



# Agricultural and Seasonal Workforce Services Advisory Committee

## Meeting details

**Date:** Thursday, March 17, 2022

**Time:** 8:30 a.m. – 11:30 a.m.

**Location:** ZOOM meeting due to COVID-19

### Committee members present

- Jonathan DeVaney
- Edgar Franks
- Michele Besso
- Rosalinda Guillen
- Victoria Ruddy
- Jeff Perrault
- Delia Peña

### Non-voting agency representatives

- Todd Phillips
- Ignacio Marquez
- Uriel Iniguez

### Committee members absent

- Michael Gempler

### ESD staff

- Dan Zeitlin
- Bertha Clayton
- Tamara Johnson
- Gustavo Aviles
- Craig Carroll
- Rene Maldonado
- Juan Martinez
- Ana Alcala-Rodriguez

### Guest Presenters:

#### DOH staff

- Tia Dostal, Michele Holshue, Cara Than
- Juan Gamez-Briceno, Jerry Caird

## Summary

### Meeting Recorded

This meeting was recorded and is available on <https://esd.wa.gov/newsroom/Ag-committee>

### Welcome and Introductions

Employment Security Department (ESD) Policy Director, Dan Zeitlin, welcomed everyone and asked Tamara Johnson to take roll. Seven voting members were present, one was absent.

### Agenda

Recording timestamp **00:10:51**

Dan Zeitlin reviewed the agenda for the meeting and asked if anyone had any questions. (See Addendum I.)

**H-2A Application Data Report - Tamara Johnson**Recording timestamp **00:12:39**

Tamara Johnson reported on H-2A application data. (See Addendum II.)

**Meeting Minutes**Recording timestamp **00:19:49**

Dan Zeitlin requested that everyone review the meeting minutes for February 17, 2022 and provide their feedback. Jon DeVaney made a motion to approve the February 17, 2022 minutes. Rosalinda Guillen seconded the motion. The February 17, 2022 meeting minutes were approved.

**Department of Health**

- **COVID-19 Outbreaks in Agricultural Work Settings, Washington State, 2021**

**Michelle Holshue & Tia Dostal**Recording timestamp **00:30:47**

Michelle and Tia reported on Vaccination and Outbreaks. Cara Than reported on COVID-19

Testing Updates. (See Addendum III.)

Recording timestamp **01:15:15**

- **Temporary Worker Housing – Juan Gamez** (See Addendum IV.)

Recording timestamp **01:23:47****Customer Experience Study – Gustavo Aviles** (See Addendum V.)Recording timestamp **01:56:10**

- The Committee agreed to proceed with an RFP using ASWS office vacancy savings to conduct the study in relation to certain crop varieties to then supplement if/when Specialty Crop Grant funds are awarded.

**ASWS Report Timeline – Bertha Clayton**Recording timestamp **02:04:14**

Bertha provided the timeline for completing the 2022 Report (See Addendum VI.)

**H-2A Progress & Performance – Ana Alcala-Rodriguez**Recording timestamp **02:17:15**

Ana reported on referrals and placements. (See Addendum VII.)

**ASWS Office Update – Bertha Clayton** (See Addendum VIII.)Recording timestamp **02:41:05**

- Compliance supervisor has been hired – Welcome Margarito Cabrera (3/16/2022)
- Foreign Labor Certification Program Coordinator – Welcome Tamara Johnson (3/1/2022)
- We are currently recruiting for the AA3 position and hope to have it filled by April 1, 2022.
- In 2022 Compliance specialists have made:
  - 52 site visits (Since last ASWS Meeting – 31 Site Visits)
  - Actual Worker Count to sites visited: 3,887
  - 31 Supervisors contacted/present during site visits
- **Masks**
- **Complaints**
- **Field Checks**
- **Agriculture Leadership Program**
- **Training**
  - MSFW Training
  - WA State Investigator Training Core
- **L&I**
- **Coordination of Outreach**
- **Complaint Data Sharing**

**Action Items**

- **FLC Applications Update (ESD):** The Committee is intested in further detail related to deficiencies in applications.
- **Domestic Worker Recruitment (ESD):** The Committee is interested in the comparing challenges (by local area if possible) agricultural employers have filling jobs with domestic workers with challenges employers are having in other sectors filling jobs.
- **Housing (DOH):** The Committee is interested in seeing housing inspection trends, such as how many new housing units are coming on line, where are the older sites, and extent hotels are inspected.

**Future Agenda Items**

- The Committee would like to see draft sections of the report in June.

**Informational Article**

Edgar Franks brought Senator Ossoff letter to the Committee’s attention. (See Addendum IX.)

**Public Comments**

*Deborah O'Sell, Small Orchardist – Chelan, WA* (See Addendum X.)

How about trust from the small orchardist who do not have trust of L&I to prevent these frivolous domestic worker complaints that are seem to be drawn out regarding false pay claims. The lack of L&I staff to resolve these complaints in a timely manner. These workers also go to NW Justice to handle wage complaints and they should be going to L&I. NW Justice need to be told they are not to be handling wage complaints.

**Adjourned**

Dan Zeitlin thanked everyone for their continued active participation and for their commitment to this work, then ended the meeting at 11:52 a.m.

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**2022 Meetings**

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

- **April 21, 2022 – 8:30 a.m. to 11:30 a.m. – Zoom Meeting**

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**Addendums**

ADDENDUM I.



AGENDA

Agricultural and Seasonal Workforce Services (ASWS) Advisory Committee  
 Thursday, March 17, 2022 | 8:30 am – 11:30 am | Zoom

TIME	TOPIC
8:30 am	Welcome – Dan Zeitlin, Director, ESD Employment System Policy & Integrity Division <ul style="list-style-type: none"> <li>• Roll Call – Tamara Johnson</li> <li>• Agenda Review – Dan Zeitlin</li> </ul>
8:40 am	Approval of Meeting Minutes – Dan Zeitlin <ul style="list-style-type: none"> <li>• February 17, 2022</li> </ul>
8:45 am	FLC Applications Update – Petra Meraz
9:00 am	DOH Update <ul style="list-style-type: none"> <li>• Testing, Vaccination and Outbreaks -Michelle Holshue, Tia Dostal, Michelle Chung and Faun Dublin</li> <li>• Inspection Updates –Juan Gamez and Jerry Caird</li> </ul>
9:45 am	Break
10:00 am	ASWS – Office Update – Bertha Clayton <ul style="list-style-type: none"> <li>• New Supervisor</li> <li>• New FLC Coordinator</li> <li>• AA position</li> </ul>
10:10 am	ASWS Compliance Update – Bertha Clayton <ul style="list-style-type: none"> <li>• Participation in ALP program</li> <li>• Coordination &amp; complaints</li> <li>• Site visit and compliance stats</li> </ul>
10:25 am	Domestic Referral and Placement Update - Ana Alcala-Rodriguez
10:40 am	ASWS Report Timeline Discussion – Bertha Clayton
10:55 am	Customer Experience Study – Dan Zeitlin and Gustavo Aviles
11:20 am	Closing Discussion <ul style="list-style-type: none"> <li>• Agenda items</li> </ul>
11:25 am	Public Comment
11:30 am	Adjourn

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

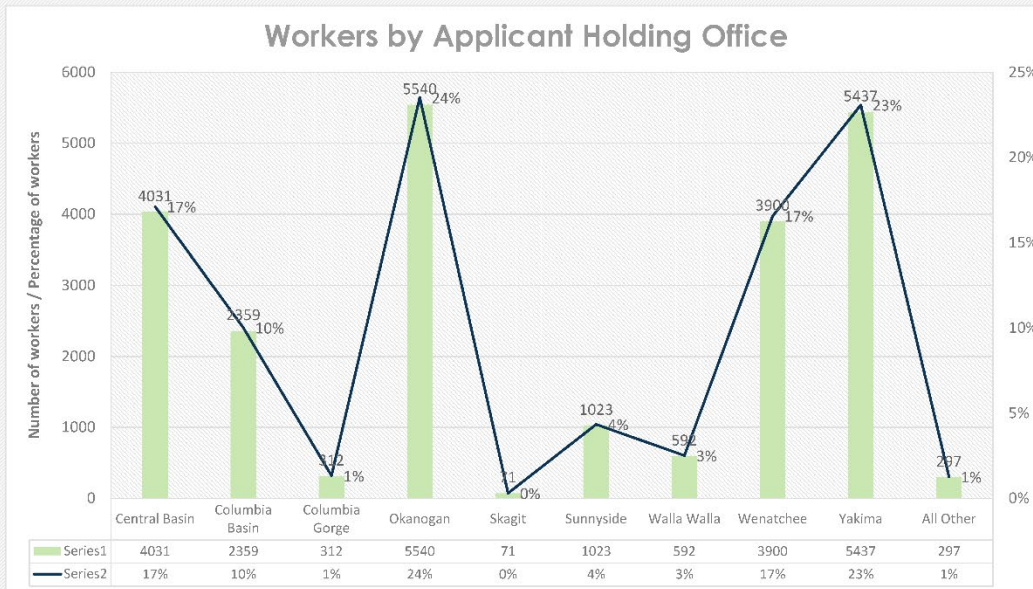
ADDENDUM II.

# FLC Applications Update



2022 H-2A Program Data (10/1/2021-3/11/2022)	2022				2021			
	Applications processed	Workers Requested	Active	Active Workers	Applications processed	Workers Requested	Active	Active Workers
Total Applications Received/Processed:	217	21,922	Active	Active Workers	199	18,618	Active	Active Workers
Number of Applications Withdrawn/Not Processed by DOL:	13	2,108			8	547		
Contract Impossibility:	0							
Total Number of Contracts Commenced:	107	5,603	110	9,510	84	8,542	87	8,672

\*The numbers reported are not reflective of the number of foreign workers that actually arrive in Washington State.





ADDENDUM III.

Department of Health



**Testing, Vaccination and Outbreaks**

- Michelle Holshue, Tia Dostal, Michelle Chung and Faun Dublin

**Inspection Updates**

- Juan Gamez and Jerry Caird



COVID-19 TESTING UPDATES  
Faun Dublin

## Medical Teams International (MTI)

- MTI is a mobile vendor that performs testing and vaccinations at farms or temporary worker housing for incoming Agricultural workers.
- MTI works in partnership with LHJs and community health centers for planning and testing efforts.
- MTI provides out-break testing support as well as testing on arrival, and 1 week after.
- Rapid Antigen tests are used to provide results within 15 minutes.

### Outreach:

- Flyers are provided with photos and important information in English and Spanish.
- MTI has Spanish speaking staff available whenever possible.

### Exit Testing

- MTI provides testing opportunities for agricultural workers preparing to return home after growing season has ended.

## Testing Update

- Since January, MTI has tested 3,440 workers
- Identified 232 positives (6.7% positivity rate)



## Agricultural Worker Testing Initiative 2021 Growing Season: Entrance

### General Information

To help reduce the spread of COVID-19 in temporary worker housing units, the Washington State Department of Health is offering agricultural employers, growers, and housing operators an opportunity to have workers tested when they arrive in Washington. Recognizing that workers will be travelling from a number of communities in their home countries or from other states to live in congregate housing, DOH urges participation in this program. Together, we can promote a healthy start to the 2021 growing season.

Interested employers, growers, and housing operators are able to arrange on-site testing of workers within the first week after arrival and a follow-up test about seven days later. The department has contracted with Medical Teams International (MTI) to meet the anticipated need. MTI has testing teams ready and available to rapidly deploy mobile testing sites throughout the state.

Due to factors including irregular arrival patterns, delayed arrivals, and unforeseen circumstances, *neither DOH nor MTI make any guarantee that testing will be available at a specific time or place.* The department will attempt to coordinate with local health jurisdictions to fill in as many gaps possible.

### Cost

At present, there is no cost for participating in this initiative. DOH reserves the right to implement a cost-sharing program for future testing efforts, and the department will provide advanced notice of the details of any such changes.

### Arranging a Mobile Testing Event

Employers, growers, and housing operators seeking to participate should contact Leslie Aaron, COVID-19 Clinic Manager, at [laaron@medicalteams.org](mailto:laaron@medicalteams.org).

### Additional Information

MTI has Spanish-speaking testing staff. Because staffing patterns vary, neither DOH nor MTI guarantee that bilingual staff will be available at every event.

Participation in this program is not required under the agricultural rules issued by the Governor's Office, the Department of Health, or the Department of Labor & Industries. Positive cases from this testing effort will not automatically trigger the workforce testing requirement for outbreaks in agricultural settings. See section (g) [here](#).

This initiative is not associated with vaccine planning or distribution. Questions about vaccines can be directed to [covid.vaccine@doh.wa.gov](mailto:covid.vaccine@doh.wa.gov).

MARCH 2021



DOH 420-327

**Colin Maloney**  
Testing Strategy Lead  
Disease Control and Health Statistics  
Washington State Department of Health  
[Colin.maloney@doh.wa.gov](mailto:Colin.maloney@doh.wa.gov) | 360-236-4076

To request this document in another format, call 1-800-525-0127. Deaf or hard of hearing customers, please call 711 (Washington Relay) or email [civil.rights@doh.wa.gov](mailto:civil.rights@doh.wa.gov).



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**ADDENDUM IV.**

## TEMPORARY WORKER HOUSING

Lodging Program- Office of Environmental Health and Safety

### TEMPORARY WORKER HOUSING -OVERVIEW

#### Program Services:

The Temporary Worker Housing Program offers services to growers, housing operators and developers to ensure housing facilities meet state health and safety standards. These services help developers and housing providers to move through the development and licensing system.

#### Services include:

- Consultation/Technical Assistance
- Construction/Building Department Services
- Inspections
- License Requirements
- Investigation/Enforcement

## TEMPORARY WORKER HOUSING -OVERVIEW

### LODGING PROGRAM – TWH TEAM

- Housing Inspector- Eddie Marines
- Housing Inspector- Maira Cardenas
- Housing Inspector- Vacant (P/T)
- Housing Inspector- Scott Reiber (P/T)
- Technical Lead- Doug Hartfield
  
- License Support- Nikki Taylor
- Admin. Assistant- Rhiannon Dolinski
  
- Lodging Supervisor- Jerry Caird
- Program Manager- Juan Gamez

## TEMPORARY WORKER HOUSING -OVERVIEW

### Rules and Regulations

#### RCW 70.114A

Applies to temporary worker housing that consists of five or more dwelling units, or any combination of dwelling units, dormitories, or spaces that house ten or more occupants.

#### WAC 246-358

This chapter is adopted by DOH to implement the provisions of chapter 70.114A RCW and RCW 43.70.334 through 43.70.340 and establish minimum health and safety requirements for temporary worker housing and cherry harvest camps.

#### 7<sup>th</sup> Emergency rule (CR-103E) - Temporary Worker Housing- effective January 21, 2022.

DOH and L&I adopted revisions to the initial emergency rule for temporary worker housing to protect occupants from COVID-19 hazards.

## **TEMPORARY WORKER HOUSING -OVERVIEW**

### **Licensing Requirements**

#### **When a TWH License is Required:**

Any operator providing Temporary Worker Housing (TWH) shall apply for a TWH operating license from the Department of Health when:

- The TWH consists of:
  - Five or more dwelling units; or
  - Any combination of dwelling units, or spaces that house ten or more occupants (including accompanied family members)
- Compliance with the Migrant and Seasonal Agricultural Worker Protection Act requires a license
- Any number of tents for any number of occupants
- The operator elects to comply with Chapter 246-359 (TWH Construction Standard)

## **TEMPORARY WORKER HOUSING -OVERVIEW**

### **Licensing Requirements**

#### **The Licensing Process:**

The operator submits to the Department of Health a TWH application packet consisting of:

- Temporary Worker Housing application
- Licensing fees
- Camp Management Plan
- Revised Camp Management Plan for Emergency Rule (checklist)
- Public Water System Compliance (water source & nitrate and coliform results)
- Certificate of Occupancy, DOH CRS approval letter, L&I's Factory-Assembled Structures program, or other acceptable documentation

## TEMPORARY WORKER HOUSING -OVERVIEW

### Licensing Requirements

#### The Licensing Process (continued):

**New construction or remodeling** requires plan review by local building department or DOH Construction Review Services or L&I (e.g., Factory-Assembled Structures)

**Renewals:** TWH sites who were licensed the previous year, will receive a renewal notice form and shall submit the following:

- Renewal form
- Licensing fee
- Public Water System Compliance (water source, nitrate and coliform results)

## TEMPORARY WORKER HOUSING -OVERVIEW

### Licensing Requirements

#### The Licensing Process (continued):

Application packet is reviewed by the Licensing Support Specialist.

- If any information is missing, we call the site primary contact and email Acknowledgement with Deficiencies letter (e.g., missing C of O, etc.).
- Once all missing documentation or information is received, we email the following to the site primary contact:
  - Acknowledgement of No Deficiencies letter
  - TWH Inspection Checklist (emailed to operator)

## TEMPORARY WORKER HOUSING -OVERVIEW

### Licensing Requirements

#### The Licensing Process (continued):

TWH Pre-Occupancy Inspection scheduled and conducted

- Violations observed are emailed on a Statement of Deficiencies
- Critical violations require a follow-up inspection
- If no violations are found, we email a Statement of No Deficiencies

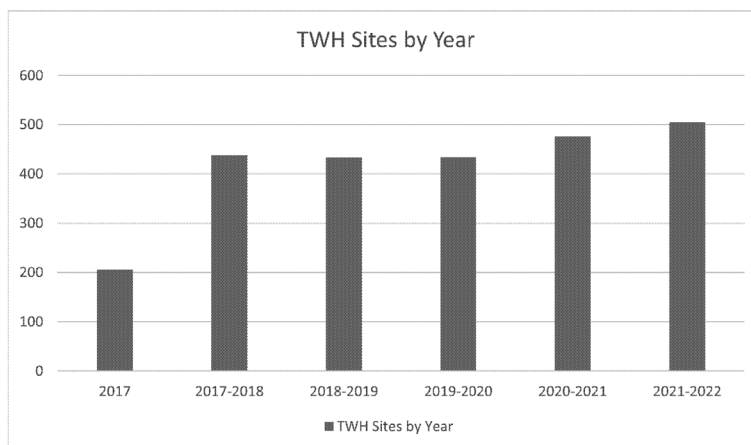
Licensing Support Specialist reviews the TWH inspections

- Once there are no deficiencies, we mail the owner:
  - ✓ Approval Letter
  - ✓ Copy of TWH License

Occupancy Inspection is Conducted During Harvest Season

## TEMPORARY WORKER HOUSING -OVERVIEW

### Number of TWH Sites Licensed Since March 2017



#### TWH Active Sites:

March 2017: 206 Open Facilities received in data transfer

2017-2018: 438 Open Facilities

2018-2019: 433 Open Facilities

2019-2020: 434 Open Facilities

2020-2021: 476 Open Facilities

2021-2022: 505 Open Facilities



## TEMPORARY WORKER HOUSING -OVERVIEW

### Inspection numbers

#### 2022-2023 Growing Season (numbers current as of 3/15/2022)

Pre-Occupancy inspections: 320    Licensed TWH sites: 290

#### 2021-2022 Growing Season

Pre-Occupancy inspections: 475    Occupancy Inspections: 500    Follow-Ups: 1043

## Questions?

For further questions, please contact us at [housing@doh.wa.gov](mailto:housing@doh.wa.gov)

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ADDENDUM V.

## Customer Experience Study



▪ **Proposal:**

Customer experience study for agricultural seasonal activities during the fall of 2022

- Interview or conduct focus groups with growers and farmworkers that would focus in ESD recruitment system, growers' recruitment processes and farmworkers' activities and tools for finding jobs for fall activities in apple, grape and pear crop production

▪ **Timeline:**

RFP: April - June 2022

Contract: July 2022 – January 2023

- Design and preparation of interviews or focus group: July - August 2022
- Deliverables:
  - Preliminary report, December 29, 2022, for ESD review
  - Final report, January 31, 2023

ADDENDUM VI.

## ASWS Report Timeline



### **August 18, 2022**

- Final draft to Committee

### **September 19, 2022**

- Commissioner Feek

### **September 30, 2022**

- Final to OFM

### **October 31, 2022**

- Final to Legislature

## ASWS Report Timeline



### **Role of ASWS Team**

- Update 2020 report & data

### **Role of ASWS Advisory Committee**

- Discussions
- Recommendations
- Review Final in August



ADDENDUM VII.

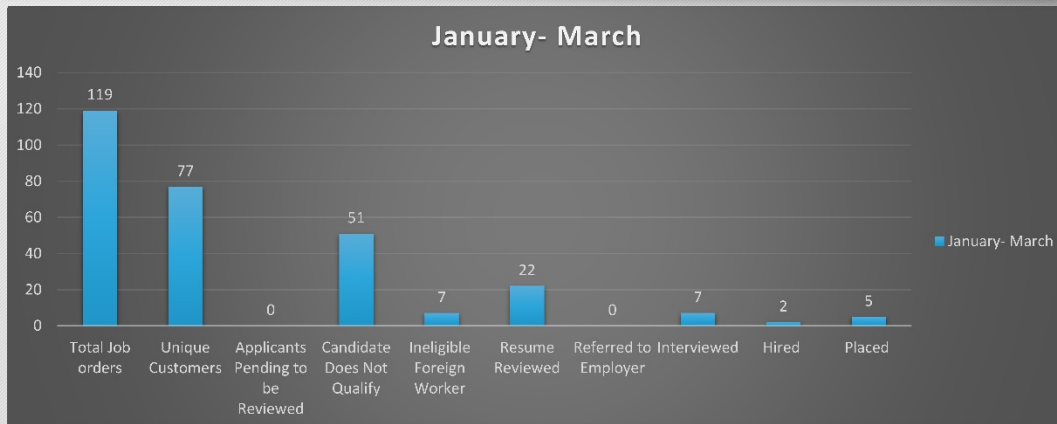
# H-2A Progress & Performance



ASWS Committee  
March 17, 2022

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## H-2A Performance January 2022 – March 2022



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## Faster Connection of Workers & Employers (continued)



- 4     ▪ 1.4 Additional outreach from ESD should include posters, booths, social media and text notifications

## Faster Connection of Workers & Employers (continued)



- 5     ▪ 1.4 Additional outreach from ESD should include posters, booths, social media and text notifications



## Faster Connection of Workers & Employers (continued)



- 6
  - 1.4 Additional outreach from ESD should include posters, booths, social media and text notifications

## Questions



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## ADDENDUM VIII.

## ASWS Office Update



- **Compliance Supervisor - Hired**
  - Margarito Cabrera (3/16/2022)
- **Foreign Labor Certification Program Coordinator – Hired**
  - Tamara Johnson (3/1/2022)
- **Administrative Assistant – in recruitment**
  - TBD (4/1/2022)

## ASWS Compliance Update



- **Site Visits**
  - In 2022- 52 Site Visits
  - Since last ASWS Meeting – 31 Site Visits
  - In 2022- Actual Worker Count to sites visited: 3,887
  - In 2022: 31 Supervisors contacted/present during site visits
- **Masks**
- **Complaints**
- **Field Checks**



## ASWS Compliance Update



- **Agriculture Leadership Program**
- **Training**
  - MSFW Training
  - WA State Investigator Training Core

## Agency Collaboration



- **L&I**
- **Coordination of Outreach**
- **Complaint Data Sharing**

**ADDENDUM IX.****United States Senate**

WASHINGTON, DC 20510

March 1, 2022

The Honorable Alejandro Mayorkas  
Secretary  
U.S. Department of Homeland Security  
3801 Nebraska Ave NW  
Washington, DC 20528

The Honorable Marty Walsh  
Secretary  
U.S. Department of Labor  
200 Constitution Ave NW  
Washington, DC 20210

The Honorable Antony Blinken  
Secretary  
U.S. Department of State  
2201 C St NW  
Washington, DC 20520

Dear Secretary Mayorkas, Secretary Walsh, & Secretary Blinken:

Lack of oversight and accountability in the H-2A guest worker visa program has led to an inexcusable result: slavery.

This most recently came to light in my home state of Georgia, where a years-long Department of Justice investigation, referred to as Operation Blooming Onion, revealed an alleged transnational human trafficking operation involving brutal and inhumane treatment of more than 100 immigrant farmworkers on South Georgia farms.<sup>1</sup>

I implore you to take immediate action to prevent further abuses under this system and to work with me and my colleagues to create long-term solutions that will protect farmworkers across the United States from human rights abuses.

As the Department of Justice's 54-count indictment details, the two dozen defendants allegedly defrauded the U.S. Government through misuse of the H-2A program to bring workers from Mexico, Guatemala, and Honduras into the country and then exploited and abused these workers in numerous ways, including:

- threatening workers with guns, violence, and deportation;
- holding workers in cramped, unsanitary quarters without clean water, with little or no food;
- withholding workers' passports and documents to prevent them from escaping;

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<sup>1</sup> Lautaro Grinspan, *This has been happening for a long time': Modern-day slavery uncovered in south Georgia*, Atlanta Journal-Constitution (Dec. 3, 2021) <https://www.ajc.com/news/this-has-been-happening-for-a-long-time-modern-day-slavery-uncovered-in-ga/SBHHTDDTTBG3BCPSVCB3GQ66BQ/>

- paying little or no wages for physically demanding work; and
- forcing workers to perform jobs outside the terms of their visas.<sup>2</sup>

At least two people died apparently as a result of the inhumane living and working conditions. Another victim was allegedly raped repeatedly and kidnapped, and survived multiple homicide attempts by one of the defendants. Workers were sold and traded to other conspirators within the crime ring, which made more than \$200 million on the backs of these exploited workers.<sup>3</sup>

I trust you share my horror at the gross human rights abuses exposed by this investigation. My staff has heard reports of and seen firsthand similar conditions. We have a responsibility to act now to stop this kind of exploitation and to protect the civil and human rights of all who work in our country.

Each of your respective agencies plays a key role in the issuance of H-2A visas and oversight of the program, which allows U.S. employers who meet specific requirements to bring foreign nationals to the United States to fill temporary agricultural jobs. Unfortunately, this program appears to have a track record of abuses similar to those documented in Operation Blooming Onion.<sup>4</sup> Many of these abuses stem from the near-total power that labor contractors and employers hold over guest workers, who must choose between accepting whatever horrid conditions they are forced to work in or face deportation.

Those indicted as a result of Operation Blooming Onion are alleged to have grossly abused their power, and advocates in Georgia have told me of similar behavior by employers across the country. Farmworkers play a critical role sustaining our nation's food supply, yet they remain subject to exploitation and abuse through the H-2A visa program and the criminals across the country that fraudulently utilize it to enrich themselves and to deprive guest workers of basic human rights.

We must act now to protect the human rights of all people on our soil.

Revisions to H-2A regulations and increased oversight of the program would better protect workers. I ask for your prompt response to the following questions as soon as possible, but no later than March 31, 2022. Where I have asked specific questions, please provide specific responses to each.

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<sup>2</sup> *U.S. v. Patricio et al*, Indictment no. CR521-0009 (SD GA Oct. 5, 2021) available at <https://www.justice.gov/usao-sdga/press-release/file/1450546/download>

<sup>3</sup> *Id.*

<sup>4</sup> Daniel Costa, Phillip Martin & Zachariah Rutledge, *Federal Labor Standards Enforcement in Agriculture*, Economic Policy Institute (Dec. 15, 2020) available at <https://www.epi.org/publication/federal-labor-standards-enforcement-in-agriculture-data-reveal-the-biggest-violators-and-raise-new-questions-about-how-to-improve-and-target-efforts-to-protect-farmworkers/>.



*For Secretary Walsh, Secretary Mayorkas, and Secretary Blinken:*

- What actions are your agencies taking to expose similar cases and prevent these abuses in the future?
- Has the government revoked or suspended the H-2A licenses of the employers accused of wrongdoing by the Operational Blooming Onion indictment? If not, why not?
- How and when will your agencies revise the H-2A program regulations to address the problems exposed by Operation Blooming Onion?
- Given that the H-2A program involves multiple agencies, what steps are you taking to improve interagency communication during the application process and as problems arise? Have you considered the establishment of an interagency taskforce to identify issues in the H-2A program to help ensure the prevention of trafficking cases and other worker abuses?
- Are there any laws, regulations, practices, or procedures that hinder interagency cooperation to identify, investigate, stop or prevent exploitation of H-2A workers?

The Administration is also seeking to enhance access to the H-2 programs in the Northern Triangle, countries with high levels of poverty, corruption, and violence.<sup>5</sup> Conditions in their home countries may discourage workers from willingly speaking out about any abuses they might suffer at the hands of their employers in the United States, in fear of retribution.

- Will the Administration work to quickly implement reforms to improve oversight, increase interagency coordination, and establish a better way for workers to report abuse, if it expands the H-2A program?
- What additional actions will the Administration take to protect potential H-2A workers both during recruitment and once they have arrived and are working in the U.S.?

*For Secretary Walsh:*

- First, will you commit to joining me in Georgia to meet with farmworkers and the community to address these issues?

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<sup>5</sup> See U.S. Department of Homeland Security, Press Release, *For First Time, DHS to Supplement H-2B Cap with Additional Visas in First Half of Fiscal Year*, (Dec. 20, 2021) <https://www.dhs.gov/news/2021/12/20/first-time-dhs-supplement-h-2b-cap-additional-visas-first-half-fiscal-year> (noting an expansion of the number of H-2B visas available to countries in the Northern Triangle and Haiti); *see also* White House Briefing Room, Fact Sheet: The Biden Administration Blueprint for a Fair, Orderly and Humane Immigration System, (Jul. 27, 2021) <https://www.whitehouse.gov/briefing-room/statements-releases/2021/07/27/fact-sheet-the-biden-administration-blueprint-for-a-fair-orderly-and-humane-immigration-system/> (noting the same expansion above and encouraging other governments to develop and expand regional labor migration programs).

Second, according to H-2A provisions, workers should have access to their consulates and the U.S. government complaint process.<sup>6</sup> This process failed to protect the victims in Georgia, and I have heard from advocates in my state that farmworkers often feel isolated, unaware of their rights and available resources, and fearful of retaliation, among other obstacles.

- What steps will your agency take to empower H-2A workers to assert their rights and ensure workers have access to an authorized representative, such as collective bargaining agreements, to represent their interests?
- What steps is DOL taking to reassure farmworkers that they can safely report wrongdoing in their workplace without risking deportation?

Operation Blooming Onion also highlighted the longstanding challenge with farm labor contractors.<sup>7</sup>

- Will you commit to working to close power imbalances between farm labor contractors and workers within the H-2A program to protect farmworkers' rights? How?
- As they currently stand, the requirements to become a farm labor contractor are minimal and thus allow anyone, including bad actors, to obtain licenses.<sup>8</sup> Will you implement a more rigorous application process for labor contractors to obtain their license?
- To more effectively prevent abuses by employers, more stringent requirements for contractors must be coupled with rigorous oversight and accountability. What does your agency need to conduct appropriate oversight of the H-2A visa program?
- The H-2B program requires labor contractors to submit their application with an underlying business as joint employers.<sup>9</sup> Should DOL implement this same policy in the H-2A program to help ensure that employers hire law-abiding labor contractors and do not benefit from modern slavery?

*For Secretary Mayorkas:*

Your October 12, 2021 memo noted that one key measure to protect workers is to “provide for the consideration of deferred action, continued presence, parole, and other available relief for noncitizens who are witnesses to, or victims of, abusive and exploitative labor practices.”<sup>10</sup>

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<sup>6</sup> 20 CFR § 655

<sup>7</sup> Economic Policy Institute, *70% of all investigations in agriculture detected violations of federal wage and hour laws and farm labor contractors are the biggest violators*, (Dec. 15, 2020) <https://www.epi.org/press/70-of-all-investigations-in-agriculture-detected-violations-of-federal-wage-and-hour-laws-and-farm-labor-contractors-are-the-biggest-violators-policymakers-must-do-more-to-protect-farmworkers-and-hol/>

<sup>8</sup> 20 CFR § 655.132

<sup>9</sup> 20 CFR § 655.

<sup>10</sup> U.S. Department of Homeland Security, Policy Statement 065-06, Memo from Secretary Mayorkas, *Worksite Enforcement: The Strategy to Protect the American Labor Market, the Conditions of the American Worksite, and the Dignity of the Individual*, (Oct. 12, 2021) [https://www.dhs.gov/sites/default/files/publications/memo\\_from\\_secretary\\_mayorkas\\_on\\_worksite\\_enforcement.pdf](https://www.dhs.gov/sites/default/files/publications/memo_from_secretary_mayorkas_on_worksite_enforcement.pdf)

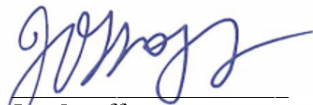
- What plans do you have to ensure H-2A workers are aware of and able to access this protection?

I understand that the victims of abuse by the Defendants may be eligible for T or U visas and that some victims of abuse documented in Operation Blooming Onion have begun the process of applying.

- Under what circumstances would victims of the Defendants' abuse be eligible to apply for and get full and fair consideration for a T or U visa?
- If a victim applies for a T or U visa, what are you doing to ensure those applications are processed fairly and quickly? Will you commit to ensuring eligible applicants can schedule timely and efficient appointments with your Department?

Thank you for your attention to this pressing matter. I stand ready to work with you to ensure our government learns lessons from the serious allegations uncovered by Operation Blooming Onion and to prevent exploitation of farmworkers in Georgia and across our country.

Sincerely,



Jon Ossoff  
United States Senator

**ADDENDUM X.**

**From:** [Deborah O'Sell](#)  
**To:** [Johnson, Tamara \(ESD\)](#)  
**Subject:** Agricultural worker and workforce meeting comments 3\_17\_22  
**Date:** Thursday, March 17, 2022 12:47:27 PM

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**External Email**

Today was the first meeting I attended as a concerned citizen and small orchardist. First of all I am amazed at the breath and width of the committee. That said, the metrics on workforce recruitment of workers into the state of Washington for Agriculture is embarrassing especially for H2A. But what about workers from Mexico in general. Or other countries below Mexico. Why aren't we recruiting more in those countries.

Orchards are right now gearing up on pruning, spraying and frost protection.

The mask mandate for Washington State dropped on March 12, 2022. However, this committee is spending an extreme amount of time tracking COVID metrics such as requirement for vaccinations at the border. I understand the concern with H2A workers, however, the committee should ask themselves... are we spending our time to help the agriculture community with recruiting people to work, or are we spinning our wheels to produce metrics that only the government agencies really care about.

The rest of us have moved beyond Covid. We are concerned about pruning, fertilizing, spraying and mowing. We do not have enough domestic workers for these tasks.

Why isn't the state investing in a workers camp for migrant workers in the Chelan, Manson area. Migrant worker housing to the small to medium orchard is not available similar to the camp outside of Monitor, WA. Tents are fine and will work for the Cherry Harvest coming up. Why is all the focus on H2A and the big orchards? We are rapidly losing small orchards who are pulling out their trees because they can't get workers, fuel prices are high, and the paperwork to keep up is killing us.

Have you thought about fuel prices and the impact on availability of labor or the ability to harvest the crop? What can the state of Washington do for us? The fuel taxes are outrageous with no end in site. Truck drivers are in extreme short supply and the state could be setting up classes for people to train to obtain their CDL with some incentive for the people who attend training.

How about offering some sort of pesticide type of training at a discount to domestic spanish and english speaking workers so that we can get more people affordable training.

How about building out an outreach program for the small orchardist to support keeping us in business. Think out of the box to help the small orchardist make it through harvest.

Thank you for considering my thoughts.

Deborah O'Sell

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**Contact information**

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