



Agricultural and Seasonal Workforce Services Advisory Committee

Meeting details

Date: Thursday, April 21, 2022

Time: 8:30 a.m. – 11:30 a.m.

Location: ZOOM meeting due to COVID-19

Committee members present

- Jonathan DeVaney
- Edgar Franks
- Michele Besso
- Rosalinda Guillen
- Victoria Ruddy
- Jeff Perrault
- Michael Gempler

Non-voting agency representatives

- Todd Phillips
- Uriel Iniguez

Committee members absent

- Delia Peña
- Ignacio Marquez

ESD staff

- Dan Zeitlin
- Bertha Clayton
- Tamara Johnson
- Vickie Carlson
- Gustavo Aviles
- Rene Maldonado
- Juan Martinez
- Ana Alcala-Rodriguez
- Petra Meraz

Summary

Meeting Recorded

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

Welcome and Introductions

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

Agenda

Recording timestamp **00:4:04**

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

Meeting Minutes

Recording timestamp **00:06:55**

Dan Zeitlin requested that everyone review the meeting minutes for March 21, 2022 and provide their feedback. Rosalinda Guillen made a motion to approve the March 21, 2022 minutes. Jeff Perrault seconded the motion. The March 21, 2022 meeting minutes were approved.

FLC Applications - Petra Meraz

Recording timestamp **00:07:23**

Petra Meraz reported on FLC application data. (See Addendum II.)

ASWS Office Update – Bertha Clayton (See Addendum III.)Recording timestamp **0:16:52**

- Administrative Assistant 3 has been hired – Welcome Vickie Carlson
- Staff Training: Compliance Team, FLC Team

ASWS Compliance Update – Bertha ClaytonRecording timestamp **00:22:09**

Bertha reported on the ASWS Site Visits by Compliance Region. Goal: perform at least one site visit on 100% of H-2A job orders. Provided Site Visit & Actual Worker counts (See Addendum IV.)

2020 ASWS Report Recommendations Update – Dan ZeitlinRecording timestamp **01:05:45**

USDOL Waiver – Gary Kamimura (See Addendum V.)

Recording timestamp **01:06:24**

Customer Experience Study – Gustavo Aviles (See Addendum VI.)

Recording timestamp **01:20:26****Adverse Weather Impacts-Rosalinda Guillen** (See Addendum VII.)Recording timestamp **01:24:17****2022 ASWS Report Timeline Discussion – Bertha Clayton**Recording timestamp **01:59:55**

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

2022 ASWS Report: Budget – Dan Zeitlin (See Addendum IX.)Recording timestamp **02:03:44**

Dan Zeitlin provided reporting requirements as well as data on Federal & State funding sources.

Additional Information Requested:

- Deeper dive into employment services provided in other non-ag areas/impact of more funding to ag impacting that work
- ASWS office: budget v. actuals
- FLC application spending breakdown

Action Items

FLC: Information on the number of new employer contracts and location. Committee would also like to see if we can show H-2A applications by county.

Field Checks: Re-occurring report requested that includes issues found, how they were resolved, length of time to resolve.

Adverse Weather Impacts:

- Identify subgroup of committee members to engage
- Damage Assessments: Interest in seeing workforce impacts incorporated.
- Data: Weather events leading to: contract impossibilities; domestic workers routed to other jobs through WorkSource, UI applications.
- Broader Safety Net: Information on support available to workers who lose anticipated employment due to weather.

Future Agenda Items

Rosalinda Guillen: Continued conversation about weather impacts

Mike Gempler: How many workers are looking for ag work?

Public Comments

None

Adjourned

Dan Zeitlin thanked everyone for their continued active participation and for their commitment to this work, then ended the meeting at 11:22 a.m.

2022 Meetings

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

- **May 19, 2022 – 8:30 a.m. to 11:30 a.m. – Zoom Meeting**

Addendums

ADDENDUM I.



AGENDA

Agricultural and Seasonal Workforce Services (ASWS) Advisory Committee
 Thursday, April 21, 2022 | 8:30 am – 11:30 am | Zoom

TIME	TOPIC
8:30 am	Welcome – Dan Zeitlin, Director, ESD Employment System Policy & Integrity Division <ul style="list-style-type: none"> • Roll Call – Tamara Johnson • Agenda Review – Dan Zeitlin
8:40 am	Approval of Meeting Minutes – Dan Zeitlin <ul style="list-style-type: none"> • March 17, 2022
8:45 am	ASWS Office Update – Bertha Clayton, Director, ASWS Office <ul style="list-style-type: none"> • FLC Applications – Petra Meraz, FLC Coordinator • ASWS Office – Bertha Clayton • ASWS Compliance – Bertha Clayton
9:15 am	2020 ASWS Report Recommendations Update – Dan Zeitlin <ul style="list-style-type: none"> • USDOL Waiver – Gary Kamimura, Manager, Workforce Policy • Customer Experience Study – Gustavo Aviles, Manager, Program Evaluation, Research and Analysis
9:45 am	Adverse Weather Impacts
10:05 am	Break
10:20 am	2022 ASWS Report Timeline Discussion – Bertha Clayton
10:30 am	2022 ASWS Report: Budget – Dan Zeitlin
11:00 am	Closing Discussion <ul style="list-style-type: none"> • Agenda Items
11:10 am	Public Comment
11:20 am	Adjourn

GROUND RULES

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

ADDENDUM II.

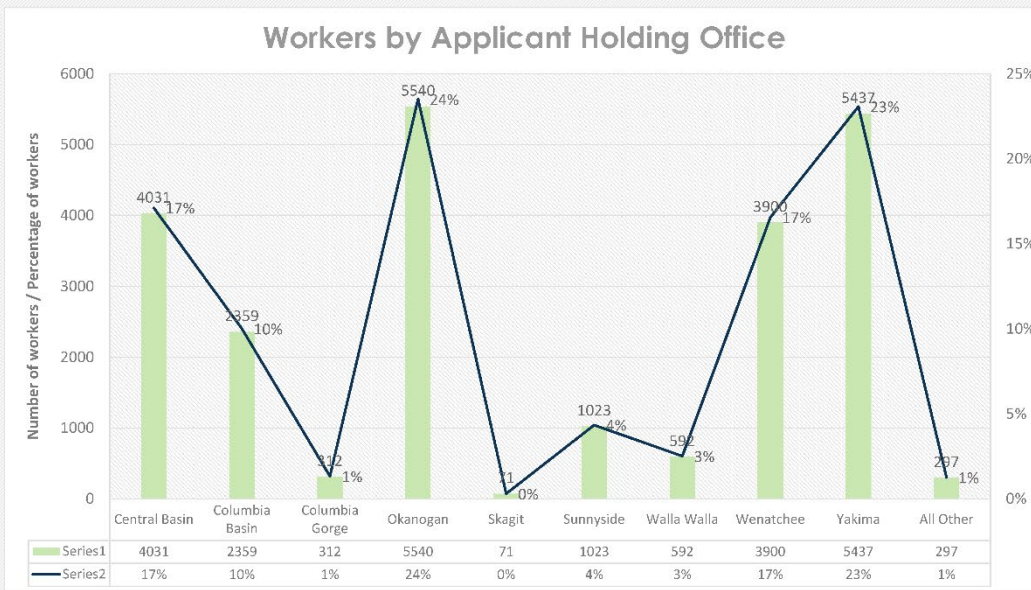
FLC Applications Update



2022 H-2A Program Data (10/1/2021-4/19/2022)	2022				2021			
	Applications processed	Workers Requested	Active	Active Workers	Applications processed	Workers Requested	Active	Active Workers
Total Applications Received/Processed:	302	29,181			252	23,077		
Number of Applications Withdrawn/Not Processed by DOL:	15	2,273			9	501		
Contract Impossibility:	0							
Total Number of Contracts Commenced:	181	13,838	174	13,562	133	10,291	130	10,032

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

Workers by Applicant Holding Office



ADDENDUM III.

ASWS Office Updates



1. Introduction of Vickie Carlson, Administrative Assistant. Hired 4/1/2022
2. Staff Training Update
 - Compliance Team
 - 2-Day WA State Investigator Training Core
 - ✓ All compliance staff have completed this training.
 - Site Visit Uniformity Training
 - FLC Team:
 - Exploring in-person training opportunities at Chicago National Processing Center
 - ✓ Goal: increase capability for application review/direct instruction from DOL certifying officers

Compliance Team Updates

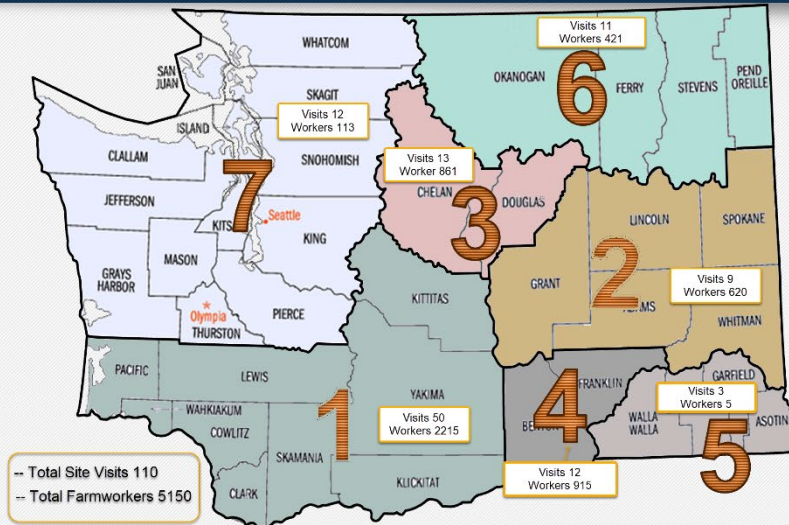


Site Visits (Field Visits)

- Pre-arranged visit to work sites and/or housing wherein compliance specialists verify compliance with the terms of conditions of employment, inform workers of their rights, and provide education and technical assistance to employers. Site visits are an assurance agreed to by the employer upon placing a job order and applies to all H-2A employers.
- ASWS Goal: At least one site visit on 100% of H-2A job orders.

ADDENDUM IV.

ASWS Site Visits by Region (1/1/22-4/19/22)



Site Visits by ASWS Compliance Region
1/1/2022 – 4/19/2022



ASWS COMPLIANCE REGION	1 Yakima/SW WA	2 Central Basin	3 Chelan-Douglas	4 Benton-Franklin	5 Walla Walla	6 NE WA	7 Western WA
No. of site visits	50	9	13	12	3	11	12
No. of workers contacted	2215	620	861	915	5	421	113

Total Site Visits (YTD): 110
Total No. of workers contacted (YTD): 5,150

* Note: Compliance specialists in regions with lower volume regularly provide assistance in higher volume areas and at times where staff are on leave.

Field Checks – 2022



20 CFR 653.503 Field Checks

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

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

Number of Placements <i>(seeker referred and started working)</i>	5
Number of Field Checks Performed by ASWS <i>*2 workers were referred to same job order</i>	4*

- All placements made and field checks performed since March 2022 ASWS Meeting

Looking Ahead



Compliance Team

- Building on feedback received during site visits from employers and workers
- Elevating our site visit delivery
 - Focusing on communication strategies to best inform our audiences
 - Training staff with the goal of uniform site visit experience across compliance region

Complaint System

- Working with Employment Connections to improve our internal complaint communication and train all staff to issue spot.

ADDENDUM V.

2020 Report Recommendations



Advisory Committee Presentation

April 21, 2022

Gary Kamimura, Workforce Policy Manager, ESD
Gustavo Aviles, Program Evaluation, Research and Analysis Manager, ESD
Employment Security Department

Department of Labor Waiver Request



- The Advisory Committee voted affirmatively at its October 2021 meeting to request a waiver of the requirement at subsection (b)(2) of 20 CFR 653.501 that employer information be suppressed in domestic job orders in the Agricultural Recruitment System.
- ESD discussed the request with the Governor's Office, which cleared it to go forward.
- Waiver requests require public comment, so a 15-day comment period is planned for April 21 through May 12.
- The waiver request will be sent by the ESD Commissioner to the Secretary of Labor in mid-May.
- The Labor Secretary has 90 days, by law, to respond to the Governor.
- The State is required to monitor the impact of waivers and report annually to DOL on those impacts as a condition of retaining the waiver.

ADDENDUM VI.

Customer Experience Study: Revised Timeline



Phase 1 – Specialty crop activities from September - November 2022 (State funded study)

- RFP: May – July 2022
- Contract: August 2022 – February 2023
- ASWS Advisory Committee members to advise during the study:
 - RFP draft May 12 - June 16, 2022
 - Design and preparation of interviews or focus groups: August 2022

Phase 2 – Specialty crop activities from February - August 2023 (USDA Specialty Crop Block Grant funded study - **grant award is pending**)

- RFP: October – December 2022
- Contract: February 2023 – November 2023

ADDENDUM VII.

Adverse Weather Impacts Discussion



- Assessments of crop damage
- Worker needs
- State and stakeholder response

ADDENDUM VIII.

Report Timeline



This report iteration is not a comprehensive overview as contained in 2020 report

- This version will include updates only.

Plan

- Budget presentation - April 2022 ASWS Meeting
- 2020 ASWS Recommendations Update/Progress Report – May 2022 ASWS Meeting
- Draft report presented to ASWS committee in June for review and feedback by late July/early August 2022
- Publication Date: **10/31/2022**

ADDENDUM IX.

Budget: Report Requirement



Per [RCW 50.75.040 4\(b\)](#), the report must analyze the:

1. Costs incurred by the office to administer the H-2A program;
2. Funds to administer other department programs for farmworkers; and
3. Amount of funds allocated by the federal government to administer the H-2A program and all other agricultural programs within the department.

Federal Funding Sources



- Federal Foreign Labor Certification (FLC) Grant: Funds services provided by state agencies that support the administration of the H-2A and H-2B FLC programs.
- Federal Wagner-Peyser Grant (WP): Funds system of public employment offices (WorkSource) to provide universal access to an array of employment and training services, which are available to any job seeker, regardless of employment status.
- WP 10 Percent: In Washington, 10% of WP funds are allocated for positions and services aimed at supporting the agricultural sector, namely Migrant Seasonal Farmworker (MSFW) staff and the State Monitor Advocate (SMA).

State Funding Sources



- ASWS Office: Duties include processing and adjudicating FLC applications; processing complaints; conducting field checks and field visits; administering the discontinuation and reinstatement of services; and conducting training and outreach activities to employers.
- Other State Funding: The Employment Services Administrative Account (Fund 134, also known as the Claimant Placement Program or CPP) funded by employer UI taxes is used when federal funding is insufficient, including to supplement the WP grant and fund the ASWS office. Along with FLC, WP and CPP, the Administrative Contingency Account (P&I) also helps fund the Agricultural Wage and Employment Practices survey.

Use of Funding Sources



Required activity	Federal Foreign Labor Certification grant	Federal Wagner-Peyser grant	State ASWS funding	Other state funding**
Review and process of H-2A employer applications	✓		*	
Coordinate housing inspections	✓	✓	*	
Agricultural prevailing wage and employment	✓	✓	✓	✓
Outreach and training	*	✓	✓	
Field visits and field checks	*	*	✓	
Domestic recruitment and employment verification		✓		
Employment service complaint process		✓	✓	
Discontinuation of services		*	✓	

* Allowed but not currently used.

** Other state funding consists of the Employment Services Administrative Account: Claimant Placement Program and the Administrative Contingency Account: Penalties and Interest.

Costs Incurred by ASWS Office



Description	FY 2019-2021	FY 2021-2023	FY 2023-2025
FTE staff years	13.9	14.5	14.5
A – Salaries and wages	\$1,753,751	\$1,652,000	\$1,652,000
B – Employee benefits	\$613,814	\$662,000	\$662,000
C – Professional service contracts	\$190,000	\$190,000	\$190,000
E – Goods and other services	\$368,995	\$384,000	\$384,000
G – Travel	\$17,819	\$208,000	\$208,000
T – Intra-agency reimbursements	\$525,234	\$446,000	\$446,000
Total	\$3,487,432	\$3,542,000	\$3,542,000

Foreign Labor Certification Grant



Fiscal year	Amount awarded to ESD
2015	\$179,907
2016	\$179,907
2017	\$237,354*
2018	\$450,000
2019	\$400,000
2020	\$400,000
2021	\$572,579
2022	TBD

*ESD received an additional supplemental allocation of \$325,000 intended to enhance coordination of housing inspections required as a condition of USDOL certification.

Wagner Peyser Grant



Program year	Washington	U.S.	Percent of U.S. allocation
2010	\$14,688,343	\$703,576,000	2.09%
2011	\$14,651,411	\$702,168,848	2.09%
2012	\$14,673,520	\$700,841,900	2.09%
2013	\$13,893,830	\$664,183,664	2.09%
2014	\$13,819,721	\$664,184,000	2.08%
2015	\$13,756,839	\$664,184,000	2.07%
2016	\$14,323,487	\$680,000,000	2.11%
2017	\$14,769,360	\$671,413,000	2.20%
2018	\$14,707,432	\$666,413,000	2.21%
2019	\$15,040,605	\$663,052,000	2.27%
2020	\$15,891,995	\$668,052,000	2.38%
2021	\$15,710,820	\$668,253,000	2.35%
2022	TBD	TBD	TBD

Wagner Peyser 10 Percent



Office	FTE budget	Budget allocated
Agricultural and Seasonal Workforce Office (Monitor Advocate position)	1.00	\$104,911
Employment Connections Central Office	0.80	\$80,892
Skagit (Mt. Vernon) WorkSource	1.14	\$110,225
Central Basin (Moses Lake) WorkSource	1.45	\$128,619
Okanogan County (Omak) WorkSource	1.24	\$126,650
Wenatchee WorkSource Affiliate	1.35	\$139,137
Yakima County (Union Gap) WorkSource	1.50	\$126,076
White Salmon WorkSource Affiliate	0.65	\$60,902
Sunnyside WorkSource Affiliate	1.20	\$116,763
Columbia Basin (Kennewick) WorkSource	1.22	\$109,397
Walla Walla WorkSource	1.16	\$76,368
Operating FTE total	12.71	\$1,179,940

2020 Report Budget Recommendation



The committee will work with ESD to examine the allocation of the funding sources for the H-2A administrative functions and identify gaps in funding and needed resources to address those gaps if they exist.

STATUS: Complete (on-going process)

- ESD will evaluate the existing charging structure to determine how to more accurately track and report costs associated with H-2A activities.

Contact information

Dan Zeitlin, Director of Employment System Policy & Integrity Division DZeitlin@ESD.WA.GOV

Employment Security Department • Policy, Data, Performance and Integrity