

ASWS Advisory Committee Meeting

Friday, May 23, 2025

9:00 a.m. – 1:00 p.m.

Housekeeping



RECORDING ANNOUNCEMENT:

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Agenda Review

8

Roundtable Introductions

AGENDA

Agricultural and Seasonal Workforce Services (ASWS) Advisory Committee
Friday, May 23, 2025 | 9:00 am – 1:00 pm | **Zoom** | 212 Maple Park Ave SE Olympia, WA 98501

TIME	TOPIC	SPEAKER	
9:00 am	Call to Order; Welcome to Maple Park	Joy Adams, Director, Employment System Policy & Integrity Division, ESD	
9:10 am	Roll Call of Committee Members – Establish a quorum	Vickie Carlson, Management Analyst, ASWS Office, ESD	
9:15 am	Agenda review Roundtable Introductions	Joy Adams, Director, Employment System Policy & Integrity (ESPI) Division, ESD	
9:30 am	Commissioner Feek Remarks	Joy Adams, Director, ESPI Division, ESD	
9:45 am	Brief history of ASWS Advisory Committee Scope & function of Committee Member expectations	Dan Zeitlin, Chief of Staff, Executive Services, ESD	
10:00 am	Legislative Update/ESD Budget	Dan Zeitlin, Chief of Staff, Executive Services, ESD	
10:15 am	ASWS Office Update	Bertha J. Clayton, Director, ASWS Office, ESD Petra Meraz, Supervisor, Foreign Labor Certification Program, ASWS Office, ESD Susana Rodriguez, Supervisor, Compliance Team, ASWS Office, ESD	
10:45 am	Workforce Services Division Update	Craig Carroll, Business Operations Manager, Workforce Services Division (WSD), ESD	
11:00 am	15 Minute Break	11:00 am	
11:15 am	Chairs Vision	Joy Adams, Director, ESPI Division, ESD	
11:30 am	H-2A TWH Inspection Changes	Juan Gamez, Supervisor, Lodging Program, Department of Health (DOH) Bertha J. Clayton, Director, ASWS Office, ESD	
12:00 pm	Arturo Espinoza – New SMA Introduction	Dan Zeitlin, Chief of Staff, Executive Services, ESD	
12:10 pm	Updates on Prevailing Wage & Hand Harvester Survey	Josh Moll, Labor Economics and Econometric Analysis Manager, DATA Team, ESD	
12:20 pm	Perspectives on the state of the Ag economy	ASWS Committee Members	
Closing			
12:45 am	Public Comment Good of the Order Adjournment	Joy Adams, Director, ESPI Division, ESD	
1:00 pm	Next meeting: Thursday, July 17 th , 2025, Virtual-Evening, 5 pm – 7 pm		

GROUND RULES

Commissioner Feek Remarks

Commissioner Cami Feek, Employment Security Department



ASWS Committee history, scope and function



Dan Zeitlin, Chief of Staff, Executive Services, ESD

ASWS Committee history, scope and function



- History
- Scope
- Function

Legislative/Budget Update



Dan Zeitlin, Chief of Staff, ESD

Josh Dye, Government Relations Director, ESD

May 23, 2025

Agenda



- I. ESD-Related Bills
- II. Federal and State Fund Source Overview
- III. ESD Revenues (Federal) and Expenditures
- IV. ESD 25-27 Biennium Budget/ASWS Decision Package
- V. State Fund Balances

ESD-Related Bills



Notable employment and unemployment related bill:

- Employment Loss Due Closure Or Mass Layoff (ESSB 5525): Passed
- Unemployment Benefits For Striking Workers (ESSB 5041): Passed
- Wage Replacement For Undocumented Workers (HB 1772/SB 5626): Did Not Pass

Federal Funding



Unemployment Insurance (UI) Program

■ **UI Administration**: Used to administer UI program. The Federal Unemployment Tax Act (FUTA) is a 0.6% employer tax on the first \$7,000 of each worker's earnings per year. These funds are paid to the federal government and distributed to states based on an allocation methodology for UI administrative costs.

Workforce Programs

- Wagner-Peyser: Used for ESD staff to provide employment services at WorkSource centers throughout the state. In WA, 90% of funds are allocated for general services and 10% are allocated to Migrant and Seasonal Farmworker (MSFW) outreach.
- Workforce Innovation and Opportunity Act (WIOA) Administration: Funds provided to ESD to oversee Adult, Dislocated Worker, and Youth employment and training services provided by staff in local workforce areas.
- Other: Foreign Labor Certification (FLC), Jobs for Veterans State Grants (JVSG), Reemployment Services and Eligibility Assessment (RESEA), and Trade Adjustment Assistance (TAA)

Federal Funding



Labor Market Information (LMI) Programs

- Bureau of Labor Statistics (BLS): Used for statistical data gathering, analysis and dissemination to include current employment statistics, local area unemployment statistics, occupational employment statistics, quarterly census of employment and wages, and mass layoff statistics.
- Workforce Information Grants: Used to develop and disseminate essential workforce and labor market information, including employment trends, local labor market trends and other data.

State Funding

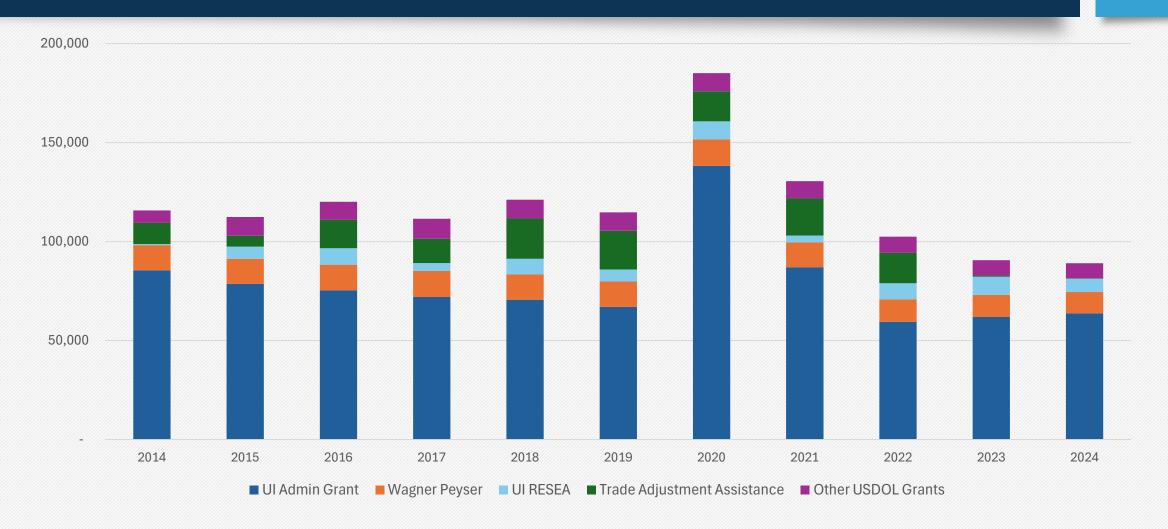


Two State Funding Sources

- Claimant Placement Program (CPP): Funding from the Employment Services Administrative Account (Fund 134). CPP receives its revenue from an employer surcharge on UI taxable wages. This funding source was established in 1985 to augment federal funds to support employment programs. These funds have been increasingly necessary to provide basic employment program activities.
- Penalties and Interest (P&I): Funding from the Administrative Contingency Account (Fund 120). P&I receives revenues from penalties and interest employers pay for late or incorrect unemployment taxes. P&I revenue also comes from interest paid by UI recipients who must repay benefits to which they were not entitled.

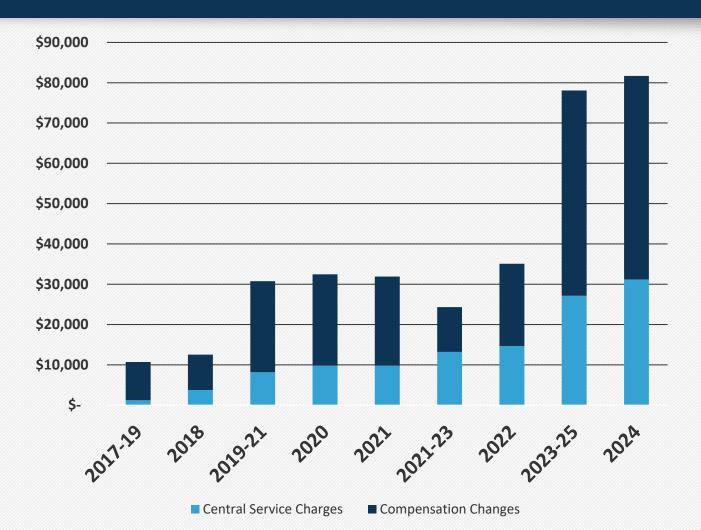
Federal Revenue Decreasing Adjusted for Inflation





Changes in Central Services and Compensation Base ESD Budget





Central service and compensation increases have put additional pressure on ESD resources

25-27 Biennium Budget: ESD Base Funding



The conference budget reduces ESD's "base" funding:

- One-time funding ends
- Reductions in number of management and administrative positions
- Federal revenue has declined, and the availability of CPP and P&I to cover shortfalls has increasingly become less of an option.

25-27 Biennium Budget: ESD Initiative/Program Funding



ESD initiatives/programs were funded with CPP or P&I funds:

- Federal Funding Shortfall: \$22.3M
- UI Customer Improvement Plan: \$11.2M
- UI Customer Compliance (UI Fraud): \$1.66M (SFY26)
- UI Navigators: \$1M (SFY26)
- Workforce Integration Technology (WIT): \$9.2M
- Website Modernization: \$.2M
- ASWS: \$.6M

ESD fund "swaps":

- Economic Security for All (EcSA): \$12.3M (previously GF-S)
- Career Connect Washington (CCW): \$4.7M (previously WEIA)
- WorkFirst: \$4.0M (previously DSHS GF-S)

25-27 Biennium Budget: ASWS



The conference budget provides roughly \$3.83 million over the biennium for the ASWS Office, a roughly \$600,000 increase from current level to:

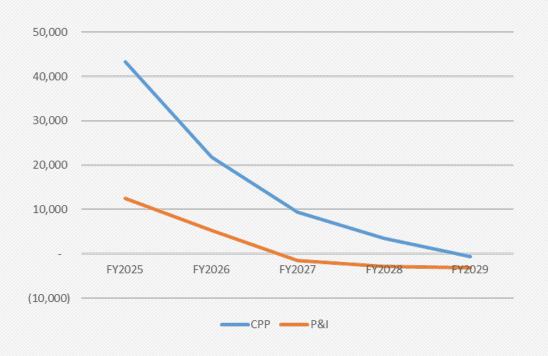
- Re-classify compliance staff from Program Specialist 3s to 4s.
- Fund a position to create a central point for oversight of domestic farmworker recruitment, referral and placement.

ESD State Funding: CPP and P&I



Conference Budget: Employment Service Administrative Account-Fund 134 (CPP) and Administrative Contingency Account-Fund 120 (P&I)





ASWS Office Update – May 2025



Bertha J. Clayton, ASWS Director, ESD

What we've been up to



- Introduction of New Staff
- Federal Partnerships
- Coordination with SWAs in Region 6
- H-2A Litigation how we've responded
- Discontinuation of Services
- Operations update on RCW 50.75.060 "HB 2226 data collection" (2024)
- Inter-agency coordination
- ASWS "in the news"
- H-2A Temporary Worker Housing changes (in a later segment)
- Update on old business items

ASWS Staffing



- Welcome Susana Rodriguez, ASWS Compliance team supervisor, started 2/3/25!
- Hello Arturo Espinoza, MSFW Services Monitor (AKA State Monitor Advocate), started 5/1/25!
 - PS-3 compliance specialist position vacated (Tri-Cities region)
- Biennium 2026-2028
 - Ag. Decision package approved by WA State legislature
 - Re-classification of (7) ASWS Compliance Specialist positions from PS-3s to PS-4s.
 Will take place 7/1/25.
 - Additional funding for compliance team travel

Federal Partnerships



- USDOL Office of Foreign Labor Certification
 - "Business as usual"
 - Communication is regular, timely and responsive
- USDOL Wage and Hour Division
 - Enforcement priorities from 5 to 2 (agricultural and construction)
 - Hiring freeze, minimal inspectors
 - Retirements, separations in regional leadership
 - No training regarding H-2A Worker Protection Rule enforcement
- USDOL Employment Training Administration (ETA)
 - Staffing changes: Regional Monitor Advocate (RMA), Federal Project Officers (FPOs)
 - No conferences/trainings planned (State Monitor Advocate, Region 6 Farmworker Conference (with NFJP grantees).

Coordination with Region 6 State Workforce Agencies (SWAs)



Cohort formed in early 2025. Facilitated by ESD's Foreign Labor Certification team. Washington, Oregon, California, Idaho

- Monthly standing meeting.
- Share updates, technical assistance and case specific information
- Monthly educational presentations
- Has been a good resource for navigating change together and sharing/learning best practices.

H-2A Litigation



Regularly communicating with USDOL. Following USDOL instructions and directives.

- 1. March 2025 FUJ Injunction
 - Per USDOL instructions did not change case status or issue Notices of Acceptances or Notices of Denial. (USDOL carried out internal procedures to categorize impacted filings, many employers re-filed as an "emergency")
- 2. May 2025 FUJ Injunction
 - 1. Posted prevailing wages on ESD's farmworker page
- ESD is <u>not</u> a party to the *Barton* lawsuit
- ESD was recently dismissed from Familias Unidas por la Justicia, and that case is in active litigation
- ESD is refraining from commenting on the ongoing litigation; the parties to those lawsuits would be in the best position to talk about the litigation and interpreting the Court's orders
- ESD relies on guidance from USDOL on job order contents; USDOL is the final adjudicator of ETA-790s.

Discontinuation of Services



Discontinuation of Services – 20 CFR 658, Subpart F, initiated from 10/1/24-5/1/25		
Final Determinations	1	
Determinations pending	1	

RCW 50.75.060 "HB 2226 data collection" (2024)



- Started collection 6/6/2024
- Using standard form developed by ESD ASWS and Communications Dept.
- Quarterly reporting obligation to ASWS Committee (later segment)

Interagency Coordination



Inter-agency agreement	Agencies	Status
ESD & National Farmworker Jobs Program Grantee	ESD SMA, ESD WSD – Opportunities Industrialization Center of WA (OIC)	COMPLETE (03/2025)
Field Check Coordination	ESD-LNI-DOH-WSDA	IN FINAL REVIEW
H-2A Temporary Worker Housing Inspections, Licensing & Certification	ESD-DOH-LNI	IN DEVELOPMENT (WILL DISCUSS IN LATER SEGMENT)
H-2A Complaint Data Sharing Agreement (Statement of Work)	ESD-LNI	ESD SOW is COMPLETE (04/2025)

In the news





APPLES

CHERRIES

GRAPES

May 1st 2025 Issue . Story by Ross Courtney

Less work, more workers for agriculture

Industry contraction makes domestic labor pool seem bigger.

"For the first time in decades, tree fruit growers in the Northwest are finding it easier to hire domestic workers."

"We're seeing we have more local labor, local help," said Cesar Ortiz, an orchard manager for White Alpha Orchard in Ephrata, Washington. He estimated an increase of roughly 40 percent for local applicants in 2024 and was seeing the same as of March this year."

"Employers and regulators have improved their practices in regard to balancing guestworker and domestic recruitment, said Bertha Clayton, director of the ESD's Agricultural and Seasonal Workforce Service — an office created by the state Legislature in 2019 to help keep up with the rising H-2A demand. Growers are better at offering those jobs, while the state agency is better at policing the program."

Update on old business



- Outreach staff safety and emergency preparedness
- App-based communication (Whatsapp)
- ASWS webpage presence
- ASWS case management system (CMS)
- Written resources for employers and workers
- Emphasis on domestic recruitment

And most importantly.....



Thank you to ASWS's dedicated, talented and stellar staff.



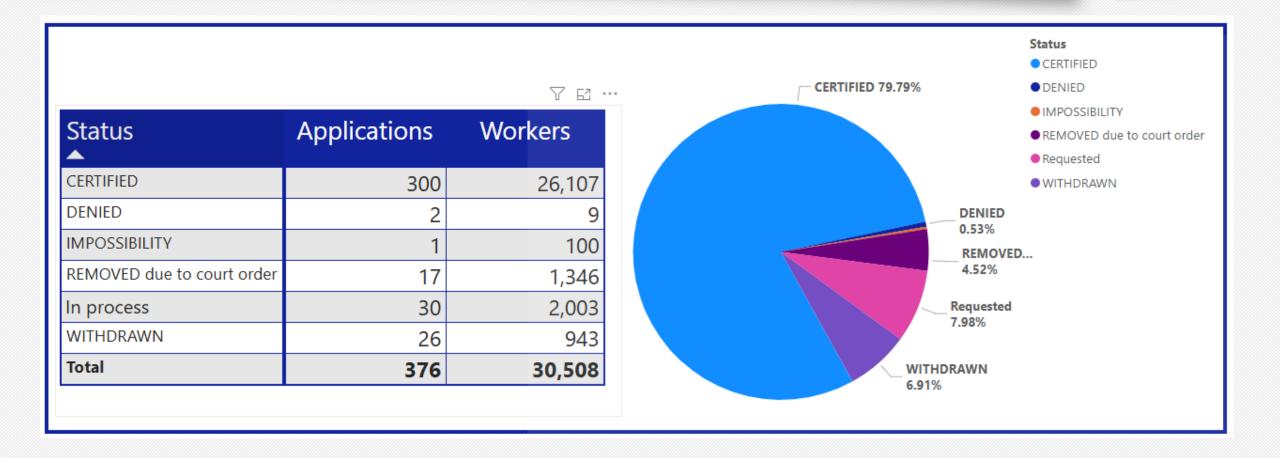
Processing and Adjudicating Foreign Labor Certification Applications



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

Application status report: October 1, 2024 – April 30, 2025





Commenced & Active YTD Comparison



PY 2025

Active Contracts

PY24 & PY25
Began 10/1/2023 active 4/30/2025

Contracts 194 Workers 11,344

Commenced Contracts

Began 10/1/2024 or later

Contracts 198 Workers 11721

PY 2024

Active Contracts

PY23 & PY24
Began 10/1/2022 active as of 4/30/2024

Contracts 200 Workers 11,902

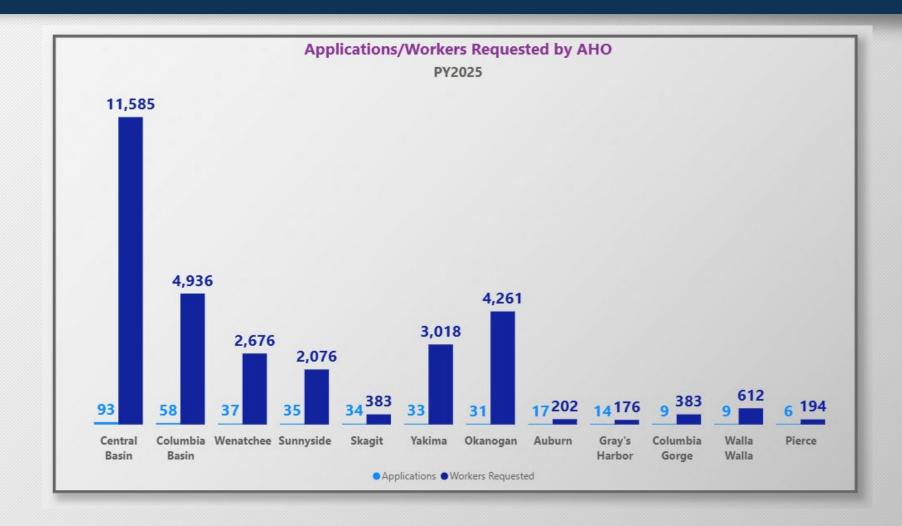
Commenced Contracts

Began 10/1/2023 or later

Contracts 211 Workers 12472

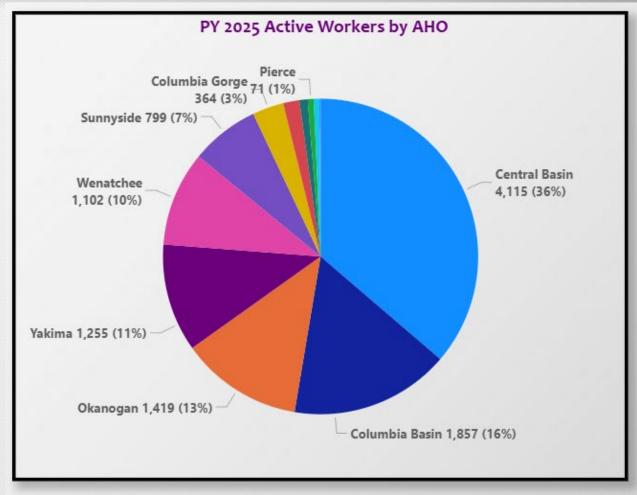
Applications/Workers Requested by AHO

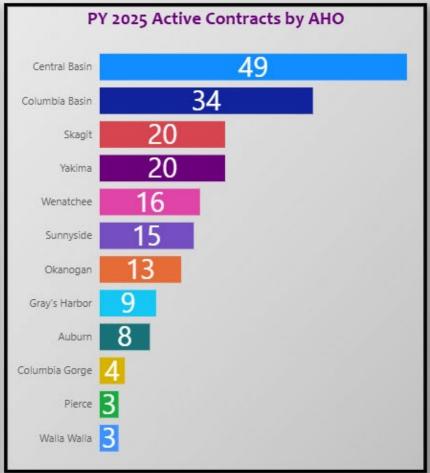




PY25 Active Workers & Contracts by AHO







Compliance Reporting: Site visits (field visits), field checks & complaints

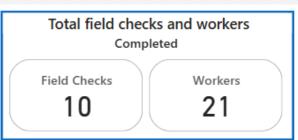


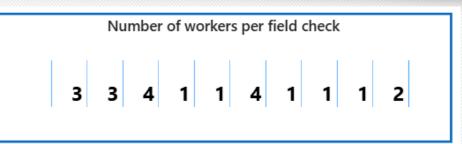
Susana Rodriguez, Compliance Team Supervisor, ASWS, ESD

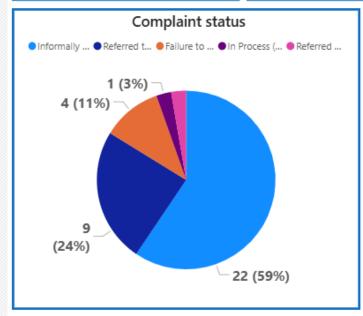
ASWS Compliance Updates















Quarterly Report of HB2226 Data: 2nd Qtr. Jan 1, 2025 - March 31, 2025

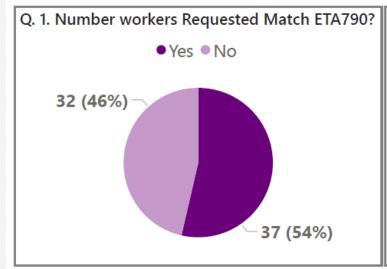


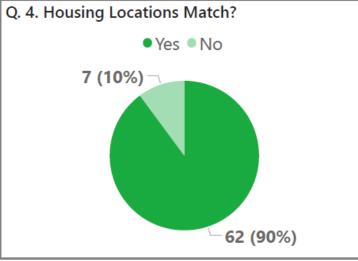
Q. 2. Total Workers Requested

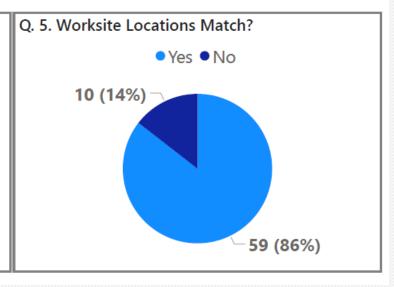
7970

Q. 3. Total Workers Received

7115







WSD Updates May 2025



Craig Carroll, Business Operations Manager, ESD

MSFW Outreach Performance



Workforce Services Division (WSD) October 1 through April 30			
Program Year	2023	2024	
Total FTEs*	11	11	
Total Outreach Days	870	904	
Total Number of MSFWs Contacted	12,632	13,565	

^{* 9} dedicated FTEs (MSFW Staff) and 2 FTEs allocated to non-Ag. areas.





Workforce Services Division (WSD)

October 1, 2024 through April 30, 2025

Total Number of Complaints	22
Total Number of Apparent Violations	2
Total Referred (6 H-2A related)	18
Total Resolved (at local level)	3

Highlights of Outreach to Farmworkers



Digital Navigation Efforts

Moses Lake Area

- Empowering Farmworkers Through Safety Training
 Partnered with Labor & Industries to bring WISHA-10 training to
 Washington Fruit, ensuring workers had the knowledge to stay
 safe on the job.
- Bridging the Gap to Essential Resources –
 Connected migrant and seasonal farmworkers with ESL and Digital Navigation support, opening doors to education and technology access.

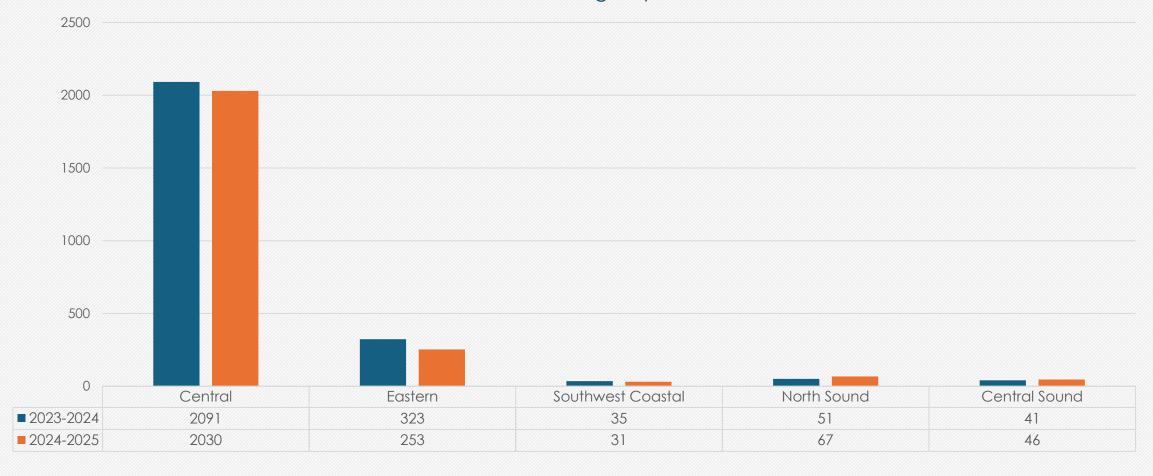
Yakima Area

- Empowering Farmworkers Through Safety Training Coordinated WISHA 10 Training session, engaging over 40 migrant and seasonal farmworkers (MSFWs) in essential workplace safety education.
- Developed Comprehensive Materials
 Detailing available computer classes and guiding individuals on the registration process for WorkSourceWA.com.

MSFWs Served by Region







MSFWs Served by Significant Office VS H-2A Workers Requested







15-minute Break

Chairs Vision

Joy Adams, Director, Employment System Policy & Integrity Division, ESD



H-2A TWH Inspection Changes



Juan Gamez, Supervisor, Lodging Program, Department of Health (DOH)

Bertha J. Clayton, Director, ASWS Office, ESD

H-2A Temporary Worker Housing (TWH) Inspection Changes

MAY 23, 2025. ASWS ADVISORY COMMITTEE MEETING





ROAD MAP 49

- H-2A TEMPORARY WORKER
 HOUSING INSPECTIONS 101
- HISTORICAL INFORMATION & RECENT CHANGES
- LOOKING AHEAD ISSUES AND CHALLENGES
- GREAT STRIDES IN IMPROVING H-2A TWH WASHINGTON





20 CFR 655.122(d) Housing

The employer must provide free housing to H-2A workers and eligible U.S. workers.

20 CFR 655.122(d)(6)

Housing must meet applicable housing standards.

20 CFR 655.122(6)(ii)

The SWA must inspect and certify to the employer & USDOL that the housing is sufficient to accommodate the number of workers requested + meets all applicable standards.



WHAT ARE "APPLICABLE STANDARDS"?

The SWA must determine whether the employer-provided housing is in compliance with federal & state standards. The strictest standard applies.

FEDERAL

Pre-1980 builds

ETA standards at 654.404-654.417

After 1980 builds

OSHA 29 CFR 1910.142



STATE & LOCAL

Temporary Worker Housing

- RCW 43.70.334 through 340 Temporary Worker Housing
- RCW 43.70.340 Fees on Temporary Worker Housing
- RCW 70.114A Temporary Worker
 Housing Health and Safety Regulation
- WAC 246-358 Regular Temporary
 Worker Housing Rules
- WAC 246-359 Temporary Worker Housing Construction Standards

WHAT ENTITIES ARE INVOLVED IN THE H-2A TWH INSPECTION PROCESS (PRE-OCCUPANCY)?

EMPLOYMENT SECURITY DEPARTMENT

- ESD certifies H-2A housing compliance to USDOL for the purposes of H-2A employment certification.
- ESD has H-2A TWH inspection authority.
- ESD does not issue fees or license housing.
- ESD coordinates with DOH to determine H-2A TWH compliance.

DEPARTMENT OF HEALTH

- DOH has state authority to inspect and license all TWH, including H-2A housing according to state RCWs.
- DOH works directly with the TWH operators by accepting fees, coordinating inspections, and licensing housing.
- DOH and ESD communicate housing determinations via inter-agency coordination and DOH's housing portal.
- DOH and ESD have developed processes to improve its coordination.
- Construction Review Services and construction standard.

LABOR & INDUSTRIES

L&I historically performed courtesy H-2A TWH inspections for ESD for those units with 9 or fewer occupants*. Since 11/1/2024, DOH has assumed this work.

L&I has jurisdiction to conduct occupancy health & safety inspections of TWH. These inspections usually arise from complaints received by ESD or DOH.

*DOH does not have licensing authority over units with 9 or fewer occupants. Inspections performed by DOH are not for state licensing purposes, rather for courtesy inspections for the purpose of communicating housing compliance to ESD. DOH takes this approach with H-2A TWH, only, as a service to meet this inspection gap.

HISTORICAL INFORMATION & RECENT CHANGES

2006-2023

- » H-2A TWH inspections performed by DOH and L&I (Units with 9 or fewer occupants and range/mobile housing).
- » Most recent MOU (2021)
- » No consideration exchanged between ESD and DOH/L&I

2023

- » OFLC monitors Washington's Foreign Labor Certification grant. Recommends ESD train program staff to conduct housing inspections as a contingency plan.
- » Recommends exchange of consideration between entities to secure inspection coordination.
- » ESD and DOH develop better coordination practices.

2024-2025

- » L&I and DOH train ESD staff to perform H-2A TWH housing inspections as a contingency plan. ESD staff fill in when L&I & DOH lack inspectors/resources.
- » DOH announces all transient accommodation ("hotel/motel") housing used to house farmworkers must meet state TWH standards.
- » L&I ceases conducting H-2A TWH inspections for 9 and fewer and range/mobile housing. DOH was asked by ESD to support this work and directs operators to follow its licensing process for all H-2A TWH.
- » ESD and DOH draft updated housing inspection IAA. Gaps in state rules are identified (no DOH licensing jurisdiction for 9 and fewer occupants, no state standards for range/mobile housing). IAA still in development as of 05/2025.

LOOKING AHEAD – ISSUES & CHALLENGES

- Increasing housing inspection volume
- TWH WAC 246-358 rule revision and TWH fee study
- Flat or decreased foreign labor certification funding
- Decreasing DOH resources to partner with ESD in inspecting and licensing H-2A temporary worker housing
- Gaps in state rules/no state standards for specific types of H-2A TWH (mobile/range)



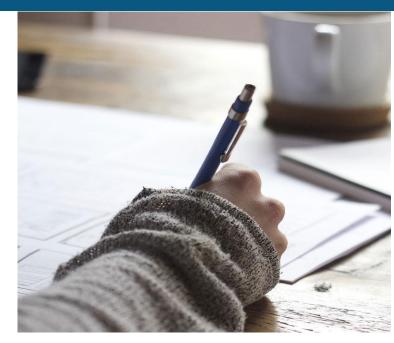
GREAT STRIDES MADE IN IMPROVING H-2A TWH IN WASHINGTON STATE

- H-2A TWH is safer, and compliance is more closely monitored
- Communication between ESD and DOH is regular and collaborative (ride alongs and scheduled check-ins)
- Processes developed to streamline communication about housing inspections and outcomes between DOH, ESD and employer-operators
- H-2A TWH housing certification processing becoming standardized across all H-2A TWH types
- ESD certification involves analysis of compliance with both federal & state standards and requirements.

Any questions?

You can find me at:

- bertha.clayton@esd.wa.gov
- juan.gamezbriceno@doh.wa.gov
- gerald.caird@doh.wa.gov
- Temporary Worker Housing (TWH) for Agricultural Employees | Washington State Department of Health





Monitor Advocate Introduction



Dan Zeitlin, Chief of Staff, ESD

Monitor Advocate Introductions



Welcome Arturo Espinoza!

Updates on Prevailing Wage & Hand Harvester Survey



Josh Moll, Labor Economics and Econometric Analysis Manager, DATA, ESD



2024 Agricultural Employer Survey and RCW 50.38.070 Worker Wage Survey

2024 Agricultural Employer Survey

The 2024 employer surveyed for apple, pear, cherry and berry crops

- Administered via phone, web and paper surveys
- 162 completed surveys
- Data analysis is underway

Task	Description	Time Frame
Survey programming	Development of survey and training interviewers	September 2024
Active data collection	Mailing letters, emails, calls	October 2024 – January 2025
Data management	Producing clean data set	February 2025
Deliverables	Deliver final data and report	March 31, 2025

2024 RCW 50.38.070 Worker Survey

The 2024 worker survey was limited to apple harvesting

- Administered via phone and web surveys
- 701 completed surveys
- Report and dataset delivered to the legislative committee

Task	Description	Time Frame
Active data collection	Active phoning / weekly email reminders	2/1 - 4/4/2025
Data management	Producing clean data set	4/4 - 4/11/2025
Producing Apple Worker Report	Report writing	4/14 - 4/30/2025
Deliverables	Deliver final data and report	4/30/2025

2025 RCW 50.38.070 Worker Survey

The 2025 worker survey will include apple, cherry, blueberry and pear harvesting

Administered via phone, web and field interviews

Task	Time Frame
Obtain Consent from Farms, Hire and Train Interviewers, Plan Travel Logistics, finalize Instruments, Finalize Communication/Recruitment Material	5/1/2025 - 5/30/2025
Field surveys of Blueberry and Cherry Workers	6/1/2025 - 8/1/2025
Telephone Interviews of Blueberry and Cherry workers, Field Surveys of Pear and Apple Workers	8/1/2025 - 10/31/2025
Telephone Interviews of Pear and Apple Workers, Begin Data Set Preparation	10/1/2025 - 12/1/2025
Finalize Data Sets, Produce Reports	12/1/2025 - 12/31/2025
Submit Final Deliverables to ESD by	12/31/2025 - 1/1/2026

Contact

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Perspectives on the state of the Ag economy



ASWS Committee Members

Perspectives on the state of the Ag economy



Unguided Committee Roundtable

Comment or Pass

What are your thoughts on the

state of the Ag economy?

Closing



- Public Comment
- Good of the Order

Public Comment



PUBLIC COMMENT:

If you would like to make public comment, including any suggested future agenda items, please state your name and spell it so we can capture it correctly for the minutes, as well as the organization you represent if any. Your comments are being recorded. However, if you would like your comments to be included in the meeting minutes, please submit them in writing via email to Vickie Carlson at Vickie.Carlson@esd.wa.gov. Please limit your comments to two minutes.

COMENTARIO PUBLICO:

Si desea hacer un cometario público, incluyendo temas ó elementos de segurencia para agendas futuras, por favor indique su nombre y deletréelo para poder capturarlo correctamente en los apuntes de la junta, también indique la organización a la que representa si hay alguna. Sus comentarios estan siendo grabados. Sin embargo, si desea que sus comentarios sean incluidos en los apuntes de la junta, por favor envielos por escrito por correo electrónico a Vickie Carlson a vickie.carlson@esd.wa.gov. Por favor limite sus comentarios a dos minutos.



Next ASWS Advisory Committee Meeting

Thursday, July 17, 2025

5:00 p.m. – 7:00 p.m.