



Agricultural and Seasonal Workforce Services Advisory Committee

Meeting details

Date: Thursday, June 4, 2020

Time: 8:30 a.m. to 11:30 a.m.

Location: Skype meeting due to COVID-19

Committee members present

- Michele Besso
- Jonathan DeVaney
- Michael Gempler
- Rosalinda Guillen
- Rosella Mosby
- Delia Peña
- Erik Nicholson

ESD staff

- Dan Zeitlin
- Alberto Isiordia
- Norma Chavez
- Tamara Johnson
- Rene Maldonado
- Craig Carroll
- Sara Crosby
- Gustavo Aviles

Non-voting agency representatives

- Uriel Iñiguez
- Ignacio Marquez
- Todd Phillips

Committee members absent

- Ramon Torres

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. All committee members were present except Ramon Torres.

Agenda

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

Meeting Minutes

Dan Zeitlin requested that everyone review the meeting minutes for April 23rd, May 7th, and May 21st, 2020 and provide their feedback. (See Addendum II.)

April 23rd Meeting Minutes

Michele Besso made a motion to approve the minutes for April 23rd, 2020. Jon DeVaney seconded the motion. Meeting minutes were approved.

May 7th Meeting Minutes

Michele Besso made a motion to approve the minutes for May 7th, 2020. Rosella Mosby seconded the motion. Meeting minutes were approved.

May 21st Meeting Minutes

Jon DeVaney made a motion to approve the minutes for May 21st, 2020. Rosella Mosby seconded the motion. Meeting minutes were approved.

H-2A Application Data Report

Norma Chavez reported on H-2A application data. We have received a total of 204 applications with a total number of 19,749 workers requested. There have been 15 contracts withdrawn, 2 contract impossibilities and 1 delayed start.

H-2A Counts

Norma Chavez reported as of June 1, 2020, Washington State has approximately 13,864 H-2A workers present.

H-2A Verification & Referral Process

Sara Crosby facilitated discussion on Improvement Ideas for the H-2A Verification & Referral Process. (See Addendum III.)

Action Items

- ESD to propose timeframe for future report on total number of H-2A workers in Washington State.
- The Committee is interested in data related to COVID-19 testing for H-2A workers

Potential Agenda Items for Next Meeting

- H-2A Workers in the State discussion
- Improvement Ideas for H-2A Verification and Referral Process
- Wagner-Peyser Grant
- Temporary Worker Housing Oversight Inter-Agency Coordination

Public Comments

Eilish Villa

Mary Lopez

Ryan Ogburn

Oskar Zambrano

Giovanni Severino

Adjourned

Dan Zeitlin thanked everyone for their continued active participation and for their commitment to this work, then ended the meeting at 12:07 p.m.

2020 Meetings

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

- **June 18th, 2020 – 8:30 a.m. to 11:30 a.m.**
Skype Meeting

Addendums

ADDENDUM I



AGENDA

Agricultural and Seasonal Workforce Services (ASWS)

Advisory Committee

Thursday, June 4th, 2020 | 8:30 am – 11:30 am | SKYPE

Agenda Items

TIME	TOPIC
8:30 am	Introductions <ul style="list-style-type: none"> Welcome from Dan Zeitlin, Director, ESD Policy, Data, Performance and Integrity Division & Norma Chavez, Director – Agricultural and Seasonal Workforce Services Agenda Review
8:35 am	Approval of Meeting Minutes for April 23 rd , May 7 th , and May 21 st , 2020
8:40 am	Update on FLC Applications
8:45 am	H-2A Verification & Referral Process – Sara Crosby <ul style="list-style-type: none"> Improvement ideas discussion
10:00 am	Break
10:15 am	H-2A Verification & Referral Process – Sara Crosby <ul style="list-style-type: none"> Improvement ideas discussion
11:15 am	Closing Discussion <ul style="list-style-type: none"> Discuss next agenda
11:25 am	Public Comments
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

Minutes

**Agricultural and Seasonal Workforce Services
Advisory Committee****Meeting details**

Date: Thursday, April 23, 2020

Time: 8:30 a.m. to 11:30 a.m.

Location: Skype meeting due to COVID-19

Committee members present

- Michele Besso
- Jonathan DeVaney
- Michael Gempler
- Rosalinda Guillen
- Rosella Mosby
- Delia Peña
- Erik Nicholson
- Ramon Torres

Committee members absent**ESD staff**

- Dan Zeitlin
- Alberto Isiordia
- Gustavo Aviles
- Norma Chavez
- Tamara Johnson
- Rene Maldonado

Non-voting agency representatives

- Alejandro Sanchez
- Anne Soiza
- Todd Phillips
- Uriel Iñiguez
- Ignacio Marquez
- Dave Gifford
- Maggie Leland
- Jeff Killip

Summary**Welcome and Introductions**

Employment Security Department (ESD) ASWS Director, Norma Chavez welcomed everyone and asked them to introduce themselves.

Agenda

Norma Chavez reviewed the agenda for the meeting and asked if anyone had any questions. There were no questions. (See Addendum I.)

April 2, 2020 Meeting Minutes

Norma Chavez requested that everyone review the April 2, 2020 meeting minutes and provide their feedback. Erik Nicholson made a motion with one small correction in a Hal Burton's name. Michele Besso seconded. Minutes were approved.

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Governor's Office – Alejandro Sanchez

- Updates

NORMA CHAVEZ (ESD): I would like to give Alejandro Sanchez the opportunity to provide an update.

ALEJANDRO SANCHEZ (GOV): I sent an email that talked about childcare and isolation housing, I haven't heard remarks about either of those. We are looking at the co-pay piece of the seasonal childcare and how to deploy the remaining dollars. Our next conference call will include the importance of the centers being stood up. We are still working on the messaging campaign. There is a small grant program for outreach from private nonprofit partners.

ROSALINDA GUILLEN (CTC): Could you repeat again what you said about childcare? I would like to request that we discuss recording the meeting.

NORMA CHAVEZ (ESD): OK I will talk to Dan and our advisors thank you.

ALEJANDRO SANCHEZ (GOV): Working connections childcare federal program, the state has the seasonal childcare program that has left and that is typically used with a copay with ranges from \$10 to \$100. We are trying to temporarily suspend that copay for the program.

ROSALINDA GUILLEN (CTC): I have a question on the state seasonal program in the past we have found that program has been underfunded. Has funding for that program been increased?

ALEJANDRO SANCHEZ (GOV): Not to my knowledge, no.

ROSALINDA GUILLEN (CTC): It doesn't help unless we increase funding during this time.

ALEJANDRO SANCHEZ (GOV): Could you send me an email of your experience with this program as I am not familiar with it, I just learned about it in the last week.

ROSALINDA GUILLEN (CTC): This is a crisis and to have to keep proving repeatedly the lack of support for our farmworkers families is why we see 8-9year-old kids in labor camps taking care of infants. It is very frustrating the time it takes to prove that people qualify.

ALEJANDRO SANCHEZ (GOV): I will check in on that for you. Two other quick items, we clarified that horticulture is part of the agriculture designation and we did open the disaster federal cash assistance program which will be managed by a DSHS application process.

MICHELLE BESSO (NWJP): I'm a little taken aback that we're not talking in more of an emergency mode about the planning for Eastern Washington rural communities and how we're going to handle the issues around COVID-19. How to prepare for and prevent more contagion in the farmworker community? Do any of us think it will work to leave it up to individual employers to take care of existing and then the thousands of workers coming up in six weeks, without coordination?

ERIK NICHOLSON (UFW): Could you tell us more about the cash assistance and how we can engage.

ALEJANDRO SANCHEZ (GOV): I can send you web link to the application process and funding program.

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ERIK NICHOLSON (UFW): Much appreciated any information

ROSALINDA GUILLEN (CTC): What is the total dollar amount in the cash assistance fund?

ALEJANDRO SANCHEZ (GOV): I know it is in the many millions, but I don't know the actual amount. I could find out.

ROSALINDA GUILLEN (CTC): I guess I just want to make sure that there's enough funding. I'm interested to know how much the state has put into that cash assistance fund.

ALEJANDRO SANCHEZ (GOV): Ok

ROSALINDA GUILLEN (CTC): Ramon are you still on the line?

RAMON TORRES (FUJ) *(Interpreted by Rosalinda Guillen)*: Ramon wants everyone to know he will be in and out of this meeting because he is just about to enter union negotiations this morning.

NORMA CHAVEZ (ESD): Thank you Ramon for joining us. We are going to move on to agency updates, I would like to start with Uriel Iniguez and Maggie Leland from L&I.

Agency discussion (COVID-19):

- DOH – Todd Phillips and Dave Gifford
- L&I – Uriel Iniguez and Maggie Leland
- WSDA – Ignacio Marquez
- ESD Policy, Data, Performance and Integrity – Dan Zeitlin

URIEL INIGUEZ (L&I): Maggie Leland will give you an update regarding emergency rules and Jeff Killip will talk about what DOSH is doing in outreach and communication to employers and workers.

MAGGIE LELAND (L&I): DOH and L&I have distributed a draft of emergency rule language for temporary worker housing. Both agencies, by statute, have joint jurisdiction and are directed to have joint rules. We have updated emergency rules to address COVID-19 and we are asking for feedback through Monday the 27th, please send comments to both emails L&I and DOH. The rules address education of workers and occupants of the housing, physical distancing requirements including separation of beds, cleaning and disinfecting requirements and actions needed related to both suspect and confirmed COVID-19 workers. We are targeting an adoption date of May 1st.

ROSALINDA GUILLEN (CTC): So, there are no rules on social distancing in the workplace?

MAGGIE LELAND (L&I): (L&I): L&I has existing rules that cover those issues and are enforceable under the current rules we have in place.

JON DEVANEY (WSTFA): The rules are for an emergency and would be effective for how long assuming they took effect on May 1st?

MAGGIE LELAND (L&I): They can only be in effect for 120 days. They can be renewed if efforts are taken under certain circumstances.

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ROSALINDA GUILLEN (CTC): Could you give an example?

MAGGIE LELAND (L&I): One option could be looking to do permanent rule making that would adopt those requirements to be in place on a permanent basis when certain conditions are met. We are only looking at an initial adoption of the emergency rules that would be in place during the COVID-19 pandemic.

ERIK NICHOLSON (UFW): I'm curious the degree to which when the guidance conflicts with the rules which one prevails.

MAGGIE LELAND (L&I): Rules prevail.

ROSALINDA GUILLEN (CTC): To clarify the guidance you have out there and are enforceable are those guidance or rules?

MAGGIE LELAND (L&I): We have rules that require employers to do certain things. There are requirements around doing hazard assessments and then providing appropriate personal protective equipment based on those assessments. There are rules in both Washington and Federal OSHA that require employers to keep a safe and healthful workplace and to follow recognized standards in lieu of places where there isn't a rule currently possible. We have communicated, in light of the Governor's order, social distancing of 6ft is required and will be enforced.

JON DEVANEY (WSTFA): One of the things I noted for sleeping quarters, it talks about "other effective engineering controls if approved by L&I?". Given the short turn around, how much staff capacity are you going to have to review any alternative measures that employers and housing providers want to discuss with the agency?

MAGGIE LELAND (L&I): We evaluate the issues as they come in and they will be prioritized.

JON DEVANEY (WSTFA): Would that be through consultation staff or someone else?

MAGGIE LELAND (L&I): It is through the technical services staff under normal circumstances.

JON DEVANEY (WSTFA): Clarifying the point of contact in the final document would be helpful.

RAMON TORRES (FUJ) *(Interpreted by Rosalinda Guillen)*: Is there enough staff to enforce the rules when there is a farm that is not following the rules? Is there enough enforcement staff for the workplace rules? And if there are going to be any sanctions, what are those sanctions for the farms that are not following the rules?

MAGGIE LELAND (L&I): We have enforcement staff for DOSH that conduct workplace safety and health inspections. They have been getting a lot of complaints. The process is to review and determine whether the complaint requires immediate contact or a contact within a period of time. Depending on the complaint, a phone call to the employer asking what they are doing to address a certain issue and depending on that response there may be an onsite visit. Where the complaint alleges a serious hazard is happening at the time, then there will be an onsite inspection and if there are violations where there are WISHA citations issued there is a monetary penalty associated that can have various ranges depending on the type of penalty it is. The key part is we require there to be corrections of the hazard.

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RAMON TORRES (FUJ) *(Interpreted by Rosalinda Guillen)*: What is the length of time between the complaint being made and the sanction?

MAGGIE LELAND (L&I): It can vary by statute. The department has six months to complete the inspection. Inspections are usually done in less time, but it can vary. The inspectors are looking to identify what needs to be corrected and working with the employer to get the issue corrected while they are also trying to get the information together to get the sanction in place.

ROSALINDA GUILLEN (CTC): There's no change to this process, it is the same as it was before the pandemic started?

MAGGIE LELAND (L&I): The general statutory outlines of our authority are the same as before the pandemic started. What is different is how we are deploying our resources to make sure that we're figuring out how to best get them resolved in the quickest way because our goal is to ensure that where we can we have an employer correct the hazard.

ROSALINDA GUILLEN (CTC): Have you increased the number of staff?

MAGGIE LELAND (L&I): We have changed the way we are using staff as far as ensuring that we're getting the information we can to the inspectors, but we don't have additional inspectors. Certainly, as the workload has changed under this, where the inspectors are going out has changed.

ROSALINDA GUILLEN (CTC): To the committee and to Norma, I want a report of the changes that you are making in the way you are deploying staff since the 1st of March.

MAGGIE LELAND (L&I): The message that I'm trying to convey is that normally we have a set inspectors that would be going out and spending time doing complaint inspections, also doing inspections of fatalities and hospitalizations and some inspections that are more proactive from a scheduled list. Most of the inspections that are happening now are responding to fatalities and hospitalizations as well as responding to complaints that are coming in related to COVID-19.

ROSALINDA GUILLEN (CTC): I understand that, I would like to see a report of that.

URIEL INIGUEZ (L&I): Rosalinda is your question, are we going to be able to respond in a timely manner to the complaints and investigate them? Is that what your concern is?

ROSALINDA GUILLEN (CTC): Yes, because as a committee without seeing a report of what the resources are and how they are being used we can't make any recommendations to prepare for future crisis. I am concerned, because as you all know this is the reason this committee was formed. It never worked to the extent of really providing the health and safety that farmworkers need in the workplace. The reason that we wanted emergency rules is because of those reasons. The farmworker population is vulnerable to this disease. We want to work with everybody to try to set up processes that will support future crisis like this. We need these recordings of the minutes, none of the nuances of why we're doing this work is reflected in the minutes. We are feeling it urgently because we are hearing from farmworkers what is happening.

MAGGIE LELAND (L&I): I have to tell you that L&I staff are working day and night on COVID issues. We are hearing the same thing from first responders and hospital workers. I just want to convey we are

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doing all we can, we are working, and our mission is to protect workers and to help employers and to ensure workers have their benefits when they need them. We hear you and if you aren't hearing the urgency in our voice it's probably because we're working on these issues' day and night.

ROSALINDA GUILLEN (CTC): This is exhausting for all of us. However, what goes down on paper for rules and policies makes a difference for future issues and that is why I want to make sure we track this the best that we can so that we can make improvements. The way that the system worked prior to the pandemic was such that we weren't satisfied with it; farmworkers weren't adequately being protected. That is the whole point of these meetings, to try to improve things.

JON DEVANEY (WSTFA): I understood from the response from L&I staff that the way it was phrased to request that sounded a little daunting to be tracking the ways staff are allocated. I don't imagine that you allocate staff based on industry, so much as you allocate some specific purposes and they respond to inquiries or complaints. Because so much of the economy is shut down, I imagine that by nature you are responding primarily to complaints and concerns about workplaces that are essential and are still operating. I don't expect you're getting a lot of calls to close salons and restaurants, for example. So maybe rather than asking for background information on how you're deploying your staff if you could maybe give the committee some information by industry about the kind of complaints or investigations that you're responding to and compare and contrast that with prior years. It might show if it is tagged by the industry that you're conducting inspections. It might be easier to pull a quick data search. I just get the sense that you're not able to provide information in the way that it was asked for, is that correct?

MAGGIE LELAND (L&I): Yes, I just want to make sure that I'm not also giving impressions that I didn't mean to give. I'm not in our safety and health division, you're getting this information based on what I know from a more enterprise perspective. I do know Anne talked last meeting about the six months' worth of complaints in the past month. We can get data on that for the next meeting.

JON DEVANEY (WSTFA): That would be really helpful and I know that for farmworkers and H2A workers which is part of the purview of this committee that L&I did some more targeted inspections two years ago to employers and I had sent the message to Dan Zeitlin asking if that data can be recaptured and reported back to the committee. I think there was a report generated but I can't lay my hands on it, so that we have a baseline for the level of compliance and the kind of violations that, if there were any, that we may have seen in the past so that we can compare. Is there a compliance problem during this crisis, or has it gotten worse as a result? I think having some context for that data when we look at it would be helpful, as well. I know that you all are under a huge workload right now but as we're trying to give you advice, I think it would help for us to have this data.

ROSALINDA GUILLEN (CTC): My concern is adequate resources and attention being put towards farmworkers complaints? To the extent that you can show that in a report. Every industry in the state of Washington is pushing hard for protections for their workers just like we are, and I know that that is difficult, but we are going to push.

NORMA CHAVEZ (ESD): Maggie and Uriel, I think we have a request of the past report that goes out every year and the current information that goes by industry would be helpful. If you could provide that by the next meeting.

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ERIK NICHOLSON (UFW): We would find it helpful, without disclosing any additional information, just the number of citations that L&I is issuing based on the guidance that you shared with us in the fact sheets. Just what those citations are and how many your issuing in each period I think would be extremely helpful.

NORMA CHAVEZ (ESD): I think we want to move on. If anybody has comments on the factsheets provided by L&I, please send comments or questions, directly to the agency.

MIKE GEMPLER (WGL): One more time, you can, will, and have been citing people for violations of the mandatory sections of the factsheets, correct?

MAGGIE LELAND (L&I): I will say that we have been inspecting to it. I don't know any outcomes because I am not privy to that information.

MIKE GEMPLER (WGL): But that is the intent, right? Thank you, I just wanted to make sure.

ROSALINDA GUILLEN (CTC): So, we are going to see that in the data you pull.

MAGGIE LELAND (L&I): I will ask for the data to be put together and shared.

NORMA CHAVEZ (ESD): We want to move on to Department of Health with Todd Phillips and Dave Gifford.

TODD PHILLIPS (DOH): We don't have a lot to add beyond what Maggie has described with the emergency rule making. Michele and Rosalinda had asked about the crisis, and we hear you this is a crisis. We're working with appropriate DOH staff to make sure there's awareness and make sure the unified command is aware of what we are working on. So, the overall response is aware. I appreciate you bringing it up.

MICHELE BESSO (NWJP): Not exactly, but I didn't know if this was the appropriate time and I know I was maybe a little bit hasty before in my wanting to discuss the urgent need for coordination and preparation that would take more than rules, that would take concerted testing, involvement of health providers in the training of workers, in figuring out solutions to grocery shopping, and to transportation. I see a huge need for there to be a more coordinated approach. We have many cases popping up in existing workforces and that's going to be a challenge. We see outbreaks in warehouses and now we're going to be bringing in thousands of people to be living in these congregate housing facilities. I don't see, given the kind of contagiousness of this virus, the kind of response that I think is going to be needed. I mean if we're leaving it to individual growers and providers to figure out housing, figure out how they're going to train the workers on disease prevention. Last Sunday - Walmart a bus full of workers drove up in Yakima and released 50 workers to go shopping at Walmart. Are we going to be able to prevent further contagion with these steps or do we need another approach?

MAGGIE LELAND (L&I): I think part of the problem is that the right people are not on the call. The staff that are on the call from DOH are the housing staff and the staff that are on the call from L&I have a unique role in this. We are just part of the role. We are prepared to talk about how we do think moving to more proactive steps around education outreach would be helpful right now. Jeff Killip is on the line from DOSH and we would like to talk about how to get together on training materials. We do want to move forward with those types of things and we do have a sense of urgency on it. I'm not sure if overall and when you talk about the public responding to this public health crisis, we don't have the right people in the

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room to talk about testing and coordinating. I will say there are enforcement activities going on and it is coordinated with both state and local health departments. There is work being done and there is coordination. I'm not sure we have the right people in the room to outline that for you.

ROSALINDA GUILLEN (CTC): So how can we get the right people in the room for testing and health care?

URIEL INIGUEZ (L&I): I think that will require the Governor's office in order to get that kind of coordination.

MAGGIE LELAND (L&I): There is an email distributions list that comes from Central Command at Camp Murray. There is a large structure in place for how that is going on and there are daily briefings and all sorts of things going on and so trying to make that fit into a committee like this is I think is a challenge.

ALEJANDRO SANCHEZ (GOV): That is true, the EOC emergency operations center is all at Camp Murray. We can get you information and there might be somebody that can speak to that from an internal point of view. I can look at that and try to get somebody. Our Governor is asking for more testing all the time. I don't know what to say about that beyond we have an entire division actively working on it.

MICHELE BESSO (NWJP): I understand there are a lot of people working very hard. I feel like it's very reactive that once there's an outbreak, there is a response. Maybe I'm wrong on that, and I'm very relieved if it turns out that people are really thinking ahead and coordinating how to handle the H2A workers that are all arriving in the next six weeks. I'm convinced that in six weeks we're going to be here with thousands of people here, the growers saying where are we going to house these people because you're not letting us use put as many people in the housing as we need, we now need to put them all in tents and there's 100 people in each place that have COVID-19. So, what are we supposed to do and how are we going to handle this? We should have tested everybody at the very beginning and maybe we should be bringing up fewer because we don't have housing for them.

IGNACIO MARQUEZ (WSDA): The Washington State Department of Agriculture, as many on the committee know, really has a very limited role in worker safety or the health of people in the workplace. We mostly do food safety, and it's only when workers use pesticides that we get into the worker protection standards. The director has asked me to look into options for farmworker housing. Just anticipating that these rules would limit the number of workers that can stay in one facility. This applies not just to H2A workers, but to all farmworkers that are living in housing that's provided by the employer. I am working with other state agencies to try to figure out where are the resources and what are some options to place farmworkers in anticipation that these rules are going to go into effect. It's been a struggle because it's hard to figure out exactly where the housing will be needed and how to transport those workers from one location where they may be living, to the work site, in a fashion where they are still social distancing. I would like to say that we're getting somewhere but it's just been very challenging trying to find the resources and even when we find the resources trying to figure out exactly where are these workers going to be. Where can we place them, what are some options whether it's a voucher system, finding apartments or using motels and hotels? Housing facilities are in rural areas or remote areas where it's very unlikely that we would find a hotel or motel nearby. I will continue working at it, I am working with several agencies on this and the emergency operations center, but we still have a way to go. I know that doesn't respond to all your concerns because there is also a concern about not having enough test available to test every single worker out there.

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ROSALINDA GUILLEN (CTC): I just want to go on the record and I want to make sure this goes in the notes, to me the sign that shows there is a structure that has been created to bring in H2A workers and to protect farmworkers in general for these kinds of crisis does not exist in the state of Washington right now. And that it is part of this committee's responsibility to investigate fixing that problem because everything that I'm hearing is an infrastructure that does not accommodate common sense guidelines or behavior towards this type of pandemic.

NORMA CHAVEZ (ESD): Thank you for your comments Rosalinda and thank you Ignacio from Department of Agriculture for adding some of the work that your agency is doing on housing.

MICHELE BESSO (NWJP): I'm impressed with what L&I is doing and how they're responding. I think Department of Health is doing the best they can. I'm glad to hear Ignacio. It's not that I question that individual agencies are doing what they can within their powers, within their resources, within their authority. From where I'm sitting, given the contagion, I don't see it meeting the reality of the next two months. I don't think we're able even to stop the contagion in the warehouses, I don't understand how we're going to stop it in these situations with bringing in people who are being bused, who are living in congregate housing and with so many different employers. Some of whom are sophisticated and will figure out how to do some of these protective measures, but we know they can't because one reason we have this committee are all the problems that have flared up over in the H2A program with the lack of oversight. The fact is that some employers follow the rules, and some do not. In this pandemic leaving it to each individual employer to figure out how to do this and how to protect these people. I don't know how we are going to get there in the next month when agriculture is really ramping up.

ERIK NICHOLSON (UFW): On Sunday I'm going to go over to Pasco and just watch the buses come in with H2A workers. Assuming I'm going to witness a similar event that Michelle talked about in the Yakima Walmart with 50 workers on the bus all getting off at the same time, all entering the store. Who do I call to file a report and what guideline or rule do I file a report of a violation of the social distancing guidelines or rules?

MAGGIE LELAND (L&I): If you want to file a report that an employer provided transportation without social distancing that would be filing a complaint with L&I via the 800 number.

ERIK NICHOLSON (UFW): I just don't see that covered in the factsheet. I just want to be very clear when whoever takes the call when they asked the basis of my complaint that I can be very specific.

MAGGIE LELAND (L&I): The factsheets talk about the need for social distancing. We are getting out a factsheet on temporary worker housing that would include information on the transportation that it is still an expectation. That is all that would need to be said. Employers are required to implement an effective social distancing plan.

MICHELE BESSO (NWJP): How are you going to find out which employer's workers they are since the buses are not labeled?

ERIK NICHOLSON (UFW): I speak Spanish, we'll figure it out.

ROSALINDA GUILLEN (CTC): That's the problem, you can do that but not everybody can do that.

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ERIK NICHOLSON (UFW): If L&I wants to have an effective enforcement action, Sunday at the grocery stores.

MIKE GEMPLER (WGL): What about enforcing social distancing at the stores? Is anybody doing that I mean some stores are limiting and taking great pains to mark social distancing to mark out lines.

MAGGIE LELAND (L&I): And yes, we do that as well. We have a grocery store factsheet that talks about social distancing requirements and we work with the industry associations and unions as well and are dealing with the same issues.

ROSALINDA GUILLEN (CTC): Are the workers getting off the bus and going into the grocery store, being monitored inside the store?

MAGGIE LELAND (L&I): It is the stores responsibility to make sure their employees are socially distanced. We are all responsible for ensuring we are socially distancing.

ROSALINDA GUILLEN (CTC): Is the phone number to call to complain on the factsheet?

MIKE GEMPLER (WGL): There is an 800 number on the bottom of the first page.

URIEL INIGUEZ (L&I): If you see something please call us. That is information that we need in order to respond.

MICHELE BESSO (NWJP): I guess I want to ask Jon and Mike do you think that with these regulations that the employers are equipped to handle the H2A workers coming in. I guess I am just wondering do you guys think we need more coordination.

JON DEVANEY (WSTFA): It depends on what you mean by coordination. Employers are taking this very seriously and understand that these are serious obligations that they have to ensure the safety of their workers in the community or they wouldn't be concerned about the content of those factsheets that have come out because they understand them to be binding That they are mandatory. If they weren't taking it seriously, they wouldn't care about what is in them. I think that they are taking steps to make sure that these safety measures can be implemented. I think this is an ongoing response that our entire state and society are dealing with so I don't want to overpromise that yes that it's all handled. But I think that it is not the impending disaster that you are painting it to be.

ROSALINDA GUILLEN (CTC): Ok, can that go on the record?

NORMA CHAVEZ (ESD): Noted Rosalinda.

DELIA PENA (ZFC): Some of the things that we have been doing to try to get ahead of this, and we obviously don't have any H2A onsite we are reaching out to different vendors in all of the different counties that we have our H2A housing and asking what are the different options we do have when it comes to online shopping or curbside pickup or something to where we are not having busloads of workers. We are looking at how we can minimize exposure for the workers as well as seeing if there are other options for check cashing.

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MICHELE BESSO (NWJP): Luckily Zirkle has more resources to do that and I salute you for doing that. What I am seeing is I don't think individual growers are all in a position to figure out all these issues about how they are going to get food, banking services, etc. Are we really thinking that each of these people are going to figure this out individually and make it work, without creative collaboration? If Zirkle figures it out, how are all the others going to find out about it, how is that information going to get to all the others who could use the same processes. It is going to take a different way of paying people so that they can maybe prepay for curbside pick-up. These are the practical issues I see, and they are not all members of Jon and Mike's organizations.

DELIA PENA (ZFC): We have had DOH reach out and ask survey questions. That is based off everyone that has filed applications and not necessarily part of an association. Maybe a quick guide or frequently asked questions, what are my resources, what are my other options in getting people to cash checks, what are the other options or payroll cards. Which services offer online grocery shopping. There have been some locations of stores that has said we will reserve some special time when your group can come in and go shopping. Growers must reach out to the stores they know they frequent and ask. If the answer is no, move on to the next store.

ERIK NICHOLSON (UFW): I appreciate that, and I think the challenge we have is not all growers are as forward thinking as you all are. We know that there are growers in our industry that are violators of the rules and regulations we would hope that the Growers League and Tree Fruit Association would hold each other accountable. Our supply chains are only as strong as the weakest link. We're watching with horror what's going down right now at Tyson and other cases now sprouting up in surrounding agricultural areas. That we strongly believe are a direct result of worker exposure impacting family members of Tyson workers. We need your help to hold them accountable and not let them continue to get away with impunity in the middle of the pandemic.

NORMA CHAVEZ (ESD): I think for the sake of time we've had this conversation and thank you for everybody's comments and things to think about. Moving forward I think there's been some comments before to take this conversation on with additional parties beyond those in this meeting. I think it's been mentioned before, clinics, health districts, to try to make some of those suggestions. I know Alejandro has mentioned maybe a committee outside with the governor's office, is that something that could happen moving forward?

ALEJANDRO SANCHEZ (GOV): Potentially, we were looking at that. We will look yes.

NORMA CHAVEZ (ESD): I would like to transition to Employment Security and Dan Zeitlin.

DAN ZEITLIN (ESD): I am putting on my policy director hat to provide an update to everybody on where we are in the world of unemployment, then I can put back on my committee chair hat. I sent, at Michele's request, some information last week about what we're seeing in terms of unemployment insurance claims in the agriculture industry. When I sent that data earlier in the week, I noted that we had around 3800 workers in the agricultural industry that had applied for unemployment insurance; 82% of those are eligible and of those, 82% of them are paid. So, at the time of my email about 2600 workers in the agricultural industry had been paid unemployment benefits and around 543 had issues with their claim. Since then, we launched the Pandemic Unemployment Assistance Program. This is the program authorized and funded by Congress to cover individuals who are not eligible for regular unemployment insurance. Those would include individuals who do not have the necessary hours in the last year and a half of work to qualify for regular UI. We launched that program on Sunday. If the committee is interested as we get data,

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we can provide data about both regular UI and PUA. Whether agriculture workers or otherwise, we have a very large view of individuals who have issues with their claims that needed need to be adjudicated. That is tens of thousands of people who have issues with their claims that have not been resolved. We are doing a variety of things to try to get through that queue as soon as possible to get claimants regular UI benefits those benefits or PUA benefits if they are determined ineligible. We do know in some of those cases that it is errors with applications and, Spanish speaking and English as a second language applicants have challenges so we're trying to address those issues.

At the end of the day we have an historic amount of UI claims coming in the hundreds of thousands per week.

JON DEVANEY (WSTFA): You said there were about 18% of unemployment claims have been denied because of problems. Were those application errors or was there some fundamental ineligibility issues?

DAN ZEITLIN (ESD): Those are 17% of those that have issues and have not been paid and they need to be adjudicated. When an individual files a claim, they may go through cleanly, the employer doesn't dispute it, they get paid quickly. That 18% or 543 cases at the time my email, are in the adjudication queue. So, it's hard to say what the issue is, other than that it needs to be resolved. It could be anything from they made an error on their application and it didn't go through, to not enough hours/wages in the system and therefore they might qualify for PUA, or an employer is disputing it. They are in a queue of tens of thousands of cases we are trying to work through. We're looking at some common issues that they might have. When it looks like a common issue really pertaining to the circumstances were in an economic shutdown, we are trying to clear those out in a batch way, but for a lot of these we need to go into each individual claim. It varies claim by claim.

MIKE GEMPLER (WGL): What's the normal level of UI applications in agriculture for this time of year?

DAN ZEITLIN (ESD): I would have to check. Our peak season is October to March so at this point we are out of that peak season that we see year over year. I can say for a general perspective we had roughly 6000 claims came in the week before we really started to feel the effects of the crisis. Since then we have had over 100,000 initial claims each week not to mention the weekly claims that follow that each week. Between March 8th and when we launched PUA this week. I can do a year over year data query and see how that compared to last year. I will do that and send it out to the whole committee.

MICHELE BESSO (NWJP): I was wondering about the Spanish on the website for being able to apply to the PUA. I had heard yesterday there were problems in terms of the information about how to apply.

DAN ZEITLIN (ESD): Do you mean general problems or Spanish problems? If you or others on the committee have suggestions on getting the information that these claimant need in Spanish that would be appreciated. I know we can put as many factsheets on a website or do as many webinars if we can or do things on social media and it can still be a challenge to get claimants get the right information to help them get through an application process.

NORMA CHAVEZ (ESD): We have been working with communications to get more second language information out and if there are claimants that you can indicate are having issues just give me a holler. I have had claimants that I've been able to assist with their claims.

DAN ZEITLIN (ESD): That is a very good suggestion Norma.

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NORMA CHAVEZ (ESD): Part of it is the queue, where they just have a question or two. We can resolve that issue pretty quick it's just a matter of knowing who they are.

BREAK 10:05 – 10:15

DAN ZEITLIN (ESD): The ASWS office was established to provide enhanced administration, oversight, education and technical assistance related to the H2A program. This committee was established to provide advice as that office was stood up and that office does have a critical role to play in responding to the COVID-19 crisis.

At the same time, it is also true that this forum may not be the best to address the myriad of health and safety issues that agricultural workers and businesses face. We at ESD are working with the committee and with the governor's office to find other venues with a broader group of stakeholders at the table and a more diverse set of agency officials. These are challenging issues that touch on things that go beyond the scope and ability of the agency representatives at this table to address. I think that it is evident that everyone including the agencies and everyone at this table are doing all they can to address extraordinary challenges that we all face. Ultimately the ASWS office and this committee were design and funded in a pre-COVID-19 world and I think it's important that we get back to a discussion focused on this office, understanding how it is funded, understanding and agree on what the mission is and what we can and should do in coordination with our agency partners to manage the H2A program. Including acknowledging the dynamics that now exist in a COVID-19 world.

For the next part of our agenda we are going to turn things over to Norma and the office itself. We think it is important to for everybody to get a baseline understanding of what federal funds are available to us, what we can do with those funds to address some of the issues that are now more front and center due to COVID-19 and then what else is needed for this office and other agencies looking to best administer a program and provide the needed oversight, education, and technical assistance.

NORMA CHAVEZ (ESD): I think it is important that we're all discussing COVID-19 issues and how it affects employers and workers in the agriculture industry. The last four weeks you know have shown and everybody is trying to work together they're just limitations with some of the policies and laws that we have at this point. I want to give credit to those who are really trying to change those policies and rules and to the people who are asking questions and pushing. I can see the passion and the vested interest that everyone has in this work.

We left off back in March with the foreign labor certification process, with applications to USDOL and how they work with the housing portion for precertification with Department of Health. There are three staff members doing that work currently, CaraMia Stearns-Vance, Ana Alcala-Rodriguez, and Petra Meraz. Rene Maldonado, Washington State Monitor Advocate also joined our team. Tamara Johnson is our Administrative Assistant.

We are moving forward working on compliance staff to begin to recruit. It has been sort of difficult with some of the requests we've had in relation to COVID-19, but we want to start on that transition. We think that if we start with some compliance staff, we will be able to do some field checks, provide information and guidance to employers. Facilitate the transition of complaints as to what the agency would need to look at to address those types of concerns. We do see a great benefit in moving forward on staffing with compliance throughout the regions. It may be difficult with some of the issues we have still with COVID-19.

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JON DEVANEY (WSTFA): You talked about some of the staffing is that a fully staffed situation now or are you still planning to move additional personnel into the office.

NORMA CHAVEZ (ESD): As far as hiring, the next stage would be recruiting for staff to do compliance. We would be hiring in the Wenatchee, Omak, Moses Lake and Yakima.

IGNACIO MARQUEZ (WSDA): I may have missed this, but did you talk about any type of training for employers on how to negotiate the H2A program to make sure that they understand what the requirements are for submitting their applications on time, with no errors.

NORMA CHAVEZ (ESD): Our foreign labor certification staff can do that even more now because we are fully staffed with three people. We can facilitate employers with the process.

MICHELE BESSO (NWJP): Is part of the training also how to maximize recruiting workers at the local level?

NORMA CHAVEZ (ESD): Yes, we are training the offices. Now that we have a little more bandwidth, we have been able to start conversations with the different regions. I will now hand things over to Alberto for the Foreign Labor Certification Grant overview.

ESD – Norma Chavez & Alberto Isiordia

- ASWS Office Update
- FLC Grant

NORMA CHAVEZ (ESD): I will hand over to Alberto for the Foreign Labor Certification Grant overview.

Alberto Isiordia presented on Foreign Labor Certification. (See Addendum III.)

ROSELLA MOSBY (MF): Is this the only grant utilized for the program? Are there other grants you utilize for say field visits or do you seek out other grants?

ALBERTO ISIORDIA (ESD): The other grant that is used to fund some of our activities is the Wagner Peyser grant. I would say that is the 2.0 version of this conversation. To answer your question this is a key grant, but this is not the only grant.

JON DEVANEY (WSTFA): I've had a number of conversations with DOL about their allocation formula as well as with the members of Congress on how we can work to get this improved. I was back in DC in March and I had a conversation with Brian Pasternak. I was talking about the need for more funding for Washington and he thought that was interesting because Washington didn't use its full grant last year and returned money. Can you provide more information on why?

ALBERTO ISIORDIA (ESD): I'd like to look at that because it does not align with my knowledge. I am aware that in past years we were having internal issues with not charging appropriately. My understanding is that's been fixed over the last couple of years so, I will follow up with you.

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JON DEVANEY (WSTFA): Thanks, I was making a very strong case that we desperately need more money and I felt a little embarrassed at that point.

ROSALINDA GUILLEN (CTC): I would like to see a similar report on the funding for recruitment and the oversight of complaints.

ALBERTO ISIODIA (ESD): Noted we will add that as an action item.

MICHELE BESSO (NWJP): We probably need to know what is the actual cost of these activities.

ALBERTO ISIODIA (ESD): I know in the past in grants submissions we were communicating more closely what we thought our costs were however, even then there were certain things that we were not including. I think this is an area we will need to dive into further in the budget.

JON DEVANEY (WSTFA): We should probably get information on the foreign labor certification and how much ESD is getting for Wagner Peyser and where those dollars are going and how much additional funds are available to use.

ALBERTO ISIODIA (ESD): We will be looking to prepare that for our future discussion.

ROSELLA MOSBY (MF): Is there any chance we can request getting a better price for the survey? Putting it out for bid, rather than settling on the University of Washington each time.

DAN ZEITLIN (ESD): Alberto, can you speak to the history of the survey.

ALBERTO ISIODIA (ESD): Gustavo you are probably more prepared to answer that question if he's on the line. He's worked closely with the University of Washington.

GUSTAVO AVILES (ESD): Back in 2000 is the last time that we analyzed survey results in house. We used to have a survey unit but the cost of having it in house was very expensive. Washington State University conducted the survey for us, and they did it for one year. I don't remember the exact numbers, but it was higher than what we are paying right now to UW. WSU was having some problems when it came to security of the data and in following the guidelines and specifications of how the survey should be conducted. The following three years we asked the University of Washington to do the survey for us. It's been in the books and we're hoping that this year we will try to set up a request for proposal or investigate other universities or state agencies to see if they can conduct the survey for us. We started conversations with Western Washington University, but because of COVID-19 we haven't seen another cost estimate. The main concern we have is the security of the data and there are certain policies that need to be followed and, so far, we haven't found an entity that would be able to meet those requirements.

ROSELLA MOSBY (MF): How much does that survey typically cost?

GUSTAVO AVILES (ESD): The estimated cost for this coming year it goes is \$400,000, just doing the survey administration. Last year I believe it was \$390,000, just the administration. That doesn't take into account the time staff use in analyzing the data and preparing the sample. That is something that we can prepare, and I can send it to you. I believe we've been tracking this for about 3 years very closely and one thing that I want to clarify is it is not just the employer survey that with the University is administering, but

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also the workers survey. The worker survey is supposed to validate the responses that we get from employers.

My staff coordinates that with MSFW outreach specialists, and we bring in the University of Washington staff to do the interviews. For this survey we need bilingual interviewers, usually Spanish speaking, interviewers and in addition to that field work we also have a sample of 8000 workers that we try to reach by phone.

ROSELLA MOSBY (MF): Do you have a percentage for participation for the 8000 workers?

GUSTAVO AVILES (ESD): In the case of 2019, we have it on our website. I will send a copy out to the committee. Last year the survey cost for the University of Washington administrating all the surveys was about \$390,000. That does not include staff time. The response rate when it comes to employers has not changed that much. The University of Washington also has the web survey, but we tried to contact employers three times which is a best practice for surveys.

ROSELLA MOSBY (MF): I just want to clarify there's no other contractor other than whatever University you are hiring and your staff time working on this survey. The other questions that I would like answered is the actual percentage number of participation responses from employers and responses from workers. I'm just wondering about the percentage of involvement within actual outreach and direct phone calls.

GUSTAVO AVILES (ESD): I'll provide you the response rate that we get on the surveys. You talk about the overall cost of the survey collectively and where we're getting value for money on the two surveys and whether they are priority. I'm about to present the estimated cost that we got through the University of Washington last year in the contract do you think that that's something we can share now?

DAN ZEITLIN (ESD): Let's share it at a future meeting. Can you repeat how you engage workers from that survey is using a phone or is that just for employers?

GUSTAVO AVILES (ESD): There are two main survey's right now the employer and the worker. The survey of 2019 sample size on the employer survey it's about 3800 and the worker survey it's about 8000 plus the voluntary interviews that we get during those two weeks during cherry and apple harvest. For the employer survey we use web, phone, and mail. We start with a postcard to the employer inviting them to respond to the survey through the web if we don't see enough responses, then we start calling them. In the case of the worker survey there are two types of contact, web and phone, they are more likely to respond by phone. The field survey is mostly in person we are conducting the survey during their breaks or after or before they start working. We also going to housing, daycare centers and other places where workers may gather.

DAN ZEITLIN (ESD): Who is the we when you say we?

GUSTAVO AVILES (ESD): My two staff and there are at least four from the University of Washington.

DAN ZEITLIN (ESD): We have three buckets of money. We have the Foreign Labor Certification Grant. The Wagner Peyser grant, and that funding can be used for the survey work, for fields checks and everything else. What we would like to do with the next presentation is explain Wagner Peyser. Lastly, the legislature provided us about \$3.5 million over two years; that funding is tied to Norma's position and staff hired in the office.

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NORMA CHAVEZ (ESD): Technical assistance and education is going to be a large part of starting a compliance unit with employers.

Closing comments

DAN ZEITLIN (ESD): I would like to go around for closing comments.

MICHELE BESSO (NWJP): I appreciate the need for this committee to pivot giving a hard look at the ASWS and recommendations. I would encourage our group to continue the conversation in a different forum about how to make proactive planning with a larger group of stakeholders including health providers on the safety of farmworkers including the H2A workers under COVID-19.

JON DEVANEY (WSTFA): I think we do need to focus on the H2A and program management issues that this committee was created for. There are plenty of COVID-19 issues and I'm not entirely sure how to handle those given the agency stakeholders are restrained by pending legal action from engaging in this process.

MIKE GEMPLER (WGL): I'm interested in knowing when the agencies anticipate finalizing the emergency rules, because I know that substantive discussions on the regulations and interpretation of those regulations can't begin until then. When do you anticipate having these finalized?

MAGGIE LELAND (L&I): We're looking at a May 1st filing date.

MIKE GEMPLER (WGL): I think on the funding and operation of the program. We really need to work at being as efficient as possible in the administration of the program and the cost of the survey. I look forward to continuing to work on that

ROSALINDA GUILLEN (CTC): I continue to be extremely concerned for the wellbeing and the life of farmworkers and agricultural industry under the COVID-19 pandemic. I agree we need to look at this structure of this H2A program, that is what this committee was created for. The big challenge for us is how we blend this pandemic into creating an efficient program that also ensures the wellbeing of farmworkers.

ROSELLA MOSBY (MF): You know we are entering a season unlike any other. I want to reiterate what I've been saying this whole time I do believe that we are all shaking in our boots as to how we're going to balance all aspects of the situation. I do appreciate ESD refocusing their efforts on getting data for the report.

ERIK NICHOLSON (UFW): NO ANSWER

DELIA PENA (ZFC): NO ANSWER

RAMON TORRES (FUJ): NO ANSWER

URIEL INIGUEZ (L&I): Please continue to call the 800 number to report issues. Leave messages with the address so we can respond appropriately to the concerns.

TODD PHILLIPS (DOH): I just appreciate everyone continuing to work on this.

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DAN ZEITLIN (ESD): We will circle back with Alejandro with the idea of bringing a larger group of stakeholders together to discuss needs in terms of health, safety and other COVID-19 issues. We're going to hold our next committee meeting on Thursday May 7.

Action Items

- Determine if meetings can be recorded.
- Report from L&I/DOH on use of staff for agricultural complaints.
- Request for separate stakeholder/agency meeting around COVID-19 issues.

Agenda Items for Next Meeting

- Domestic Worker Recruitment & Referral
- Domestic Worker Verification Process
- ASWS Report to Legislature

Public Comments

Joe Morrison – Columbia Legal Services

Dan Fazio – Wafla

Adjourned

Dan Zeitlin thanked everyone for their continued active participation and for their commitment to this work, then ended the meeting at 11:33 a.m.

2020 Meetings

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

- **May 7th, 2020 – 8:30 a.m. to 11:30 a.m.**
Skype Meeting

Addendums

ADDENDUM I



Agenda

Agricultural and Seasonal Workforce Services (ASWS)
Advisory Committee

Thursday, April 23, 2020 | 8:30 am – 11:30 am | SKYPE

Agenda Items

TIME	TOPIC
8:30 am	Introductions <ul style="list-style-type: none"> Welcome from Dan Zeitlin, Director, ESD Policy, Data, Performance and Integrity Division & Norma Chavez, Director – Agricultural and Seasonal Workforce Services Agenda Review
8:35 am	Approval of April 2, 2020 Meeting Minutes
8:40 am	Governor’s Office – Alejandro Sanchez <ul style="list-style-type: none"> Updates
9:00 am	<u>Agency discussion (COVID-19):</u> <ul style="list-style-type: none"> DOH – Todd Phillips and Dave Gifford L&I – Uriel Iniguez and Maggie Leland WSDA – Ignacio Marquez ESD Policy, Data, Performance and Integrity – Dan Zeitlin
10:00 am	BREAK
10:10 am	ESD – Norma Chavez & Alberto Isiordia <ul style="list-style-type: none"> ASWS Office Update FLC Grant
11:10 am	Discuss next meeting agenda
11:20 am	Public Comments
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



Foreign Labor Certification (FLC) Grant Overview

April 2020

BACKGROUND

The Department of Labor publishes an annual Training Employment Guidance Letter (TEGL) that provides grant planning instructions to all state workforce agencies. TEGL 14-19, issued on April 13, 2020, provides Employment Security Department (ESD) the most recent instructions. While TEGL 14-19 remains under review, it appears to align significantly with TEGL 21-18, issued in May 2019.

As part of the May 2019 grant planning instructions, ESD was required to provide:

- A summary of workload associated with the number of H-2A and H-2B job orders processed, the number of housing inspections conducted, the number of prevailing wage surveys and the number of prevailing practice surveys conducted.
- Assurances and responses to questions associated with conducting H-2A and H-2B related activities.
- A schedule of prevailing wage and practice surveys to be conducted along with a breakdown of costs to be incurred by the contract with the University of Washington.
- Support documents including our Memorandum of Understanding with the Department of Health (DOH) and the Department of Labor & Industries.

The 2019 \$400,000 grant award amount was disclosed by DOI to ESD at the beginning of the grant application process. This was a change when compared to previous years, when grant amounts were disclosed after all states applied. The following table provides a summary of FLC grant funding for the last five years.

Fiscal Year	Amount
2019	\$400,000
2018	\$450,000
2017	\$237,354 and a supplemental allocation of \$325,000
2016	\$179,907
2015	\$179,907

FEDERAL GRANT FUNDED ACTIVITIES

The following activities are allowed and funded, to some extent, by the FLC grant:

- Reviewing and processing employer H-2A and H-2B applications as required by 20 CFR 655.121 and 20 CFR 655.16;
- Coordinating with the State Department of Health and State Department of Labor & Industries to ensure temporary housing used for the H 2A program is inspected and licensed in compliance with local, state and federal regulations including those described by 20 CFR 655.122(d);
- Stakeholder engagement and outreach activities;
- Conducting agricultural wage and prevailing practice surveys to satisfy conditions described by 20 CFR 655.120; and
- Conducting field visits and checks as federally required by 20 CFR 653.501(c)(3)(vii) and 20 CFR 653.503, respectively.

While some of the FLC grant is intended to fund survey work, field visits and field checks, the grant instructions only allow for up to 20% of funding (\$80,000 in PY 2019) to be allocated for those activities.

Employment Security Department

BRIEFING PAPER

OTHER REQUIRED ACTIVITIES

DOL requires states to conduct several activities in support of FLC programs that extend beyond the FLC grant. The following required activities are not funded by the FLC grant:

- Recruit domestic workers for employers seeking to use the H-2A and H-2B programs as required by [20 CFR 655.121\(c\)](#) and [20 CFR 655.16\(d\)](#);
- Process complaints as federally required by [20 C.F.R. Part 658, Subpart E](#);
- Administer the discontinuation of services when employers are found to be out of compliance with an H-2A/H-2B contract or employment-related law as required by [20 C.F.R. Part 658, Subpart F](#).

ESD FLC GRANT ALLOCATION CONCERNS

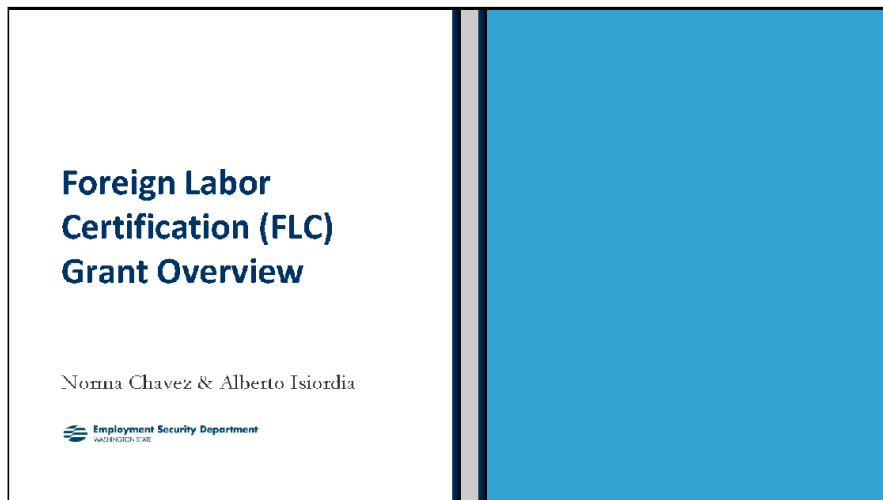
In January 2017, BSD expressed concern to DOI regarding the unclear approach/formula used to distribute FLC grant funding to states, as it did not appear to take into account state workloads. Workloads are most easily measured by the number of applications processed and the number of positions certified. An analysis from our Labor Market and Performance Analysis team found that in 2013 and 2014, Washington State accounted for an average of 2.2 percent and 4.4 percent of H-2A and H-2B applications processed and certified nationally, respectively, yet received an average of 1 percent of the national FLC grant funding. To adjust funding to workload, LMEA proposed that DOL adopt an approach that sets a minimum fixed funding level for all states and a variable funding allocation that would be adjusted according the percentage of applications processed plus positions certified in the preceding year.

CONTACTS

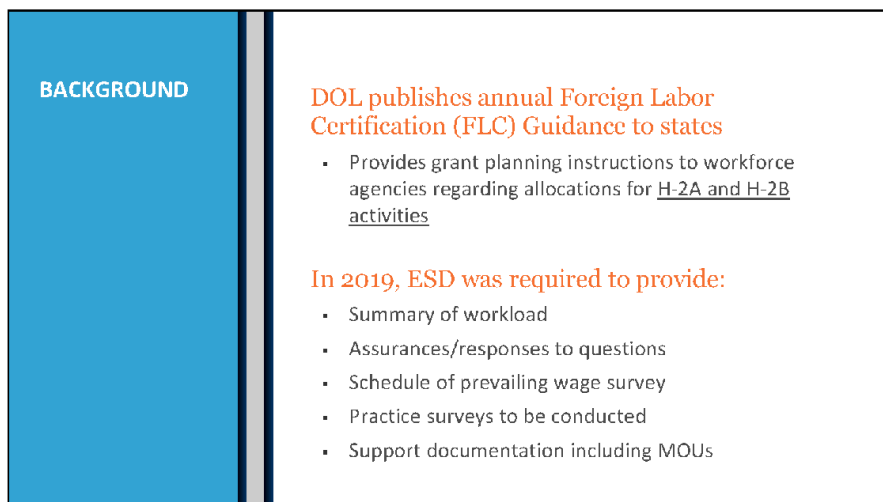
Alberto Isordia, Central Regional Director, 509-836-1115
Norma Chavez, Agricultural and Seasonal Workforce Services Director, 509-734-5922

Employment Security Department

FLC Grant Overview presentation by Norma Chavez & Alberto Isordia



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FLC Grant Overview presentation by Norma Chavez & Alberto Isiordia

ESD FLC Grant Funding	Summary of FLC grant funding over the last 5 years	
	Fiscal Year	Amount
	*2019	\$400,000
	2018	\$450,000
	2017	\$237,354 and a supplemental allocation of \$325,000
	2016	\$179,907
2015	\$179,907	

*In 2019, the \$400,000 grant award amount was disclosed at beginning application process.

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FEDERAL GRANT FUNDED ACTIVITIES	Allowable activities funded by FLC grant	
	<ul style="list-style-type: none">▪ Application Review & Processing (H-2A & H-2B)▪ Coordination with DOH & LNI▪ Outreach and Education▪ *Surveys▪ *Field Checks▪ *Field Visits	
	*Only 20% of FLC grant funding may be used for these activities	

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FLC Grant Overview presentation by Norma Chavez & Alberto Isiordia

<p>OTHER REQUIRED ACTIVITIES</p>	<p>Activities NOT allowed to be funded by FLC grant</p> <ul style="list-style-type: none">▪ Domestic Worker Recruitment▪ Complaint Processing▪ Discontinuation of Services
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<p>FLC GRANT ALLOCATION CONCERNS</p>	<p>ESD letter to DOL</p> <ul style="list-style-type: none">▪ Unclear how DOL distributes funding across states▪ ESD issued letter to DOL provided analysis of state workloads compared to their allocations▪ Proposed allocation formula that distributes funding to states according to workload
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FLC Grant Overview presentation by Norma Chavez & Alberto Isiordia

Thank you very much for your time

If you have any questions about this document, please contact us at:

Norma Chavez ASWS Director nchavez@esd.wa.gov 509-734-5922	Alberto Isiordia Central Regional Director aisiordia@esd.wa.gov 509-836-1115
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Contact information

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Employment Security Department • Policy, Data, Performance and Integrity



Agricultural and Seasonal Workforce Services Advisory Committee

Meeting details

Date: Thursday, May 7, 2020

Time: 8:30 a.m. to 11:30 a.m.

Location: Skype meeting due to COVID-19

Committee members present

- Michele Besso
- Jonathan DeVaney
- Michael Gempler
- Rosalinda Guillen
- Rosella Mosby
- Delia Peña
- Erik Nicholson
- Ramon Torres

Committee members absent

ESD staff

- Dan Zeitlin
- Alberto Isiordia
- Gustavo Aviles
- Norma Chavez
- Tamara Johnson
- Rene Maldonado
- Sara Crosby
- Craig Carroll
- Mike Schulte
- Juan Martinez
- CaraMia Stearns-Vance

Non-voting agency representatives

- Todd Phillips
- Uriel Iñiguez
- Ignacio Marquez
- Dave Gifford

Summary

Welcome and Introductions

Employment Security Department (ESD) Policy Director, Dan Zeitlin, welcomed everyone and asked them to introduce themselves.

Agenda

Dan Zeitlin reviewed the agenda for the meeting and asked if anyone had any questions. Rosalinda asked whether a decision regarding recording of the ASWS Advisory Committee meetings had been made. Dan advised that the committee would need to have a discussion and vote on whether to record the meetings. Rosalinda asked to have a discussion and vote added to the agenda. Recording of ASWS Advisory Committee Meeting was added to agenda after the break scheduled at 10:00 a.m. (See Addendum I.)

Meeting Minutes

Meeting minutes review and discussion was moved to follow the break.

Review of Senate Bill 5438

Norma presented a review of Senate Bill 5438 and the advisory committees' role and responsibilities to report to the legislature. (See Addendum II.)

Report due to Legislature

Norma Chavez suggested that the committee discuss requesting an extension to submit the report due to the delays while the Committee dealt with COVID-19 issues. The report is currently due to the legislature by October 31, 2020. The proposed timeline is to have the contents of the report agreed upon by the committee by October 31, 2020 and to submit it to the legislature by December 31, 2020.

Dan Zeitlin lead the discussion with the committee members regarding the report and deadline extension. Erik Nicholson asked for a reminder of the needed components of the report and agreed with the request for an extension.

In response to Erik's request, Dan stated there are two main components.

- The committee is charged with analyzing the way that ESD, in coordination with other agencies, recruits, refers, and verifies domestic workers in order to provide recommendations to the legislature and the Governor.
- Analysis of the budget which entails looking at the different funding sources at ESD's disposal and the funding needed to properly staff and resource the ASWS office.

Dan stated that we should focus on the budget discussion earlier in the process of writing the report as ESD needs to make any budget proposals in July or August for the upcoming biennium.

Mike Gempler also agreed with the request for an extension and stated that we may have until January when the legislature is back in session.

Domestic Worker Recruitment & Referral

Norma presented the updated process map for Domestic Worker Recruitment & Referral. The updates included the CFR's and timelines associated with the steps in the process. (See Addendum III.)

Sarah Crosby facilitated a discussion of Domestic Worker Recruitment and Referral process. She provided a virtual whiteboard where she captured some high-level notes. (See Addendum IV.)

Discussion:

MIKE GEMPLER (WGL): Where in this process does interaction with the unemployment insurance system occur? Are people who have applied for unemployment benefits with relevant experience being identified?

ALBERTO ISIODIA (ESD): Currently there are two ways we interact with unemployment:

1. Reemployment program - We identify individuals that are most likely to exhaust unemployment insurance benefits and based on that criteria we may call them in for an appointment with the intended goal of helping them achieve employment, which may include referring workers to H-2A job opportunities.

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2. Unemployment system - The best way we have to identify whether somebody actually went to work for an employer or not is to cross reference with unemployment insurance wage data. We have the ability to do that and it is how we report outcomes to the Department of Labor.

CRAIG CARROLL (ESD): There is no standardized way of getting a list of those people and informing them directly of opportunities at sites where there are H-2A contracts, but they are available on our website and through other marketing means.

ROSALINDA GUILLEN (CTC): This is something we have discussed in the past, that the recruitment for local workers is not sufficient, there is no real proactive program from ESD to go out and recruit local workers. I would like to flag the qualification of “agreeing to the entire contract” has a big influence as to how ESD recruits domestic workers. I think this is something that is part of what caused ESD to not pay more attention to aggressively recruiting domestic workers while administering the H-2A program.

CRAIG CARROLL (ESD): To be able and available for the entire period of the contract is a federal guideline not a state guideline. We discussed at the end of the presentation before about some of the limitations to being able to do proactive recruitment. H-2A and H-2B programs are unique in that now with our self-serve labor exchange system they are the only types of job orders that we do any type of active recruitment outside of job fairs, etc.

MICHELE BESSO (NWJP): Yet, there is nothing in the contract that says that they have to commit that they will work for the entire period, correct? What I mean is it's different saying I am available I have nothing that would stop me from being able to do it. That is different than stating I will work at this farm for the entire nine months.

CRAIG CARROLL (ESD): There is no requirement that anyone sign a contract. If someone is turned down from a job because they refused to sign a contract that's a big problem. There are a lot of employers especially during cherry or apple harvest, that will hire people under the terms of the H-2A contract that are not indicating that they are available, because they need the help. It depends on the activity that's going on, but definitely during cherries you'll see a lot of growers hire people who are not willing to commit to the entire contract.

ALBERTO ISIODIA (ESD): I agree with what's been stated by Craig.

ROSALINDA GUILLEN (CTC): Is there any way to be able to capture that data? Because I think that makes a big difference when we're talking about local workers being hired.

ALBERTO ISIODIA (ESD): The only way I would know to capture the data as to whether somebody was not hired because they were not willing to commit to the length of the contract would be to review the recruitment reports that employers are required to maintain by federal law. If that was the reason for disqualifying somebody that applied for a job it would need to be captured there and at this time, we don't collect those.

ERIK NICHOLSON (UFW): I was talking a couple weeks ago with some workers in the lower Yakima Valley that have been employed since the beginning of the year. With the arrival of H-2A workers they are now being compelled to sign contracts as a condition of continued employment. The contracts were presented as obligatory rather than optional. I think this is an area that I

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welcome additional clarification and I think we need some concise communication with the farmworker community about what employers can and cannot compel people to do.

ALBERTO ISIODIA (ESD): There are some nuances to this because obviously once somebody is going to start work there's a lot of employment verification type of documentation that needs to be filled out by a worker. Usually that's pretty standard for all employers and some employers may ask all their employees to sign to confirm that they received a company manual for example and so, again, there are nuances. I think the situation where I think we would express concern is if prior to beginning a job an employer asks for a worker to sign a contract. I think that would be an area where there may be some red flags. Is that a fair statement in your experience, Craig?

CRAIG CARROLL (ESD): I would say there's a difference between signing something that says you've been informed or provided something and any kind of contract that would indicate you are committed to staying through the end of the contract. There is no actual contract and there's no binding agreement between the worker and employer. On the employer's side, if you agree then you are required to keep the worker as long as they're performing adequately. But I've also heard of some employers having workers sign a document saying that they were offered a contract and they chose not to accept the terms of the contract and those are sometimes existing employees. That is also inappropriate. I always suggest that anybody that receives information like that should encourage those people to reach out to WorkSource staff and report an apparent violation complaint.

SARAH CROSBY (ESD): There is a question that came up in the comments, "What about in the case of bonuses?"

CRAIG CARROLL (ESD): Employers can offer bonuses as long as they define how you earn the bonus and it's applied in a standard way for all employees foreign and domestic. It must be defined in the ETA 790.

ERIK NICHOLSON (UFW): I think if we could share the November minutes, we could fast-track our conversation today as we covered a lot of this ground in that meeting.

Dan Zeitlin asked for the document to be shared on the screen to assist in the discussion. Sarah Crosby read the portion of the minutes that were discussed in the previous meeting. (See Addendum V.)

MICHELE BESSO (NWJP): I'm interested in looking at where is there the most potential to make improvements. I would like to hear maybe from Norma or Alberto because I know they've been looking at this since our meeting and I just wonder if you've identified any places where you see some potential for change within the system?

NORMA CHAVEZ (ESD): We started to have weekly meetings with the order holding offices in generating ideas such as more targeted outreach, working with other agencies to collaborate and providing employers with information to give to their workers. Also, the non-ag holding offices are being trained on how job orders work.

ALBERTO ISIODIA (ESD): There has been an emphasis on training, and I think Norma's team is doing a great job on that internally. I think we talked about one of the problems we had is our staff don't go into the queue to determine who's qualified and who is not in the system, so those

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applicants don't move on to the employer. That's an important piece from a training perspective. We need to determine if there is an ability to put employer information that is already widely out there by the feds and put that information more clearly in our system to allow also a direct linkage between workers and employers. I think there needs to be more discussion around how we verify hires outside of H-2A. We rely pretty heavily on UI data to confirm whether somebody was hired or not on a job order, but it lags. Not getting data quickly and efficiently reduces our ability to provide other services and it has a budgetary impact and so I do think that needs to be revisited as well.

ERIK NICHOLSON (UFW):I'd like to comment on the document when we come back from the break.

DAN ZEITLIN (ESD): We'll take a 15 minute break and as discussed at the top of the agenda we will go back to approving the meeting minutes and if there's a call for a vote on recording meetings we can do that and then continue this discussion until we get to the closing discussion at 11:15. We'll see everybody back here at 10:15.

April 9th, 2020 Meeting Minutes

Dan Zeitlin requested that everyone review the April 9th, 2020 meeting minutes and provide their feedback. Erik Nicholson made a motion to accept the meeting minutes. Jon DeVaney seconded. The April 9th, 2020 Meeting Minutes were approved. (See Addendum V.)

April 16th, 2020 Meeting Minutes

Dan Zeitlin requested that everyone review the April 16th, 2020 meeting minutes and provide their feedback. Rosella Mosby made a motion to accept the meeting minutes. Jon DeVaney seconded. The April 16th, 2020 Meeting Minutes were approved. (See Addendum VI.)

Recording ASWS Advisory Committee

Rosalinda made a motion to have the ASWS Advisory Committee meetings recorded. The motion was seconded by Michelle Besso. Discussion was had between committee members and a vote was held.

- Michele Besso - Yay
- Jonathan DeVaney - Nay
- Michael Gempler - Yay
- Rosalinda Guillen - Yay
- Rosella Mosby - Nay
- Delia Peña - Nay
- Erik Nicholson - Abstain
- Ramon Torres - Yay

The motion passed. All meetings will be recorded from this point forward, including the remainder of this meeting.

RECORDING STARTED**Domestic Worker Verification Process**

Norma presented the updated process map for Domestic Worker Verification Process. The updates included the CFR's and timelines associated with the steps in the process. (See Addendum III.)

Minutes

Sarah Crosby facilitated a discussion of Domestic Worker Verification process. (See Addendum III.) She also provided a virtual whiteboard where she captured some high-level notes. (See Addendum IV.)

Summary of Committee Questions/Answers:

Can we define Field Checks and Field visits?

A field visit is friendly, scheduled outreach with employer and worker. Field check is unplanned, random and specifically focused on wages, living and working conditions.

How many compliance positions are you planning to add?

We are planning to add nine staff members as part of compliance unit.

When will they be hired?

We plan to hire staff in the next month or two.

Is there education/training for compliance staff?

We will coordinate our training with USDOL to extensively train our compliance staff.

The staff will be trained to appropriately assess situations and to speak to workers privately, when they are in a safe space.

Are field checks triggered by complaints?

They can be triggered by complaints, but they are also chosen at random. We are also required to do certain number of field checks as part of the monitoring regulatory process. (See federal regulatory statute.)

Action Items

- Report of total number of H-2A workers in state
- Identify issues we can address quickly or recommend to legislature

Agenda Items for Next Meeting

- Wagner Peyser Budget

Public Comments

Dulce Gutierrez, Washington State Labor Council AFLCIO

Ed Waite, Community member of Whatcom County

Dea Angeles Quiroz, Consulate of Mexico

Cristina Ortega, Latino Community Fund

Mary Lopez, One America

Oskar Zambrano, Latino Community Fund

Adjourned

Dan Zeitlin thanked everyone for their continued active participation and for their commitment to this work, then ended the meeting at 11:51 a.m.

2020 Meetings

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

- **May 21st, 2020 – 8:30 a.m. to 11:30 a.m.**
Skype Meeting

Addendums

ADDENDUM I



Agenda

Agricultural and Seasonal Workforce Services (ASWS)
Advisory Committee

Thursday, May 7th, 2020 | 8:30 am – 11:30 am | SKYPE

Agenda Items

TIME	TOPIC
8:30 am	Introductions <ul style="list-style-type: none">Welcome from Dan Zeitlin, Director, ESD Policy, Data, Performance and Integrity Division & Norma Chavez, Director – Agricultural and Seasonal Workforce ServicesAgenda Review
8:35 am	Approval of Meeting Minutes for April 9 th & 16 th
8:45 am	Review Senate Bill 5438 <ul style="list-style-type: none">ASWS Report (Due October 31st, 2020)
9:00 am	Domestic Worker Recruitment & Referral – Norma/Alberto/Craig/Rene/CaraMia <ul style="list-style-type: none">Present updated flow chart with federal requirements illustratedDiscuss areas to increase effectiveness.
10:00 am	Break
10:15 am	Domestic Worker Verification Process – Norma/Alberto/Craig/Rene/CaraMia <ul style="list-style-type: none">Present updated flow chart with federal requirements illustratedDiscuss areas to increase effectiveness.
11:15 am	Closing Discussion <ul style="list-style-type: none">Discuss next agenda
11:25 am	Public Comments
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

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5438

Chapter 441, Laws of 2019

86th Legislature
2019 Regular Session

H-2A TEMPORARY AGRICULTURAL PROGRAM--EMPLOYMENT SECURITY DEPARTMENT

EFFECTIVE DATE: July 28, 2019

Passed by the Senate April 22, 2019
Yeas 35 Nays 12

CYRUS HABIB

President of the Senate

Passed by the House April 11, 2019
Yeas 96 Nays 0

FRANK CHOPE

Speaker of the House of Representatives

Approved May 21, 2019 1:45 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE SENATE BILL 5438** as passed by the Senate and the House of Representatives on the dates hereon set forth.

BRAD HENDRICKSON

Secretary

FILED

May 21, 2019

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5438

AS AMENDED BY THE HOUSE

Passed Legislature - 2019 Regular Session

State of Washington 66th Legislature 2019 Regular Session

By Senate Ways & Means (originally sponsored by Senators McCoy, Saldaña, Conway, Van De Wege, Keiser, Rolfes, Wellman, Dzingra, Hasegawa, and Kuderer; by request of Employment Security Department)

READ FIRST TIME 03/01/19.

1 AN ACT relating to establishing the office of agricultural and
2 seasonal workforce services within the employment security
3 department; and adding a new chapter to Title 50 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NFW SECTION. **Sec. 1.** The legislature finds that the
6 agricultural industry in the state of Washington employs more than
7 one hundred thousand workers per year and brings more than seven
8 billion dollars of economic activity to our state. This industry and
9 its workers are a vital part of Washington's role in the global
10 economy. The legislature further finds the number of the H-2A
11 temporary agricultural workers coming into the state of Washington to
12 harvest crops has grown by more than one thousand percent since 2007
13 and the funding provided by the federal government is insufficient to
14 adequately ensure the protection of workers and growers. The
15 legislature also finds the need to ensure this growth does not have
16 an adverse impact on the domestic agricultural labor force.

17 The legislature declares it to be in the public interest to
18 clarify the state's role in the H-2A temporary agricultural program
19 to provide adequate protections for foreign and domestic workers and
20 provide education and outreach opportunities to help growers maintain
21 the stable workforce they need.

1 NEW SECTION. **Sec. 2.** The definitions in this section apply
2 throughout this chapter unless the context clearly requires
3 otherwise.

4 (1) "Commissioner" means the commissioner of the employment
5 security department.

6 (2) "Department" means the employment security department.

7 (3) "Employer" has the same meaning as in 20 C.F.R. Sec. 655.103.
8 "Employer" also includes a "fixed-site employer," as defined in 20
9 C.F.R. Sec. 655.103, and an employer in a "joint employment"
10 relationship, as defined in 20 C.F.R. Sec. 655.103.

11 (4) "Field check" means an unannounced inspection and audit of an
12 employer to determine and document whether the employer is providing
13 wages, hours, and working and housing conditions as specified in the
14 employer's approved H-2A application, as required by the United
15 States department of labor.

16 (5) "Field visit" means a scheduled visit to an employer's
17 premises where H-2A workers work, live, and gather to discuss
18 employment services and other employment-related programs with
19 workers, as required by the United States department of labor.

20 (6) "H-2A application" means an agricultural food processing
21 clearance order form FTA 790 that describes the material terms and
22 conditions of employment and is submitted in connection with a future
23 application for temporary employment certification for H-2A workers
24 to the United States department of labor under 20 C.F.R. Part 655, as
25 amended.

26 (7) "H-2A worker" means any temporary foreign worker who is
27 lawfully present in the United States to perform agricultural labor
28 or services of a temporary or seasonal nature pursuant to Title 8
29 U.S.C. Sec. 1101(a)(15)(H)(ii)(a) of the immigration and nationality
30 act, as amended.

31 (8) "Office" means the office of agricultural and seasonal
32 workforce services established in section 3 of this act.

33 NEW SECTION. **Sec. 3.** (1) The office of agricultural and
34 seasonal workforce services is established within the department.

35 (2) The duties of the office are:

36 (a) Processing and adjudicating foreign labor certification
37 applications from employers;

38 (b) Processing complaints consistent with 20 C.F.R. Part 658,
39 Subpart E;

1 (c) Conducting field checks and field visits, as required by the
2 United States department of labor. When conducting a field check, the
3 office shall coordinate, to the extent possible, with the department
4 of labor and industries, department of health, and department of
5 agriculture in order to limit disruption to agricultural employers
6 and efficiently use government resources;

7 (d) Administering the discontinuation and reinstatement of
8 services process pursuant to 20 C.F.R. Part 658, Subpart F; and

9 (e) Conducting training and outreach activities to employers who
10 are using agricultural and seasonal workforce services and programs
11 within the employment security department.

12 NEW SECTION. **Sec. 4.** (1) An employer must submit an H-2A
13 application in the manner and on a form prescribed by the department.
14 The H-2A application is not subject to chapter 50.13 RCW.

15 (2) The department may not process an H-2A application if the:

16 (a) Employer refuses to agree to be subject to field checks and
17 field visits; or

18 (b) Department discontinued services to the employer pursuant to
19 20 C.F.R. Part 658, Subpart F and that discontinuation remains in
20 effect.

21 NEW SECTION. **Sec. 5.** (1) The commissioner shall appoint an
22 advisory committee to review issues and topics of interest related to
23 this chapter.

24 (2)(a) The committee is composed of eight voting members:

25 (i) Four voting members representing agricultural workers'
26 interests: One of whom shall be a farmworker; and all of whom shall
27 be appointed from a list of at least four names submitted by a
28 recognized statewide organization of workers;

29 (ii) Four voting members representing agricultural employers: One
30 of whom shall be an agricultural employer; and all of whom shall be
31 appointed from a list of at least four names submitted by a
32 recognized statewide organization of agricultural employers; and

33 (iii) One ex officio member, without a vote, shall represent the
34 department and serve as the chair.

35 (b) The department of labor and industries, department of health,
36 and department of agriculture shall each have one nonvoting ex
37 officio member serve on the advisory committee.

1 (3) On issues and topics of interest related to this chapter, the
2 committee shall provide comment on department rule making, policies,
3 implementation of this chapter, and initiatives, and study issues the
4 committee determines require consideration.

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

7 (a) Identifies and recommends approaches to increase the
8 effectiveness of the employment security department's recruitment
9 process as part of the H-2A application. If deemed advisable by the
10 committee, the report may include recommended changes to state law
11 that would lead to increased recruitment and hiring of domestic
12 workers in agricultural employment in Washington; and

13 (b) Analyzes the costs incurred by the office to administer the
14 H-2A program, the funds to administer other department programs for
15 farmworkers, and the amount of funds allocated by the federal
16 government to administer the H-2A program and all other agricultural
17 programs within the department.

18 (5) The committee members shall serve without compensation, but
19 are entitled to reimbursement for travel expenses as provided in RCW
20 43.03.050 and 43.03.060. The committee may utilize department
21 personnel and facilities as it needs, without charge.

22 NEW SECTION. **Sec. 6.** If any part of this act is found to be in
23 conflict with federal requirements that are a prescribed condition to
24 the allocation of federal funds to the state or the eligibility of
25 employers in this state for federal unemployment tax credits, the
26 conflicting part of this act is inoperative solely to the extent of
27 the conflict, and the finding or determination does not affect the
28 operation of the remainder of this act. Rules adopted under this act
29 must meet federal requirements that are a necessary condition to the
30 receipt of federal funds by the state or the granting of federal
31 unemployment tax credits to employers in this state.

32 NEW SECTION. **Sec. 7.** If any provision of this act or its
33 application to any person or circumstance is held invalid, the
34 remainder of the act or the application of the provision to other
35 persons or circumstances is not affected.

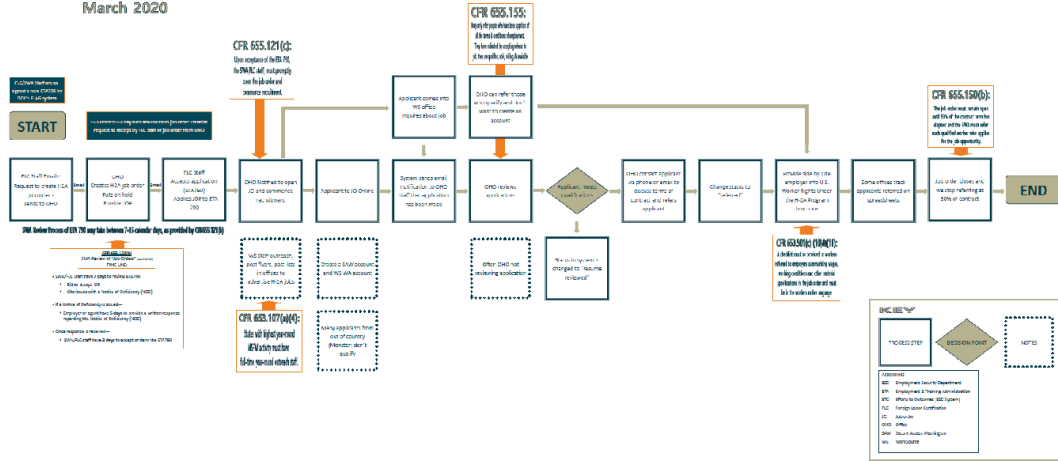
36 NEW SECTION. **Sec. 8.** Sections 1 through 6 of this act
37 constitute a new chapter in Title 50 RCW.

Passed by the Senate April 22, 2019.
Passed by the House April 11, 2019.
Approved by the Governor May 21, 2019.
Filed in Office of Secretary of State May 21, 2019.

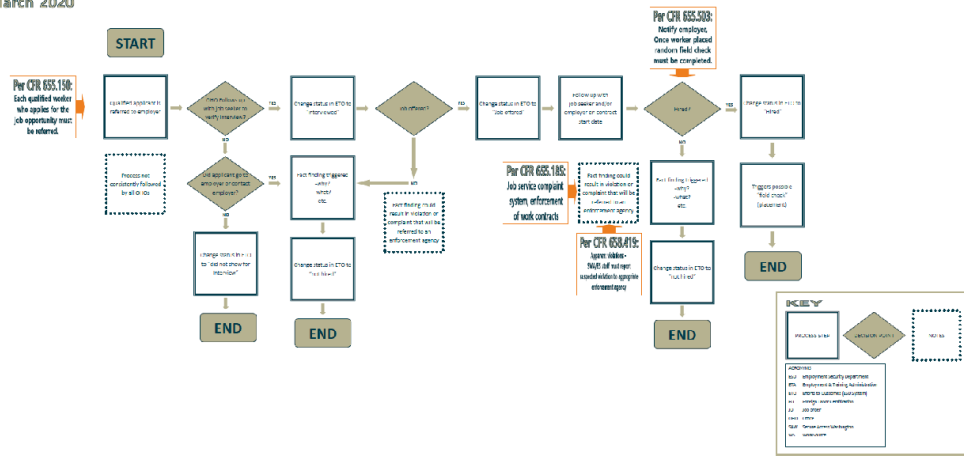
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ADDENDUM III

H-2A U.S. Worker Referral Process - ESD
March 2020



H-2A U.S. Worker Verification Process - ESD
March 2020



ADDENDUM IV

Recruitment and Referral Process

Shared Goal: Make it easy for workers to connect to employers. Increase # of applicants, increase % that result in hired

Ideas Brainstorm

- Explore "able and available" wording compared to requirement to commit to completing to end of contract
 - > is there a way to capture data re: those disqualified due to this barrier of commitment to completing contract
 - > additional clarification/communication about what they can/cannot compel a farmworker to commit to
- Improved connection between UI process and recruitment process
- More data about recruitment process (hired, not hired, etc) (see page 10 from Nov meeting)
- More data about number of workers / H2A workers in WA State
- Further exploration needed - page 3 - can these turn into action items? and future agenda items
- intersection between WorkSource processes and employer
- Use of H2A to distort labor market and to still recruit without adopting competitive practices
- Work with industry on building incentives for hiring local workers (safety, environment, treatment)

Verification Process Ideas Brainstorm

- Deeper conversations about field checks and visits (response to complaints and other means)
- Improve relationships with community based organizations, unions, etc - improve community feeling

How do we get forward momentum and move forward?

- include difficulty within current legislative structure to be able to make the recommendations happen - is it budget/rules change (what are the needed components)
- determine which ideas can be implemented by ESD vs require formal recommendations - committee to vote on both types of recommendations

ADDENDUM V



Agricultural and Seasonal Workforce Services Advisory Committee

Meeting details

Date: Thursday, April 9, 2020

Time: 8:30 a.m. to 10:30 a.m.

Location: Skype meeting due to COVID-19

Committee members present

- Michele Besso
- Jonathan DeVaney
- Michael Gempler
- Rosalinda Guillen
- Rosella Mosby
- Delia Peña
- Erik Nicholson

Committee members absent

- Ramon Torres

ESD staff

- Dan Zeitlin
- Alberto Isiordia
- Gustavo Aviles
- Norma Chavez
- Tamara Johnson
- Rene Maldonado

Non-voting agency representatives

- Alejandro Sanchez
- Anne Soiza
- Todd Phillips
- Uriel Iniguez
- Ignacio Marquez
- Dave Gifford
- Maggie Leland

Summary

Welcome and Introductions

Employment Security Department (ESD) Policy Director, Dan Zeitlin, welcomed everyone and asked them to introduce themselves.

Agenda

Dan Zeitlin reviewed the agenda for the meeting and asked if anyone had any questions. There were no questions. (See Addendum 1.)

COVID-19 Discussion:

- Governor's Office – Alejandro Sanchez
- Labor and Industries – Uriel Iniguez, Maggie Leland, & Anne Soiza
- Department of Health – Todd Phillips & David Gifford
- ESD Policy, Data, Performance and Integrity – Dan Zeitlin
- Department of Agriculture – Ignacio Marquez

DAN ZEITLIN (ESD): What would committee members like to discuss today? Also, we have Alejandro to speak on behalf of the Governor's office and we'll have the various agencies present based on topics that folks want to discuss.

MICHELE BESSO (NWIJ): Temporary worker housing, the guidance that came out from public health and the draft guidance from L&I. How it's going on the ground with the influx of H2A workers?

JON DEVANEY (WSTFA): Three factsheets that were circulated by L&I. Is COVID-19 a potential workplace injury for workers comp purposes?

MIKE GEMPLER (WGI): Recommendations from L&I and temporary worker housing.

ROSALINDA GUILLEN (CC): Quarantining in farm labor camps and farmworker community in general and the economic health for farmworkers and pending arrival dates of H2A workers.

ROSELLA MOSBY (MF): The impact on the employers financially and economic support for farmers when it comes to housing and implementing all the new safety guidelines.

ERIK NICHOLSON (UFW): L&I guidance that has come out, the quarantine facilities in rural areas, economic assistance, paid sick leave, and workers urgent need for daycare.

DELIA PENA (ZFC): I would like to talk about housing requirements; L&I.

RAMON: ABSENT

DAN ZEITLIN (ESD): We will have Alejandro from the Governor's office to provide his view on these issues and then we will turn to L&I for a presentation on their guidance.

ALEJANDRO SANCHEZ (GOV): Public policy is waiting to see what the terms of the grant stimulus will be and then they will figure out how they're going to be able to allocate the childcare funding. It is primarily to be used for the childcare for first responders such as medical workers. I realize there are a lot of families outside the medical context that will need childcare. That is something we are going to have to have as an expectation. I will update this group immediately as soon as I get more information.

ERIK NICHOLSON (UFW): We are hearing increasing reports of people going hungry because of dramatically increased daycare expenses. Could we engage in this conversation with the Governor's office to try to take care of the medical workers and farmworkers? Without farmworkers to feed the medical workers the whole system collapses.

ALEJANDRO SANCHEZ (GOV): I'll see where they are, and I will get back to you.

I did ask the group if they have any thoughts on additional messaging we could put out. I don't know if it's made it onto the website yet but to reemphasize what I said last time, we want to try to alleviate some of the fear farmworkers may have about this essential/nonessential designation. We are willing to add whatever else needs to be in that bulletin or elsewhere.

We talked a little bit last time about the regional isolation centers and those are still being stood up by the Counties. Grants are made to the counties to identify the areas; how many beds are needed, but it's not finalized. This is an alternative for people who need to isolate out of congregate housing. It was not my intention to convey that people would be forced to go there.

ROSALINDA GUILLEN (CTC): What is the total dollar amount of the grant going to the counties?

ALEJANDRO SANCHEZ (GOV): \$30 million from the state and I think there are other dollars from the Feds for isolation centers

ROSALINDA GUILLEN (CTC): Is the \$30 million in general for all workers or for all people? Is there any specific designation of specific dollars for farmworkers or agriculture?

ALEJANDRO SANCHEZ (GOV): For regional isolation centers? No, it's not specified by industry, it's to have centers in each region. It is based on the scientific model on what they predict will be the need for the whole state.

ROSALINDA GUILLEN (CTC): The scientific model based on need, is there a timeline to that? Is there a projected time for when the need will no longer be needed?

ALEJANDRO SANCHEZ (GOV): I am sure there is based on public health data but that is outside my scope of expertise.

ERIK NICHOLSON (UPW): How would we engage with those facilities to ensure that people that need to access those facilities can get them; and to make sure that they are treated fairly and respectfully?

ALEJANDRO SANCHEZ (GOV): It will be at the county level, through their local county health departments. I think it's ramping up right now, I don't know what the actual timeline is to be all in place.

ROSALINDA GUILLEN (CTC): Will you check on that timeline?

ALEJANDRO SANCHEZ (GOV): Yes, I am happy to.

DAN ZEITLIN (ESD): Does anyone have other questions for Alejandro on the ground he covered?

MIKE GEMPLER: I'd like a more detailed explanation of the quarantine plan in rural communities and how the funding you described relates to that. It is an issue of great concern.

ALEJANDRO SANCHEZ (GOV): I think I can't really answer that effectively because it is a County by County plan so it's going to be different in one county than another and how they're going to manage it. If you have a specific question about a county, I can try to find that out.

MIKE GEMPLER (WGI): Points of contact for the key agricultural counties would be appreciated.

ALEJANDRO SANCHEZ (GOV): I'm happy to provide a list of contacts if you let me know which counties.

MICHELE BESSO (NWJP): I realize it's going to be County by County but have there been discussions? Are we looking at unused motels or hotels? Are they talking about putting up tents? What is this looking like?

ALEJANDRO SANCHEZ (GOV): I think it is going to be a range. If you get me a list of the counties that you're most interested in I can go back in and find out more specifics about what they've presented back to our Department of Commerce.

DAN ZEITLIN (ESD): Should we just name counties here?

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MIKE GEMPLER (WGL): Whatcom, Snohomish, Okanogan, Chelan, Douglas, Kittitas, Grant, Adams, Yakima, Skagit, Benton, Franklin, Walla Walla, King, Pierce, Lewis, and Clark. We are quickly getting to all the counties because there is agriculture in most areas.

ALEJANDRO SANCHEZ (GOV): I will see if I can get a unified document. I think the local health jurisdictions are working on this.

MIKE GEMPLER (WGL): It is critical to know and understand the process for being able to take someone from a housing facility to a quarantine facility, to call and how quickly you can get them there.

ALEJANDRO SANCHEZ (GOV): I will dive in deeper on that.

DAN ZEITLIN (ESD): Let's turn it over to Anne Soiza from L&I.

ANNE SOIZA (L&I): Ag is one of our areas of interest, in terms of trying to keep up with the change about policies from CDC and what we're learning about the disease.

We are here to explain and introduce our strategy and our future. In this past week, we issued a compliance directive for all employers. We have also issued fact sheets for other industries. That directive was a big piece of work for us to get that out to help employers and workers understand with expectations.

The basic goal is to prevent the spread of this pathogen and to be clear about the expectations from L&I. We are very serious about helping workers and employers in their desire to stop the spread of this disease. We broke it up into three sections. We have the Coronavirus Prevention in Agriculture, which is the baseline document that applies across agriculture and related businesses. We have prepared two supplemental factsheets one for Temporary Worker Housing and one for Agriculture Processing and Warehouse Operations. The temporary worker housing challenge of having social distancing is a real big hurdle.

We are asking for your comments on these documents. Please let us know by midnight on Friday night. Our goal for these factsheets, is clarity to meet the expectations of what employers and employees need to know about their industry.

JEFF KILLIP (L&I): The only thing I would like to add is the main factsheet for agriculture, incorporates the four-part plan for the Coronavirus Workplace Prevention factsheet and is part of the Governor's proclamation Stay Home, Stay Healthy order. It also is based on existing DOSH regulations for workplace safety with the four-part messaging: social distancing, handwashing/surface sanitation, sick workers and Coronavirus education. Those four items are requirements and we are trying to make sure that the fact sheets are clear regarding what's required versus what is a suggestion or idea in order to achieve the expectations that are delineated.

ERIK NICHOLSON (UFW): Are these factsheets or requirements? They don't appear to be rules. I think a huge question we have is the enforceability. What is required, how it will be enforced and what are the consequences for failure to comply. Can you clarify those issues?

ANNE SOIZA (L&I): The compliance directive that we have points to the Governor's directive.

We have regulations in Washington state which are unique compared to other States. We are using those regulations to apply to this situation. In the workplace, if it doesn't appear that that code is being

complied with, we issue violations. We do proactive inspections as well as complaint triggered inspections. The factsheets are a quick reference with the stated code, with what, where and when something must be done. Then, suggestions are offered to help meet those expectations. We have tried to help educate the employers and their workers to understand how the disease can be transmitted and what are the best things to practice in order to prevent the transmission from person to person. We would like to partner with anyone to assist with getting this information and education out there.

We also have the largest consultation program for Occupational Safety and Health Administration in the United States and we have consultants all over the state who are able and willing to either help employers on the phone or actually go out physically to take a look at temporary worker housing or their farm or dairy or whatever operations they have where they may need assistance.

ERIK NICHOLSON (UPW): I think what I would ask is to look at the degree to which taxpayer dollars are being used to offset the cost of the H2A program. I would ask us as a committee to keep an eye on this, to make sure that farmworkers have the dignified isolation facilities and medical attention but after 9.5-billion-dollar bailout to the growers and now \$30 million dollars being allocated for these isolation facilities of taxpayer money and we still can't ensure that 100% of farmworkers get paid sick leave.

ROSALINDA GUILLEN (CTC): You mentioned about administrative and engineering controls could you explain what that is? And to our partners, what are you doing with farmers and growers?

ANNE SOIZA (L&I): Engineering controls are a concept where the first thing that you do is you arrange work, you arrange protections and you minimize the source of the hazard. In this case, in which pathogen spreads through the air through droplets, one of the main engineering things that is being used in a wide variety of industries is the use of physical barriers. An example of an administrative control could mean a situation where they reduce the amount of human contact potential by not overlapping work shifts or even giving an hour between shifts, which limits the amount of people in the building, in the parking lot, etc.

MIKE GEMPLER (WGL): As far as engineering controls, one immediate concern was with housing. We are looking at an enclosure for the bottom bunks of bunk beds, like a train berth, enclosed on three sides with the curtain on the open side. We are waiting to find out if our design is acceptable or not from the Department of Health and Department of Labor and Industries. So many of our facilities are filled with bunk beds we want to make sure to get approval and keep people safe.

ROSALINDA GUILLEN (CTC): How long does this process take to get approval once an idea is submitted to DOH and L&I?

ANNE SOIZA (L&I): We just got this idea in and we are working with Department of Health to respond safely and timely. We anticipate giving them feedback with a matter of days. However, there's a lot that we know and don't know about this pathogen. We want to provide feedback back to the employer for their consideration and implementation whether an idea is excellent or needs to be modified in a particular manner..

MIKE GEMPLER (WGL): In the Temporary Housing draft there is no process for approval presented. There are suggestions so an employer might implement something but there is no required approval process as far as I can see in this document. We wanted to get input from DOH & L&I.

ROSALINDA GUILLEN (CTC): That was going to be my question, is this a timely process for the farmers? Is this optional? You are only hearing from the proactive employers what they are doing. In the

meantime, Mike, are you moving forward with implementing these engineering controls or are you waiting to hear from DOI and L&I?

MIKE GEMPLER (WGL): We are because it's early in the season were able to spread people out, we're only allowing two people per room. But that is only going to last so long because more people are coming growing season is starting.

ROSALINDA GUILLEN (CTC): According to what we know about approved applications there will be almost 11,000 workers here by May 1st and these numbers are only going to grow. My concern is if there's no approval required and there's no follow up, that these engineering or administrative changes may or may not be implemented.

MICHELE BESSO (NWJP): Follow-up question to pivot to ESD because if these are possible compliance directives will you be requiring some evidence or assurance of compliance with this in order to certify to the Department of Labor that the housing meets state standards?

DAN ZRITLIN (ESD): I will turn to Alberto or Norma or perhaps Todd, to answer this question.

NORMA CHAVEZ (ESD): We send applications to the Department of Health for checking temporary worker housing.

TODD PHILLIPS (DOH): I would send back our preoccupancy inspection to help certify or determine that the housing meets state rules for housing. Which the state rules are not set up for this situation.

MICHELE BESSO (NWJP): When you get these requests from ESD to certify whether the housing meets state standards how will you evaluate that?

TODD PHILLIPS (DOH): They would just accept or take our preoccupancy inspection or permit for that facility. To determine whether it is meeting that code for temporary worker housing and that is accepted by ESD as approved housing for workers.

ROSALINDA GUILLEN (CTC): But that is what was required prior to the pandemic, right?

TODD PHILLIPS (DOH): Yes, and the state codes have not changed. We have almost if not all inspected and permitted with the state rules. We are going to provide feedback for the temporary housing guidance, but it looks like a lot of the things that are in there are addressing what we see as needing to be addressed. It's an ever-changing situation and there are permits issued for housing already that ESD would use for approval or not.

ROSALINDA GUILLEN (CTC): This is very concerning there are 204 applications already approved by ESD. There is a total of 19,829 workers scheduled to be here by June 1st. I would imagine that most of the 204 applications approved or approved prior to the pandemic or very early on before we started addressing these issues. How are you going to backtrack and ensure the safety of the workers now?

TODD PHILLIPS (DOH): I understand and agree it is a concern. I believe that is why we are here today to try to help address the situation. I really appreciate L&I working on this to provide education and eventually enforcement on issues on how to keep the workplace safe.

ERIK NICHOLSON (UFW): Do you all have a plan to go back out and re-inspect temporary farmworker housing to ensure compliance with the factsheets that have been put forward?

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TODD PHILLIPS (DOH): We wouldn't necessarily be re-inspecting for permitting, but our inspectors are willing to go out and help and be a part of the process of making sure it's known how to address these situations. We have two inspectors that do our housing inspections..

ERIK NICHOLSON (UFW): In the last several weeks we are seeing widespread non-compliance with basic measures like a handwashing facilities, social distancing especially when it comes to housing.

ERIK NICHOLSON (UFW): I would in the strongest terms ask that the agency reconsider and recognize there's a limitation of only two inspectors. If we want to avoid an outbreak, I think it is incumbent on the state to get out there proactively and reinspect every camp. We are putting H2A workers directly in harm's way. We have got to make sure there is compliance.

TODD PHILLIPS (DOH): It's important we partner with other state agencies. How we look at the bigger picture on how we might address the other pieces.

MICHELE BESSO (NWJP): Two years ago there was a lack of coordination between ESD, L&I and DOH to ensure that farmworker housing was going to be certified for H2A workers. There was a meeting at the Governor's office to pull all the agencies together and figure out how to make it happen. ESD must certify to USDOL that the housing meets state standards. Because of the way our state is set-up, ESD relies on Department of Health to have done the inspection. L&I is also involved if it doesn't fit in the jurisdiction of DOH or if there is a complaint. There is a memorandum of understanding that came out as part of that meeting, but it urgently needs to be reviewed and revised. At minimum, there needs to be a process of sending questionnaires out to employers to check off the measures they're taking to meet the new standards before certification of housing for H2A workers.

MIKE GEMPLER (WGI): I want to remind people that not every employee that stays in housing is an H2A worker. There are people arriving from all over the country now for asparagus harvest and other spring work.

MICHELE BESSO (NWJP): I agree we need to be concerned with all of them.

ROSALINDA GUILLEN (CTC): I think that you would be coordinating even more because if something should go wrong with 20,000 workers coming by June 1st, it's the entire community then that could be exposed. I just want to point it out, everybody is stressed out and anxiety levels are rising but this is a mandate that we accepted as farmworker representatives of this committee to bring to the table the concerns of the community.

TODD PHILLIPS (DOH): I appreciate everything you're saying, in a perfect world I was saying yes, we're going to be out there and that's what I want that's what I would like to do. I think our very good first step and what we have been spending our time on is trying to figure out the best tools to put out there to the owners of the homes, to the owners of the farms, to try and give them the best tools available to make good decisions and do things right. As we have those best tools it is my wish to get out to see every farm, but I can't tell you right now that that is possible.

MIKE GEMPLER (WGL): One of the greatest challenges we have is having enough sanitation supplies. Everything is on back order and if have these essential industries that are operating, and we have these expectations that we're going to be doing cleaning which we're doing. Alejandro could tell us if somebody's working on this?

Minutes

ERIK NICHOLSON (UFW): That is something that we discussed in our original letter to the Governor.

TODD PHILLIPS (DOH): We are running into the same issues, and my understanding that there is a statewide driver behind, and I keep raising issue.

MIKE GEMPLER (WGL): Is there is there somebody in the Governor's office or central emergency response person who's tracking availability of the cleaning supplies. Cleaning supplies are a major tool in addressing the potential exposure of COVID-19.

TODD PHILLIPS (DOH): I believe there is.

IGNACIO MARQUEZ (WSDA): I received an email from the State of Washington Department of Commerce asking whether there was any information from the agriculture industry as to needs to deal with COVID-19. They asked does agriculture industry need masks, gloves or hand sanitizers? I responded that we have been getting requests for cleaning supplies in housing. As to what they're going to be doing with that information, I'm not clear as to whether they are planning on buying a big purchase of all these tools and cleaning supplies that are needed, but at least the conversation is started. I will follow up with the Department of Commerce again to find out what the status is.

JON DEVANEY (WSTFA): I think that once we get this guidance out and employers have a clear idea of what the expectations from L&I that are going to be enforceable look like, they may see a very serious spike in demand for some specific items that can be used for cleaning or for mitigation.

ANNE SOIZA (L&I): Emergency Operations Center for state government and L&I health experts are working with the emergency operation center to purchase protective equipment, sanitizers, anything that's needed. I have been involved in personal protective equipment and sanitation supplies.

DAN ZEITLIN (ESD): How much time and what issues would each committee member like to spend as a group discussing next week?

MICHELE BESSO (NWJP): I'm very concerned about how the temporary worker housing work will move forward and getting the information out. I guess I'm just not sure whether this meeting will be a place where we can solve this problem. What I heard is sort of that same problem we had two years ago which is each agency kind of has its own silo and doesn't look at temporary worker housing as its primary responsibility.

JON DEVANEY (WSTFA): Two hours is about right for intensive focus however if we're going to try to cover every issue than the meetings need to be longer. We need to come back to Workers Comp, Paid Sick Leave, and Unemployment for next week.

MIKE GEMPLER (WGI): I would like to understand L&I's approach to coronavirus and workers compensation. There seems to be some conflicting statements particularly in this draft. In the last sentence it says COVID-19 is recognized as a very serious workplace hazard. I'm fine with longer meetings.

ROSALINDA GUILLEN (CTC): I'm fine with longer meetings if we if we're getting something done. I am really concerned about the quarantine and how that is developing. I want to drill down on what is enforceable because the farmers are waiting to know about the requirements.

ROSELLA MOSBY (MF): We are certainly not waiting for any guidelines to take steps to keep our employees safe. We are trusting our crew is making good choices and not bringing anything back to the

Minutes

farm where we live. I agree with everybody this is a huge concern and if we need to take a little bit more time then I'm in agreement.

ERIK NICHOLSON (UFW): We have the honor of finally being recognized as essential after decades of being ignored and disparaged. I think the challenge is how do we live up to the expectations that our society has put on us to keep people fed, while we're sheltering in place. To keep the growers and farmworkers safe and working, I am willing to do whatever is needed.

DELIA PENA (ZFC): I agree with everybody, I think the employer needs to know what is required to keep workers safe in both housing and working conditions.

DAN ZEITLIN (ESD): We will be back in touch with the group with an agenda for next week. I know we all appreciate this forum is here for these conversations. We know these are urgent matters and conversations are and should be occurring outside this meeting. I heard a desire to continue to have weekly meetings so long as there are productive.

Agenda Items for Next Meeting

- COVID-19
- Workers comp & Paid sick leave
- Report for legislature

Public Comments

None

Closing Comments

Dan Zeitlin thanked everyone for their continued active participation and for their commitment to this work, then ended the meeting at 10:44 a.m.

2020 meetings

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

- **April 16, 2020 – 8:30 a.m. to 12:30 p.m.**
Skype Meeting

Addendums

ADDENDUM I



Agenda

Agricultural and Seasonal Workforce Services (ASWS)
Advisory Committee
Thursday, April 9, 2020 | SKYPE

Agenda Items

Table with 2 columns: TIME and TOPIC. Rows include: 8:30 am Introductions, 8:40 am COVID-19 Discussion, 10:20 am Discuss next meeting agenda, 10:25 am Public Comments, 10:30 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

Contact information

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Employment Security Department • Policy, Data, Performance and Integrity

ADDENDUM VI



**Agricultural and Seasonal Workforce Services
Advisory Committee**

Meeting details

Date: Thursday, April 16, 2020

Time: 8:30 a.m. to 12:30 p.m.

Location: Skype meeting due to COVID-19

Committee members present

- Michele Besso
- Jonathan DeVaney
- Michael Gempler
- Rosalinda Guillen
- Rosella Mosby
- Delia Peña
- Erik Nicholson

Committee members absent

- Ramon Torres

ESD staff

- Dan Zeitlin
- Alberto Isordia
- Gustavo Aviles
- Norma Chavez
- Tamara Johnson
- Rene Maldonado

Non-voting agency representatives

- Alejandro Sanchez
- Anne Soiza
- Todd Phillips
- Uriel Iniguez
- Ignacio Marquez
- Dave Gifford
- Maggie Leland
- Jeff Killip
- Christina Rodriguez
- April Amundsen
- Anne Soiza

Summary

Welcome and Introductions

Employment Security Department (ESD) Policy Director, Dan Zeitlin, welcomed everyone and asked them to introduce themselves.

Agenda

Dan Zeitlin reviewed the agenda for the meeting and asked if anyone had any questions. There were no questions. (See Addendum I)

April 2, 2020 Meeting Minutes

Dan Zeitlin requested that everyone review the April 2, 2020 meeting minutes and provide their feedback. Michele Besso sent additions to Tamara for inclusion in the minutes. Meeting minutes will be corrected and presented at April 23, meeting for final approval.

Economic Security Discussion (COVID-19):

- L&I – Uriel Iniguez and Maggie Leland
 - Paid Sick Leave
 - Workers Compensation
- ESD Policy, Data, Performance and Integrity – Dan Zeitlin
 - Unemployment Insurance
- ESD Paid Family Medical Leave Program - April Amundson
 - Paid Family Medical Leave

*-Unidentified speaker

APRIL AMUNDSON (ESD): PFML is a supplemental benefit. The employer pays premiums, the state makes the determination of whether somebody had a qualifying event. The state is paying the benefits not the employer. There is a backlog of people waiting since the program went live.

Workers in Washington have access to a variety of paid leave in connection with the coronavirus pandemic. Along with Washington's paid sick leave law, workers also may be able to use leave covered under the Washington Family Care Act and the new Federal Families First Coronavirus Response Act.

The Families First Coronavirus Response Act is federal legislation that took effect April 1 and expires on Dec. 31. It covers protections such as paid sick leave, UI, and other benefits. This federal law requires public employers and private businesses with fewer than 500 employees to provide paid leave directly related to the coronavirus pandemic, either for the worker's own health needs or to care for family members.

There are 2 temporary benefits under the new federal law that employers must provide to address the coronavirus pandemic:

- 80 hours of emergency paid sick leave when an employee experiences certain COVID-19 events.
- Up to 12 weeks of leave to care for a child under a temporary expansion of the federal Family and Medical Leave Act.

Here are some additional elements of the expanded Family and Medical Leave Act:

- The first two weeks of emergency leave are unpaid, but a worker may choose to be paid using emergency paid sick leave or other accrued paid leave.
- The emergency leave is provided at the worker's regular rate of pay, or two-thirds of the regular rate when caring for a child, subject to certain caps.

ROSALINDA GUILLEN (CC): How is it going to work in reality? What about when someone appears to be sick and may not have been diagnosed with COVID-19, may not have been seen a doctor, but their employer sends them home because they have some symptoms? Or, an employee has someone who contracted it and they want to stay home, and they still have vacation and sick leave how do we treat that?

APRIL AMUNDSON (ESD): Employees will use up their vacation and sick leave first and then PFML.

DAN ZEITLIN (ESD): There is a helpful chart that ESD put out with L&I when the crisis hit. It is available on our website and has several different scenarios to help determine which program a worker might be eligible for.

MAGGIE LELAND (L&I): Workers compensation coverage can be considered a work-related exposure if: There is an increased risk or likelihood of contracting the condition.

The source of contact is what we consider.

- Health care workers or first responders are those that are most likely to be covered; Providing direct care to a person who has COVID-19
- Was contact likely due to contact with a family member or other members of the community?
- Can a worker identify a specific source or event during the performance of their job where they were exposed to the virus?
- Info on website will send to committee

When we look at agricultural workers it seems that it would be likely, though it will be reviewed on a case by case basis with work related evidence, that the claim should be accepted. The specific facts apply to the circumstances where a worker needs to be quarantined because, for example, they were near someone with the disease. If a worker believes they meet the criteria and they believe worker's compensation makes sense, then they should submit a claim.

It can be done online. To get the claims process going, even if there's not any information from a doctor. We can still work through getting that information as the claim progresses. There's some really good information on our website. There could be workers compensation benefits, as the information changes throughout the course of this pandemic.

MIKE GEMPLER (WGL): The employee should and usually does facilitate the call to the local clinic. They ask the person questions about what their symptoms are and they may tell them to stay home and if the symptoms get worse to call in again. The clinic does telephone triage to determine if that person should come into the clinic for a test. If it is determined they need to be tested, they have a person use a special entrance away from other people, give them the COVID-19 test and then send them back to where they were quarantined and wait for the results of the test. I think it can happen quickly because the clinics in the rural areas are there all geared up for it and they are all telling people what to do.

MAGGIE LELAND (L&I): There is good information on DOH's website as well that we can send that goes through questions around testing we'll be sure to send the information so you can also look it up.

DAN ZEITLIN (ESD): This is a historic moment in a lot of ways and that certainly is the case regarding the incredible influx we've seen in UI applications since the crisis began. We've been averaging up to or over 7 times the number of weekly UI (UI) applications than we did during the peak of the recession.

We've had over 1/2 million submit claims for UI which is really a historic number. Last week, we paid \$126 million over 255 thousand individuals filing for UI. This has been a big challenge for us as an agency. Staffing levels went from 300 to 500 this week and we should have 1000 folks handling claims starting next week. .

UI provides partial wage replacement for up to 26 weeks for individuals who have worked 680 hours in their base year, that's having worked 680 hours in the last four quarters or four or five quarters and are in covered employment. UI is financed by employers who pay an experience rated tax based on the number of workers they employ and social taxes as well to finance our state UI trust fund.

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In 2019 we had 163,957 domestic workers in the agriculture industry that were covered or could be covered by the state UI system. That represents a little over 4% of total workers in all industries in our state. Individuals who are not covered or those who don't make that requirement to have work 680 hours in their base year are usually self-employed, independent contractors, or in an exempt occupation including farm students and interns, as well as small farms paying less than \$20,000 in wages per quarter. I should also note that undocumented workers are not covered by UI.

Congress passed the second bill in response to the COVID-19 outbreak, the Families First Coronavirus Response Act, which gave ESD some emergency administrative funding to help manage the influx of claims and provided flexibility with some regular UI requirements.

We waived the waiting week; folks can get paid the first week they applied for UI. Legislation is allowing for flexibility of work search to collect UI (if off from your job through no fault of your own you're required to be able available and searching for work). Because of Stay Home Stay Safe order and the limited amount of economic activity we have temporarily waived the work search requirement and made it optional.

The CARES Act then made enormous changes to UI. It added three unemployment assistance programs: Pandemic Unemployment Assistance, additional amounts to provide along with a weekly benefit amount to those applying for UI, and an increase in the number of weeks for which one can claim UI.

The Pandemic Unemployment Assistance Program is a program that was modeled after disaster unemployment assistance. Prior to this disaster if the President declared a major disaster in the state or an area impacted by disaster such as an earthquake or hurricane, Disaster, Unemployment Assistance would become available to those not normally covered by regular UI.

Congress authorized this Pandemic Unemployment Assistance program to similarly provide UI to independent contractors, the self-employed, occupations that are exempt from our state statute or to those working less than 680 hours. It is authorized effective back to February 2nd and will run through the end of the year. We've had to do a lot of work updating our system to be able to accommodate these programs.

Another key piece of the CARES Act is the Pandemic Unemployment Compensation Program. If you are claiming any unemployment benefit for a week you will get an extra \$600 on that retroactive to March 29 and for the next four months.

Finally, Congress authorized a Pandemic Emergency Unemployment Compensation Program which provides 13 additional weeks of UI. Again, our regular state UI program allows for up to 26 weeks of benefits and now with this authorization, up to 39 weeks of benefits will be available. As I mentioned at the top, our unemployment trust fund is financed by employers. These programs are all financed by the federal government. Payments made for that waiting week, for pandemic unemployment assistance, the extra \$600 a week, and the extra 13 weeks of coverage, those are all a huge influx of payments covered by the federal government.

MIKE GEMPLER (WGL): Has the UI advisory committee met yet to assess the impact on the UI system then do projections?

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DAN ZEITLIN (ESD): We have not. I think our next projections come out in May. So why don't I take that as a request since you're on the committee and make sure that we have that meeting virtually. I can say that when we went into the crisis we had roughly 4.7 billion dollars in the trust fund. Obviously this is an historic influx of payments. I think that that's an important presentation.

MIKE GEMPLER (WGL): I think that as a former member of that committee I think it's important for people to know that the Washington State fund is typically much healthier than the UI funds in other states and they've been conservative in their management. Our state should be able to weather this better than many other states.

DAN ZEITLIN (ESD): I would also second what you said about other states and that may lead to some action by Congress in future federal bills. States can take out interest free loans for up to three years. Congress may look at that issue given the impact this is having across trust funds throughout the nation but as Mike said we have a strong trust fund.

ERIK NICHOLSON (UFW): We looked at the number of referrals ESD was making to agricultural employers that were soliciting H2A workers. I'm wondering what kind of visibility you have in terms of having those numbers and any increase in referrals?

ALBERTO ISIODRIA (ESD): We have been having those conversations already to change the referral system and try to improve job orders and how we're recruiting for domestic workers. We have already made some suggestions to the offices in relation to virtually contacting the employers and workers when new job orders are received.

MICHELE BESSO (NWJP): There's been ongoing issues around access by farm workers to the web-based UI system. Can you also provide information on how many people have applied for UI benefits.

DAN ZEITLIN (ESD): I will check with our operations folks to see if that's a data point that we can track. You're asking how many have applied in the agriculture industry and what percentage are from agriculture that have been approved?

MIKE GEMPLER (WGL): Regarding the undocumented issue, employers accept documents from employees to prove their identity and eligibility, and as far as they know they are legal and authorized to work in United States. If somebody is using false documentation, unknown to the employer, if that person applies for UI is ESD using the E-Verify system or anything else to check an applicant's authorization to work in the US and an eligibility for UI?

DAN ZEITLIN (ESD): If a person files a claim then they must provide employment authorization documentation that is automatically checked with the USCIS SAVE program.

DAN ZEITLIN (ESD): We are going to move on to a discussion about health and safety.

ANNE SOIZA (L&I): Our goal especially for COVID-19 is to get our most serious complaints assigned for inspection within 24 hours. Our factsheets will be issued in English and Spanish; we will be translating it into other languages as well as we as we go forward. We want them to be useful to help employers and employees understand what to do when it comes to keeping themselves safe. We tried to be very clear about what is required and what are suggestions and ideas on how to accomplish those requirements

because we want to make sure that they have some ideas about how to accomplish those requirements. We did include our consultation services to help employers provide a safe and healthy worksite.

ERIK NICHOLSON (UFW): Is there an obligation on the employer to inform employees of the presence of a COVID 19 positive supervisor or co worker without disclosing their name?

JON DEVANEY (WSTFA): My understanding this the local health districts are supposed to do a trace exposure and then contact those individuals directly. The concern that I've heard from a number of growers especially when you have employees who live or work in different adjacent counties is that those County Health Department policies are not necessarily consistent.

MICHELE BESSO (NWJP): I am trying to understand if there was possible exposure who had tested positive and you just send people home without any information. How will they know whether they need to be taking precautions; whether they might have been exposed to the virus?

ANNE SOIZA (L&I): We want employers to follow their local health department recommendations with the handling of their worker population and their contact tracing.

MICHELE BESSO (NWJP): I'm trying to determine is there a cleaner more direct line between the State Department of Health guidelines and relationship between local county health departments.

ERIK NICHOLSON (UFW): I've been watching with concern is going on at Tyson and I think it would be good if L&I had direct oversight in terms of what the counties are doing. We need to make sure we have a strong enforcement. When we've got a very clean enforcement mechanism in terms of making sure that the counties are doing what they are supposed to do, then employers are in compliance, and if they are not, we know.

ANNE SOIZA (L&I): We expect them to cooperate with the local health department but also if they have an employee who gets too sick to work, they must have procedures to follow. They handle with the medical advice that is an effect at that time. Employers must require separate places, to stay home or stay in isolation.

MIKE GEMPLER (WGL): The second bullet point says develop a process for immediate shutdown in the case a sick employee was present. When you say sick employees does that mean someone who has tested positive for COVID-19 or someone who is suspected?

ANNE SOIZA (L&I): If somebody is sick because they they're coughing and have a fever, displaying flu-like symptoms, in that case a good best practice would be to develop a process that includes immediate shutdown of the areas, thoroughly sanitizing and then open it back up again.

BREAK FROM 10:55 – 11:15

COVID-19 Health and Safety Guidance:

- DOH – Todd Phillips and Dave Gifford
- L&I – Uriel Iniguez and Maggie Leland
- WSDA – Ignacio Marquez
- TSD – Norma Chavez

Minutes

DAN ZEITLIN (ESD): I understand recent legal actions were filed therefore L&I and Department of Health are unable to further talk about the housing health and safety guidance. I'm going to suggest that we pivot to a discussion about H2A program. I think we can do this by taking any questions that members may have about the H2A program and Norma can let us know what she's doing to stand up the office.

MICHELE BESSO (NWJP): I'd love to get an update from Norma as to who she's got working with her and what they're doing.

NORMA CHAVEZ (ESD): We started with having monthly meetings, but with COVID-19 we have transitioned to having weekly meetings so we could update committee members, interested parties, and other state agencies and what we're doing to help during the pandemic.

I'm hoping that we can get back to the business. I started with ESD on January 2nd, 2020. The office quickly developed in the last 2 1/2 months. We have three transfers into the FLC positions, Cara Mia Stearns-Vance, Ana Alcalá-Rodríguez and Petra Meraz. We also have our Washington State Monitor Advocate, Rene Maldonado, moved to the ASWS group. I think the thought process was that since he's doing monitoring it would be more of a natural fit to be under a compliance unit. We also had Tamara Johnson transfer as our Administrative Assistant.

The conversations we're having now are for our compliance unit. Looking at the numbers right now and looking at the services we provide we will have people more strategically placed based on applications that we have in specific areas. FLC staff are training offices to make sure that those job orders are coming through and trying to beef up the effort with what they're doing for recruitment and referrals.

RENE MALDONADO (ESD): We are working diligently right now to ensure that workers are made aware of resources. We've been leveraging our staff, they have been calling on workers, calling employers, providing services, and finding out what is needed out in the community.

DAN ZEITLIN (ESD): One thing I want to note about Rene joining Norma's office, it made sense as there is an alignment in vision and mission between the State Monitor Advocate and the work Norma's office is doing, but funding wise Renee is funded through Wagner Peyser.

NORMA CHAVEZ (ESD): Thank you for noting that as that's an important piece of information having also started having conversations with Kelly Lindseth in Employment Connections on how we're going to deal with some of the business needs and changes that we foresee.

DAN ZEITLIN (ESD): To follow through on what Norma said this is an advisory committee and we welcome suggestions here today on how you see the role of this office and the migrant seasonal farmworkers. Our world has changed significantly since this office was established and that includes not only potential impacts to the H2A program but also domestic workers.

MICHELE BESSO (NWJP): Can you give us any changes or any proactive actions you're taking to recruit domestic workers right now; why not slow down the approval of H2A applications?

NORMA CHAVEZ (ESD): We've been having weekly discussions with our outreach staff on making contacts as some of you had suggested in prior meeting.

Minutes

Working with the employers and workers, making sure referrals are being made and the job leads are solid. I think part of that is having conversations with our communications manager and trying to coordinate with L&I and DOH so there isn't as much confusion when putting out communications. Some of our outreach workers are using Facebook and have started talking to people that have communicated with them to obtain jobs. I think that we could see what type of numbers we're seeing in changing some of our approach. As far as more labor certifications are coming, USDOL is in charge of the program but at this point they have not stopped labor certification applications. Employers could go straight to USDOL to make application, so they have the choice of not going through Washington.

The MSW significant offices are starting to communicate with those that have not participated prior but you have H2A job orders in non MSFW offices too and that's where I indicated we're starting to train them done office by office.

MICHELE BESSO (NWJP): I know it's difficult I mean we're working under such strange circumstances, but I just wondered if there is if you're seeing interest in the community for jobs?

ALBERTO ISIODRIA (ESD): Work source offices are physically closed so that may have an impact as well on our ability to steer people to jobs. In terms of how we measure the interest out in the community, we do track any requests for jobs. There are a lot of questions on L&I and how to access UI and get help. If you want more of a detailed list of what's been asked, we can add that for next week for the committee to review.

MIKE GEMPLER (WGL): This is a ramp up time for agriculture and people are being hired to work. I'm not aware of many people, if any, being laid off. There might be individual farms that are experiencing some market failure due in part to the food service sector collapsing, but now is when we're hiring.

ALBERTO ISIODRIA (ESD): From an operations perspective we are working very closely with our UI division given the unprecedented number of claims that have been filed. We continue to have staff engage with partners and with farmworkers.

MICHELE BESSO (NWJP): I'm still interested in following up on the idea of having information pulled together to give to H2A workers on their arrival because I am concerned that they will come and not have gotten the all the messaging they need to have in terms of prevention. Also, do we want to discuss as a group Health Department reporting and whether we want to make an ask for uniformity in that whole process?

NORMA CHAVEZ: We have been collecting some information from about nine health districts right now and you're right the information is different in each district.

JON DEVANEY (WSTFA): I think that was clear from the guidance that we saw earlier from L&I. I don't know that we can get a single document with all appropriate points of contact statewide. It might be better to reinforce the requirement, that every employee needs to be trained on these measures and resources and leave it up to individual employers to make sure that they have the local health district contact information.

MICHELE BESSO (NWJP): I think one of my real concerns is that the workers understand the connection to clinics, and the health district to be able to be able to consult if they do have symptoms. It is important that it is easily legible. Mostly infographics about steps to protect themselves. My last concern was making

sure workers understand some of the benefits they might be eligible for if they can't work. I know it's a concern they don't tend to have money on them and so if H2A workers can't work for two weeks they're going to be out of food.

MIKE GEMPLER (WGL): I received an email last night from L&I on bunk bed safety. They denied it as written, but I have a call scheduled with them. We need to work out the details so that they fully understand what we mean. I think they thought that our beds were still 3 feet apart, when they are 6 feet or more.

ROSELLA MOSBY (MF): It's an economically ruinous decision. We want to prevent any outbreak, we don't want anybody to get sick, so we must find ways to accomplish social distancing and still have the people we need to work. I think that's the balance.

ROSALINDA GUILLEN (CC): If there's no place for them to live they're not coming up and, it's been slower than usual there's been significant delays, they're not coming up as they were scheduled to come up because of delays in Mexico; mostly due to logistical issues so people are weeks or even months late.

**: It would be helpful to know what the reality of the arrival date for these workers is, in what regions they are arriving because I think that that gives us the focus of trying to understand where we need to expedite some of these services.

ERIK NICHOLSON (UFW): We need to figure it out and implement whatever rules and regulations need to be done to make it happen so that people can trust the system right now.

NORMA CHAVEZ (ESD): We can provide information as to the change of requests and the request of workers and those contracts, however we cannot indicate the number of workers that are coming because there's no port of entry where we could substantiate those numbers.

MICHELE BESSO (NWJP): Is there a mechanism to say "x" amount of workers arrived in Washington and they arrived in this County? Farmers should have a tally on the numbers.

NORMA CHAVEZ (ESD): We would have to go to each employer and start asking that on a regular basis, but is it possible.

MIKE GEMPLER (WGL): I think people could voluntarily report the number of people they got in and that were able to cross the border, it's a possibility and there are several different agents and individuals who are facilitating crossing the border. Could we put out a request to all growers who have submitted applications for an update on how many people have crossed?

JON DEVANEY (WSTFA): County health districts have reached out to me making sure that they have the contact information for growers in their area. They are sending out advisories through multiple channels to major counties. The local health districts know where H2A workers are planning to be and who those employers are so that they have communication, they are tracking statistical information on how and what percentage of scheduled workers have arrived, and where there have been delays.

DAN ZEITLIN (ESD): We will take it as an action item to provide the data that we do have, the number of workers projected to come, and where they are located; and from employers willing to share, we will find out how many actually arrive.

MIKE GEMPLER (WGL): There was a statement made earlier that L&I can't comment on farm worker safety issues any further because of recent legal action. Can someone give more details on who filed it what's going on?

MAGGIE LELAND (L&I): We were trying to summarize we weren't going to talk anymore about the temporary worker housing guide and in part because we are still working on those and we also have a writ of mandamus request to do emergency rules so there's current legal action.

MIKE GEMPLER (WGL): Can you tell us who?

MAGGIE LELAND (L&I): I believe some of the parties are currently in this meeting.

ERIK NICHOLSON (UFW): UFW is a one of the parties.

DAN ZEITLIN (ESD): Our report is due to the legislature in October, so I'd like to suggest that we start to focus more on those issues at the next meeting. More discussion about domestic workforce and recruitment. We want to start talking about budget issues beginning with our foreign labor certification grant. I'd like to go around to each member and get their thoughts on what they would like to discuss at the next meeting.

JON DEVANEY (WSTFA): We need to get back to our action items. I would like additional discussion but if we can't talk about with the agencies about some of these issues, that we are working on then there's not a point.

MAGGIE LELAND (L&I): Again, it's not that we can't or won't talk about it, we just don't have any updates from what we've talked about in the past.

MIKE GEMPLER (WGL): The next meeting I just think we need to deal with the most important issues at hand and in particular the response of the agencies preventing outbreaks in agriculture industry and how we can work together to do that while protecting jobs and not doing significant damage to the industry.

ERIK NICHOLSON: I think we should meet next week as we've got some pending items that Alejandro is going to forward about isolation camps. I would welcome having a conversation about an opportunity to leverage some of the 9.5 billion dollars that's been allocated to bailout specialty crops.

DELIA PENA (ZFC): I agree with continuing the discussions.

DAN ZEITLIN (ESD): I'm hearing a majority want to continue discussing these issues on a regular basis so we will put more time on the calendar next week.

~End discussion

Agenda Items for Next Meeting

- COVID-19
- ASWS Office Update
- FLC Grant 101

Public Comments

Dan Fazio – Wafla

Eddie Kasner – UW School of Public Health (Addendum II)

Closing Comments

Dan Zeitlin thanked everyone for their continued active participation and for their commitment to this work, then ended the meeting at 12:44 a.m.

2020 Meetings

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

- **April 23, 2020 – 8:30 a.m. to 12:30 p.m.**
Skype Meeting

Addendums

ADDENDUM I



Agenda

Agricultural and Seasonal Workforce Services (ASWS)
Advisory Committee
Thursday, April 16, 2020 | 8:30 am – 12:30 pm | SKYPE

Agenda Items

Table with 2 columns: TIME and TOPIC. Rows include: 8:30 am Introductions, 8:35 am Approval of April 2, 2020 Meeting Minutes, 8:40 am Governor's Office - Alejandro Sanchez, 9:10 am Economic Security Discussion (COVID-19), 10:40 am BREAK (20 min), 11:00 am COVID 19 Health and Safety Guidance, 12:15pm Discuss next meeting agenda, 12:25 pm Public Comments, 12:30 pm 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



**PACIFIC NORTHWEST AGRICULTURAL
SAFETY AND HEALTH CENTER**



April 22, 2020

Agriculture and Seasonal Workforce Services Advisory Committee,

The 2019 Novel Coronavirus Outbreak presents extraordinary challenges to agricultural producers and workers who are part of the essential workforce under federal and state orders. While thousands of workers arrive in the Northwest and the labor force ramps up activities in the coming weeks, the industry has been tasked with navigating rapidly changing information about safely managing day-to-day operations. Resources are needed for proper infection control, mitigation of farmworker vulnerabilities, and mental health support for producers, workers, and their families as they grapple with sustained economic, social, and environmental pressures of the pandemic.

The Pacific Northwest Agricultural Safety and Health (PNASH) Center conducts research and promotes best safety and health practices for Northwest producers, workers, and communities. PNASH supports the coordinated efforts and alignment of the Washington State Departments of Health, Labor and Industries, Agriculture and Employment Security Department. We offer our technical assistance to find practical solutions and echo the set of immediate concerns listed in [your letter to Governor Inslee](#) (p.10) last month. It is essential to reduce the number of cases and deaths. To achieve this requires actions far beyond traditional health and safety practices. We urge the Committee to help identify solutions for three items of critical importance:

Facilities for adequate hand washing and disinfection in fields and housing areas must be present. Workers need clear guidance that they should be washing frequently with soap and water for at least 20 seconds. This behavior reduces transmission. We encourage employers and employees to exercise continuous reasonable efforts to ensure disinfection protocols are maintained in housing areas.

Physical distancing of 6 feet or more is critical for all aspects of farmworker life: field work, transportation, and housing. Emerging scientific evidence shows that SARS-CoV-2 is shed to the environment as expired particles, during toileting, and through contact with fomites. Solutions are needed for preventing transmission through direct and indirect contact, especially indoors.

Immediate access to medical care for workers exhibiting COVID-19 symptoms. Symptomatic workers need to be removed from the workplace and provided with appropriate health care. Isolation, contact tracing, and screening protocols should be clear and coordinated with local and state public health authorities. To the greatest extent possible, affected workers should be supported financially until their illness passes.

These solutions must involve educating workers in the language they understand best about preventing transmission. We stand ready to leverage resources from health science and land grant universities connected to our center and the national network of [U.S. Centers for Agricultural Safety and Health](#) funded by the Centers for Disease Control and Prevention. Please contact us if we can be of any help with this public health emergency.

Sincerely,

PNASH Internal Advisory Committee (undersigned)

ADDRESS

14701 4th Avenue SW
1940 NE Pacific Street
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CONTACT

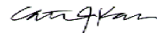
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Agricultural and Seasonal Workforce Services Advisory Committee

Meeting details

Date: Thursday, May 21, 2020

Time: 8:30 a.m. to 11:30 a.m.

Location: Skype meeting due to COVID-19

Committee members present

- Michele Besso
- Jonathan DeVaney
- Michael Gempler
- Rosalinda Guillen
- Rosella Mosby
- Delia Peña
- Erik Nicholson
- Ramon Torres

ESD staff

- Dan Zeitlin
- Alberto Isiordia
- Norma Chavez
- Tamara Johnson
- Rene Maldonado
- Craig Carroll
- Sara Crosby
- CaraMia Stearns-Vance

Non-voting agency representatives

- Uriel Iñiguez
- Ignacio Marquez
- Dave Gifford

Guests

- Mike Schulte
- Margarito Cabrera
- Juan Martinez

Committee members absent

- Todd Phillips

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 of participants. All committee members were present. Ramon Torres stated he would be unable to stay for meeting.

Agenda

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

Minutes

Meeting Minutes

Dan Zeitlin requested that everyone review the April 23, 2020 meeting minutes and provide their feedback. Tamara Johnson stated the meeting minutes were not sent out to the advisory committee and apologized for her oversight. Dan requested the meeting minutes be emailed immediately and Tamara did so. Dan suggested the meeting minutes approval be moved to the next meeting in order to give everyone time to review.

H-2A Application Data Report

Norma Chavez reported on H-2A application data.

Applications	# Applications	# Workers
Received/Processed	251	21,619
Commenced	158	15,086
Withdrawn	15	1,749
Cancelled	2	111
Delayed	1	208

Wagner-Peyser Presentation

Alberto Isiordia and Mike Schulte presented information on Wagner-Peyser grant. (See Addendum II.)

2020 ASWS Report to the Legislature

Sara Crosby reviewed the budget requirements needed to be included in the report to legislature due in October. (See Addendum III.)

Action Items

- Follow up on request of total number of H-2A workers in Washington State.

Agenda Items for Next Meeting

- Domestic Worker Recruitment and Referral
- Budget analysis

Public Comments

Ryan Ogburn WAFLA

Adjourned

Dan Zeitlin thanked everyone for their continued active participation and for their commitment to this work, then ended the meeting at 11:25 a.m.

2020 Meetings

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

- **June 4th , 2020 – 8:30 a.m. to 11:30 a.m.**
Skype Meeting

Addendums

ADDENDUM I



Agenda

Agricultural and Seasonal Workforce Services (ASWS)
Advisory Committee
Thursday, May 21st, 2020 | 8:30 am – 11:30 am | SKYPE

Agenda Items

TIME	TOPIC
8:30 am	Introductions <ul style="list-style-type: none">Welcome from Dan Zeitlin, Director, ESD Policy, Data, Performance and Integrity Division & Norma Chavez, Director – Agricultural and Seasonal Workforce ServicesAgenda Review
8:35 am	Approval of Meeting Minutes for April 23 rd , 2020
8:40 am	Update on FLC Applications
8:45 am	Wagner-Peyser Presentation – Alberto Isiordia & Mike Schulte
10:00 am	Break
10:15 am	H-2A Verification & Referral Process – Sara Crosby <ul style="list-style-type: none">Analysis and discussion
11:15 am	Closing Discussion <ul style="list-style-type: none">Discuss next agenda
11:25 am	Public Comments
11:30 am	Adjourn

GROUND RULES

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Wagner-Peyser Funding

Percentage of Budget and Flexibility to Serve Customers

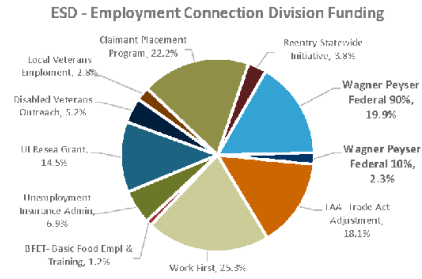
Wagner-Peyser Funding Breakdown

Wagner-Peyser 90% Funding

While primary target customer are UI Claimants and Veterans

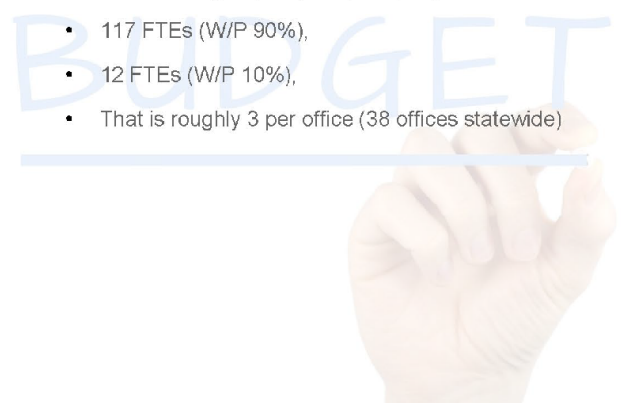
Policy allows the Flexibility to serve All Job Seekers

EC Divisional Funding	Flex vs Dedicated Funding
Wagner Peyser Federal 90%	Flex
Wagner Peyser Federal 10%	Dedicated
Trade Act Adjustment	Dedicated
Work First	Dedicated
Basic Food Employment & Training	Dedicated
Unemployment Insurance Admin	Dedicated
UI RESEA Grant	Dedicated
Disabled Veterans Outreach	Dedicated
Local Veterans Employment	Dedicated
Claimant Placement Program	Flex
Reentry Statewide Initiative	Dedicated



• PY 2019 budget (\$15,040,605) equates to:

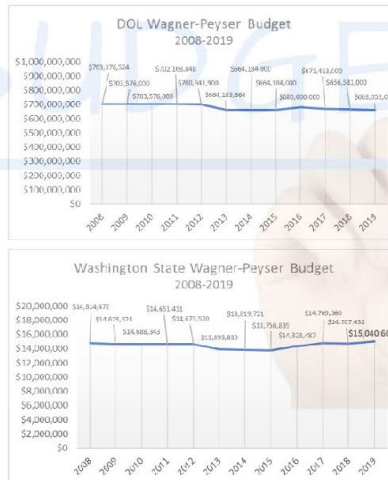
- 117 FTEs (W/P 90%),
- 12 FTEs (W/P 10%),
- That is roughly 3 per office (38 offices statewide)



Wagner-Peyser
Funding Breakdown

Wagner-Peyser
Funding Breakdown

- What is the budget and how has that change in recent years?



- How DOL determines State's Wagner-Peyser allocations
 - Allocation based upon DOL regulations
 - 2/3rd based # in Workforce (compared to other states)
 - 1/3rd based #'s of unemployed (compared to other states)

Wagner-Peyser Allocation Formula
Compared to other States



What positions is Wagner-Peyser 10% funding in support of the Ag Sector?

Wagner Peyser 10% Snapshot

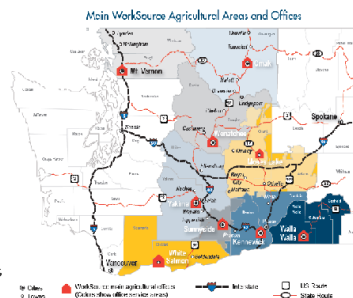
- PY 19 WP 10% = \$1.5 M
- MSFW Outreach = 1 Monitor Advocate, 8.5 MSFW Outreach FTEs
- ~2.5 additional FTE providing additional support to MSFWs and Ag employers (percentage of FTE spread across multiple staff)

Outreach Performance

	PY 2017	PY 2018
Contacts	19,921	14,288
Days	1,076	761

Major activities

- ▣ Resource awareness at community events/locations
- ▣ Partner meetings
- ▣ Media (TV/radio/online)
- ▣ Posting fliers and distributing brochures



What is Wagner-Peyser 10% and what is it reserved for?

Wagner Peyser 10%

Section 7 of the Wagner-Peyser Act allows 10 percent of the sum of Wagner-Peyser dollars allotted to each State to be reserved by the Governor for:

- Performance incentives for public employment service offices and programs;
- Services to groups with special needs; and
- Extra costs of exemplary models for delivering services and for enhancing professional development and career advancement of state staff.

In Washington State, 10% of Wagner-Peyser allocations are set aside to fund staff providing services to the Agricultural sector, with a focus on farm workers.

What is Wagner-Peyser required to provide?
Employers

Who is Wagner-Peyser intended to serve?
What does the data show?

Wagner-Peyser Menu of Services

Employer Services:

- Assistance in development of job listing requirements
- Assistance with hiring events and Job Fairs
- Assisting employers with special recruitment needs
- Matching job seeker experience with job requirements, skills and other attributes
- Assisting employers analyze hard-to-fill job orders
- Assisting with job restructuring
- Helping employers with layoffs
- Information about the Federal Bonding program and Work Opportunity Tax Credits



How has this changed over the years?

Migrant and Seasonal Farmworkers:

Total annual avg of covered agricultural employment = 97,810 (2017)

Total # of MSFW Workers served by WorkSource (PY 2018) **4,138**

Veterans:

Total # of Veterans in Workforce in WA State = 3,848,015

Total # of Veterans served by WorkSource (PY 2018) = **7,636**

Claimants:

905,872 Claimants (between Jan 19 – Dec 19)

of Initial UI Claims in March and April 2020 = **929,735**

Total Workforce in Washington State: 3,788,930

*As of Jan 2020, According to the Bureau of Labor and Statistics

Business:

Total # of Business using WorkSource (PY 2018) = **8,416**

Total # of Job orders posted = 220,939



Wagner-Peyser Act
Expanded and Amended

What is Wagner-Peyser?

- Expanded to serve Unemployment Claimants as a result of the Social Security Act in 1935
- 1971, 16 organizations and 398 individuals petitioned U.S. Secretary of Labor, Peter J. Brennan with accusations of exploitation of farmworkers by state employment offices across the United States.
- 1974, Judge Richey Order signed, requiring U.S. Department of Labor to ensure all workforce development services, benefits and protections for farmworkers are provided on an equitable and non-discriminatory basis.
- Later amended with Workforce Investment Act (WIA, '98) and later WorkSource Innovation and Opportunities Act (WIOA, '14)



Wagner-Peyser Act of 1933 establishes first public labor exchange system

“To provide for the establishment of a national employment system for the cooperation with the State in the promotion of such system, for the purposes established a nationwide system of public employment offices.”

Goal to provide:

- (1) Federal matching funds for the operation of state employment offices,
- (1) Federal supervision of operations,
- (2) State administration of services, and
- (3) Employment services to veterans



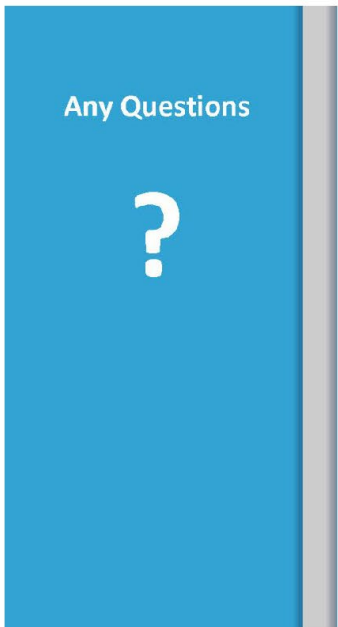
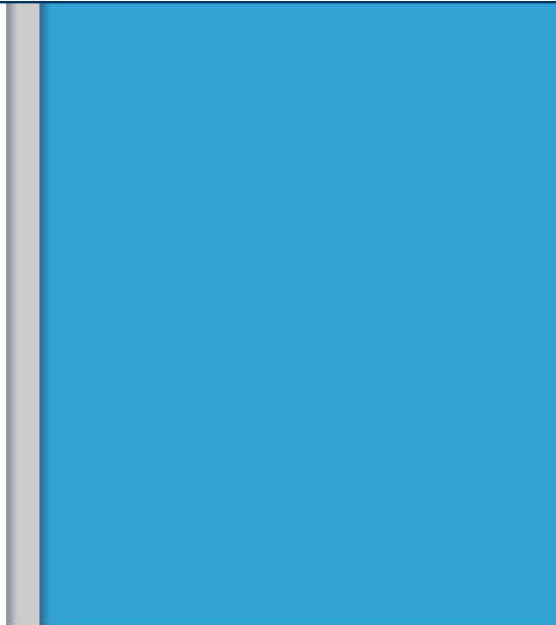


An Overview of Wagner-Peyser

Today's Presenters:

Alberto Isiordia, Central Regional Director

Michael Schulte, Program Integrity Manager



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ADDENDUM III

ASWS - MEETING NOTES - 5.21.2020

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.

- Understand the numbers for most recent fiscal year, what is variance?
- What is being spent? What activities are required vs recommended? So that we can evaluate best use of available resources
- Make sure money is spent efficiently and properly
- Look at where money is being spent and look at where domestic farmworkers are benefitting – support local families to access these jobs, keep payroll within the state
- How do we ensure, and what will it cost, to protect workers and keep them safe from pandemics, crisis, etc
- What are the results of the money being spent?
- Cost of ensuring compliance – doesn't show up in existing budget because we hadn't been doing it
- Review the grant agreement from DOL, which outlines what is ESD is allowed/required to do with the federal funds.
- Vision of what services need to be carried out to provide effective domestic/foreign recruitment, certification, processing, survey, enforcement → put a number on it
- Is there a way to look at enforcement budgets for other industries; what is being spent on enforcement for other industries

Contact information

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Employment Security Department • Policy, Data, Performance and Integrity

ASWS Committee Improvement Ideas				1: Low Difficulty	3: Medium Difficulty	5: High Difficulty
				ESD could implement/ impact with current resources, could be done within 6 months	ESD could implement, but requires technology changes or other resources, could be done within 6-12 months	ESD needs additional resources, and/or legislature approval/law changes to implement, and/or change would require over 12 months for ESD to implement, or outside of the scope of ESD
#	Short Title	Description	Group Difficulty Rating	Notes and assumptions		Divisions impacted (bold=responsible)
8	Referral Tracking & Follow up	Create more consistent tracking methods for tracking referrals both through the system and outside of WorkSourceWA. Track all referrals and their outcome.	5.0	Short registration would help. This would require staff to follow up on every referral to determine outcome; requires staff/budget resources. OR would require staff/budget to require employers to report to ESD referral outcomes.		EC, IT
9	Smart phone app	Create smart phone app for workers to scan in when applying at a site.	5.0	Requires technology/IT resources and funding; may be a barrier if workers are required to download this app.		EC, IT
10	Provide employer identity	provide employer identity as we do with other employers and like we see on seasonal.jobs.dol.gov.	5.0	Requires working with DOL to approve this practice if the intention is to unsuppress H-2A employer information on WorkSourceWA in alignment with SeasonalJobs.gov. Requires DOL regulations to be modified (or maybe a waiver?)		EC, IT
13	Collect more data	Number of applicants (including outside ESD), identify number of workers hired outside of ESD process, how many use the referral path outside of creating WorkSourceWA account.	5.0	Would require collecting and compiling information from employers.		EC, ASWS, UI (if UI data cross match is used)
23	Family Housing	Offer more family housing.	5.0	Outside of ESD's scope.		
29	Balance workforces	Need to balance migrant and stable workforces.	5.0	Outside of ESD's scope; Needs clarification.		

