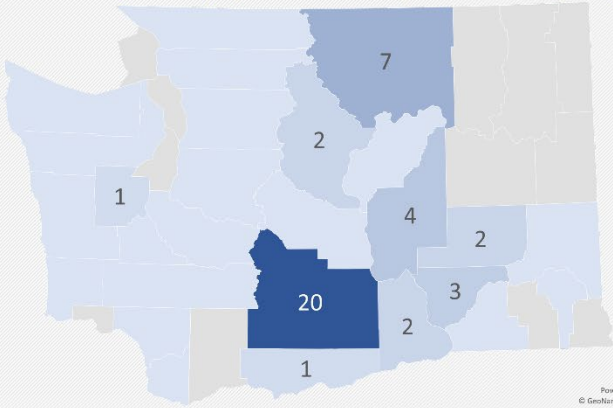
Margarito Cabrera, ASWS Compliance Unit Supervisor, ESD



## Site Visits in Fiscal Year (FY) 2024 (Oct 23 – Sep 2024)



### Site Visits By County up to October 31<sup>st</sup>, Year to Date (YTD)



Site Visits up to  
October 31st YTD Total

**42**

### Site Visits by Month



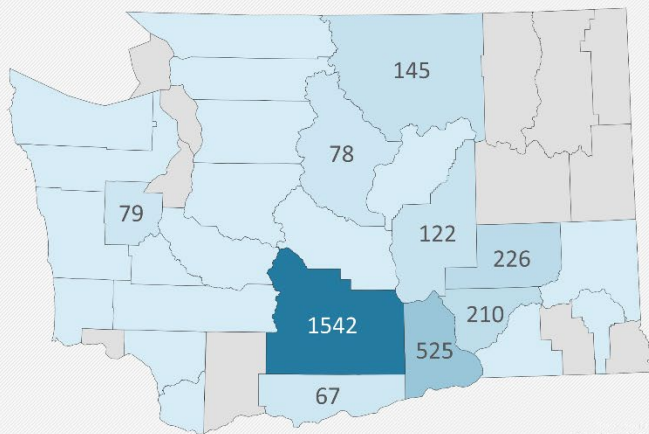
Oct-23

15-30 min presentations about basic farmworkers rights and terms and conditions of the H-2A contract conducted where H-2A workers live or work .

## Approximate Workers Contacted in FY2024 (Oct 23 – Sep 2024)



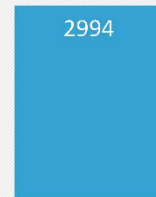
### By County up to October 31<sup>st</sup>, Year to Date (YTD)



Workers contacted  
Up to Oct 31 YTD Total

**2994**

### Workers Contacted by Month



Oct-23

## Field Checks in FY2024 (Oct 23 – Sep 2024)



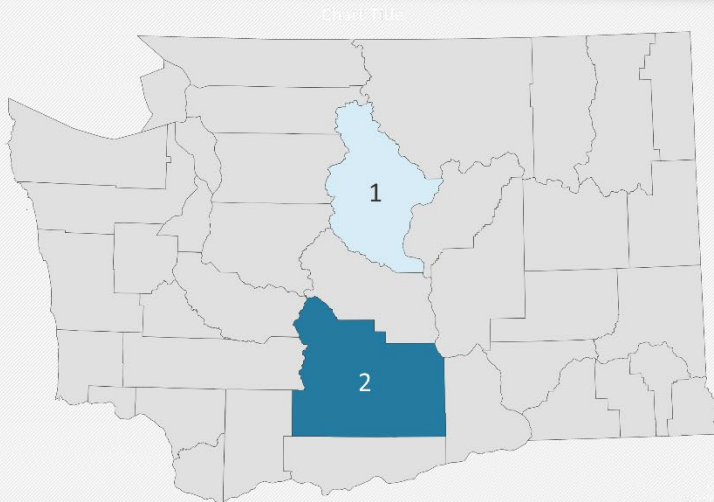
### 20 CFR 653.503 Field Checks

(a) If a worker is placed on a clearance order, the SWA must notify the employer in writing that the SWA, through its ES offices, and/or Federal staff, must conduct random, unannounced field checks to determine and document whether wages, hours, and working and housing conditions are being provided as specified in the clearance order.

(c) Field checks must include visit(s) to the worksite at a time when workers are present. When conducting field checks, ES staff must consult both the employees and the employer to ensure compliance with the full terms and conditions of employment.

Number of Placements up to October 31st, Year to Date (YTD) <i>(seeker referred and started working)</i>	0
Number of Field Checks Performed by ASWS	3
Number of Field Checks currently pending	0

## ASWS Field Checks by County PY2024

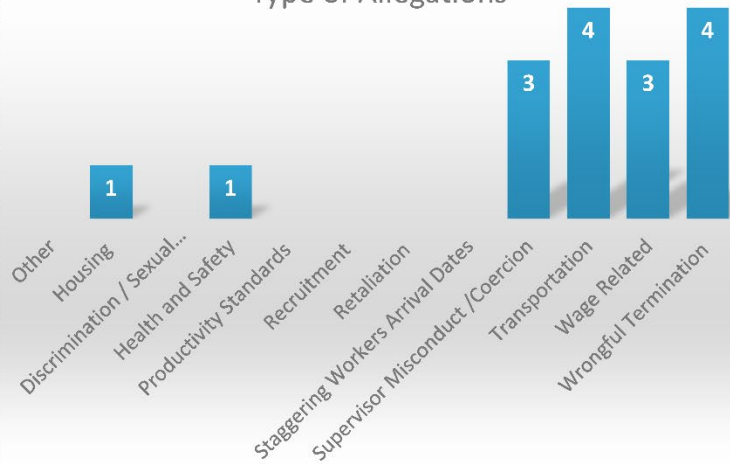


Field Checks  
Up to Oct 31st YTD Total  
**3**

# Complaints / Apparent Violations (AV) in FY2024 (Oct 23 – Sep 2024)



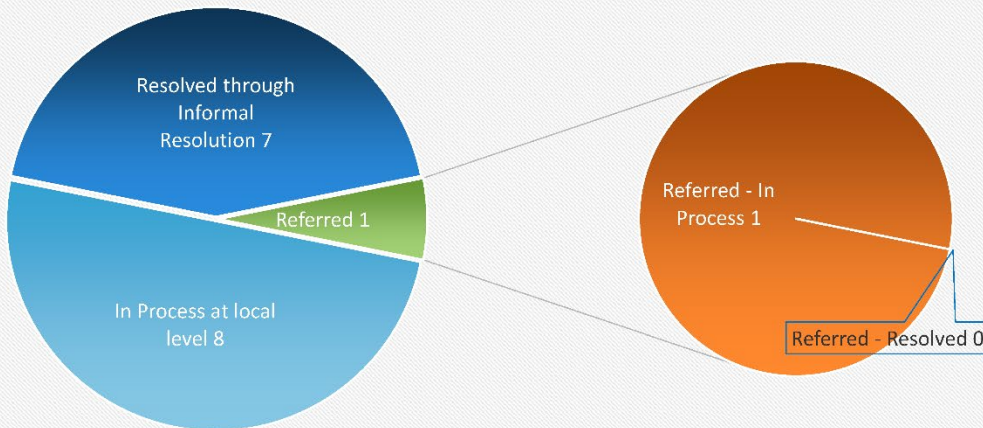
Type of Allegations



Complaint / AV  
Up to Oct 31st YTD Total  
**16**

## Status

of Complaints / Apparent Violations Up to Oct 30th YTD Total



ADDENDUM III.

# 2024 ASWS Advisory Committee Report



Bertha J. Clayton, ASWS Director, ESD

## RCW 50.75.040(4)

In even years, the committee shall submit a report to the governor and the legislature by October 31st that:



(a)

Identifies and recommends approaches to **increase the effectiveness** of the employment security department's **recruitment process** as part of the H-2A application.

If deemed advisable by the committee, the report **may include recommended changes to state law that would lead to increased recruitment and hiring of domestic workers** in agricultural employment in Washington; and

(b)

**Analyzes the costs** incurred by the office to administer the H-2A program, **the funds to administer other department programs** for farmworkers, and the **amount of funds allocated by the federal government to administer the H-2A program** and all other **agricultural programs** within the department.

15

2020 and 2022 reports also included: Employer and Worker Perspectives and contextual and background explanations.

## Who reads this report?



- Decision-makers: Washington State legislators, Washington State Governor’s office, ESD Commissioner, U.S. Department of Labor Employment and Training Administration.
  
- Implementers and partners: Partner agency heads and staff, ESD staff.
  
- Resource seekers: Stakeholders, advocates, ESD customers, interested members of the public.

## Deadlines & role of committee members in project



**Publish Date (OFM): October 31, 2024**

**Tentative Deadlines**

- Final Draft to ESD: September 20, 2024 (for internal processing and Commissioner signature)
- Target date for final committee review: August 30, 2024
- Target date for first draft: June 19, 2024
  
- Note: Customer Experience Study report delivered to committee on July 31, 2024

**Role of ASWS Committee Members**

***Prepare the report***

- Form recommendations (during monthly committee meetings, special meetings, and workgroup meetings).
- Meet content and review submission deadlines
- Provide thorough technical and stylistic review (tone, word choice, format, etc.)
- Vote to approve report
- Timely submit to ESD’s Government Relations Team.

Project point of contact: Vickie Carlson

ADDENDUM IV.

## 2024 ASWS Committee Priorities



Bertha J. Clayton, ASWS Director, ESD

## Committee Focus Areas



2024: Improving recruitment of domestic farmworkers/reducing number of H2A positions requested

2023: Temporary Worker Housing, Enforcement agency coordination

## For Reference:



### Prior Committee Projects and Recommendations

1. WhatsApp communication with farmworkers
2. Employer resources (website, videos, template forms, compliance guides, etc.)
3. Two-way texting between ESD and farmworkers (for direct and ongoing communication with domestic applicants)
4. Waiver from USDOL (DENIED) to allow H-2A employers to manage and access their own recruitments through ESD's recruitment system (un-suppression of employer information in WorkSourceWA job orders)
5. Inter-agency emergency response for climate related disasters (freeze, wildfire, etc.) and social safety net for impacted farmworkers
6. H-2A Labor Roundtable Forum
7. Accessibility/relevance of ASWS Advisory Committee meetings to farmworkers
8. Translation of ESD materials (Eng-Esp)

(Not Presented)  
ADDENDUM V.

## ASWS Committee Member Survey Results



Bertha J. Clayton, ASWS Director, ESD

100% = 3<sup>rd</sup> Wednesday + Mix of virtual and in-person meetings



### Member Suggestions for meeting scheduling:

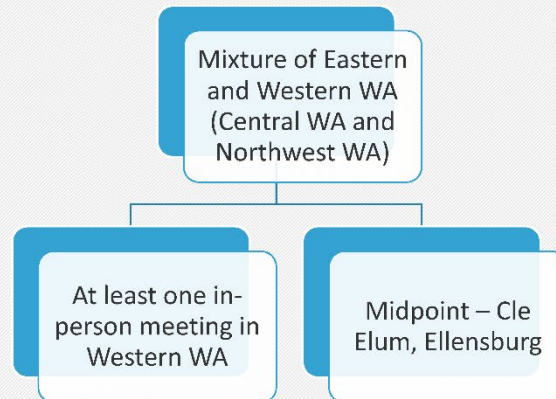
- 4 hour in person, 2-3 hour virtual
- Quarterly in person meetings with virtual option to join, if necessary.
- Better facilities needed for in person meetings.
- In person time should be leveraged.
  - Examples: Inviting partners organizations; doing an on-site farm or packing facility visit ( ½ day on site visit, ½ day meeting)



6/7 members prefer that members turn their cameras on while speaking during virtual meetings



## Member suggestions for in-person meeting locations



## Feedback for improving meeting flow



In virtual meetings – clarify how speakers will be recognized to speak.



More “give and take” between committee members and presenters



Ask members to prepare thoughts in advance of meeting based on materials, so there is less presentation time and more discussion time.



Better efficiency – reduce unrelated material and conversation irrelevant to the topic.



Members should be mindful that all input is valuable. Members should be allowed to speak without interruption when they have the floor.



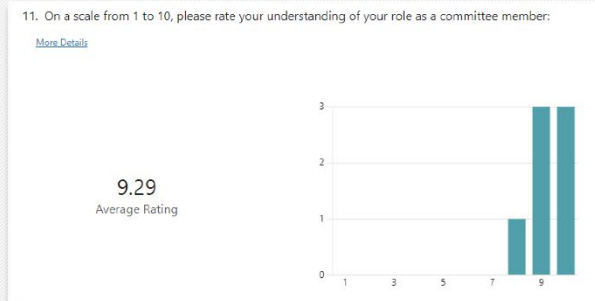
Review statute mandates to committee during first in person meeting and break them up for discussion during each of the three subsequent in person meetings.

# Committee Member Engagement



Member suggestions re: tools and exercise to help better under role and increase engagement:

1. Reminders of why committee was formed;
2. Clarification re: whether the committee's focus is on improving domestic recruitment, the functions of the ASWS office, or being a policy advisor to agencies and legislature.
3. Receiving meeting materials earlier;
4. Culture of respect and civility in discussion.



# Challenges and Mitigation Strategies



## IDENTIFIED CHALLENGES FACING THE BOARD

1. Diffusion of the board's mission and focus areas.
2. Following through with recommendations in reports;
3. Focusing on actionable recommendations by the agencies;
4. Too many presentations – need more discussion;
5. Communication and understanding among committee members.
6. Federal rules and lack of federal transparency.

## MITIGATION IDEAS

- 1. ASWS utilize committee as a resource (not just responding to board requests for information)
- 2. Less presentation, more discussion
- 3. Agree on 1-2 topics to focus on over multiple meetings;
- 4. State agencies focusing on creative ways that the local workforce can be engaged – not just doing minimum of what is expected.

## Suggestions for adjustments to committee management



1. Orientation about how to access ESD data resources.



2. Greater emphasis on committee member interaction and less on presenters.



3. Improving communication and understanding between members.



4. Focusing primarily on local workforce. The committee's focus on local recruitment has faded – we need to return to that conversation.

## Additional Feedback



1. Review of ASWS staff roles and responsibilities.

2. Committee members serve as hosts for meetings on their "turf".

This can be an opportunity to build relationships between committee members.

3. Imbalanced committee time is given to H2A workers, rather than focusing on local workforce, which was the reason for this committee's formation.

## Next Steps



ASWS will draft a proposed 2024 meeting schedule to present at the January 2024 ASWS meeting;

ESD will reflect on feedback re: meeting structure, meeting content, and committee management and will propose potential modifications for committee discussion at the January 2024 meeting.

## Good of the Order



- Summary of Meeting
- Future Agenda Items
- Public Comment

Joy Adams, Chairperson, Acting Director of Employment System Policy & Integrity Division

*Employment Security Department • Employment System Policy & Integrity*