



Agricultural and Seasonal Workforce Services Advisory Committee

Meeting details

Date: Thursday, September 1, 2022

Time: 9:00 a.m. – 10:00 a.m.

Location: ZOOM meeting due to COVID-19

Committee members present

- Jon DeVaney
- Delia Peña
- Victoria Ruddy
- Jeff Perrault
- Michael Gempler
- Michele Besso
- Rosalinda Guillen

Non-voting agency representatives

- Todd Phillips
- Ignacio Marquez
- Uriel Iniguez

Committee members absent

- Edgar Franks

ESD staff

- Dan Zeitlin
- Bertha Clayton
- Vickie Carlson
- Petra Meraz
- Tamara Johnson
- Olga Kondratjeva
- Gustavo Aviles
- Rene Maldonado
- Juan Martinez

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 Vickie Carlson to take roll. Seven voting members were present.

Agenda

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

Recording timestamp **00:01:50**

Presentation of Final Perspectives and Shared Issues – Dan Zeitlin, Director, Employment System Policy & Integrity Division, ESD (See Addendum II.)

Recording timestamp **00:02:47**

Employer Perspective

Recording timestamp **00:03:55**

Worker Perspective

Recording timestamp **00:07:01**

Shared Issues – Bertha Clayton, Director, ASWS Office, ESD

Recording timestamp **00:14:34**

Recorded Vote to Approve – Dan Zeitlin (See Addendum III.)

Recording timestamp **00:43:35**

“Motion to accept the employer and worker perspectives and approve the shared issue perspectives of the 2022 ASWS Advisory Committee Report” from Jon DeVaney, 2nd from Michele Besso. 7 votes to approve, motion carries.

Closing Discussion – Dan Zeitlin, Director, ESD Employment System Policy and Integrity

Division

(See Addendum IV.)

ASWS Report next steps

Recording timestamp **00:45:41**

Committee Recognition for report completion

Recording timestamp **00:47:43**

Shared Issues Discussion

Recording timestamp **00:51:11**

Future Agenda Items

Recording timestamp **00:52:19**

Long Term Care Program - Discussion of voluntary exemption for nonimmigrant work visa holders

Inter agency coordination

Temporary Worker Housing certification process

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 10:00 a.m.

2022 Meetings

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

- **September 15, 2022 – 8:30 a.m. to 11:30 a.m. – Zoom Meeting**

Addendums

ADDENDUM I.

Agenda



AGENDA

Agricultural and Seasonal Workforce Services (ASWS) Advisory Committee
 Special Meeting | Thursday, Sept 1, 2022 | 9:00 am – 10:00 am | Zoom |
 212 Maple Park Ave SE Olympia WA 98501

TIME	TOPIC
9:00 am	Welcome – Daniel Zeitlin, Director, ESD Employment System Policy & Integrity Division <ul style="list-style-type: none"> • Roll Call – Vickie Carlson • Agenda Review – Daniel Zeitlin
9:05 am	Presentations of Final Perspectives & Shared Issues – Dan Zeitlin <ul style="list-style-type: none"> • Employer Perspective • Worker Perspective • Shared Issues – Bertha Clayton, Director ASWS, ESD
9:25 am	Vote to Approve
9:30 am	Closing Discussion – Dan Zeitlin <ul style="list-style-type: none"> • Committee recognition for report completion • ASWS Report next steps • Shared issue discussion & future agenda items
9:55 am	Public Comment
10:00 am	Adjourn

GROUND RULES

No side conversations | Phones on silent | Let people speak without interruption | Respect the opinion of others | Drive 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 is heard | Look out for each other | Take care of your own comfort | Ask for what you need

ADDENDUM II.

Presentations of Perspectives: Employer, Worker & Shared Issues



Advisory Committee Presentation

September 1, 2022

Dan Zeitlin, Policy Director, ESD
 Employment Security Department

Presentation of Employer Perspective



Submitted by the ASWS Committee Employer Representatives
Jon DeVaney
Mike Gempler
Delia Pena
Jeff Perrault

Recommendation 1:

Growers and workers both experience frustration with going through a middleman. If a way can be found to make connections between potential employees and employer, we are for it. State mediated recruitment does remain important to both employers and employees, however, as it documents compliance with domestic recruitment preferences as well as providing a trigger for mandatory field checks.

Recommendation 2:

We favor finding an alternate way to streamline connections between potential employees and employers since the proposed waiver was denied by USDOL. The employer information which would have been published under the proposed waiver is available on the USDOL's seasonal ag jobs website, and it may be possible to utilize this mechanism.

Recommendation 3:

The domestic recruitment system can't be improved without knowing what is happening to referrals. We view this as fundamental to understanding the performance of the recruiting system and anticipate that there will be new information gleaned from tracking referral outcomes better. The employer community would benefit from knowing what jobs other than agricultural jobs potential referrals are taking.

Recommendation 4:

In-depth information is needed on customer experience in order to identify meaningful solutions to poor recruitment program performance. Employer representatives support the proposed survey process that would gather substantive comments from workers and employers who may not be providing information directly to the public and agency members of the ASWS Committee.

Recommendation 5:

A knowledgeable employer base is a productive means of gaining compliance. In particular, a mechanism within ESD that allows employers to ask for information or receive guidance on compliance will result in more overall compliance and a better system for the people of Washington State. As more employers must resort to the H-2A program to meet their labor needs, these new participants will need resources to ensure they operate a successful and compliant workplace.

Recommendation 6:

Employee training is a subset of Recommendation 5 and is a key part of reaching the goal of widespread compliance. It would be beneficial for the department to identify compliance problem areas and create training to address them. It is important to consider program improvements in the context of growth and outreach. As the use of the H-2A program continues to increase with new employers and more workers, and greater outreach to workers encouraging them to report any concerns or violations, the absolute number of complaints is likely to rise. However, this may not reflect a higher rate of occurrence and may also be a result of better information (and timely correction) on problems and not an increase in their occurrence.



Submitted by the ASWS Committee Employer Representatives
Jon DeVaney
Mike Gempler
Delia Pena
Jeff Perrault

Issues and concerns not covered by the recommendations related to an analysis of the costs of H-2A and other agricultural-related programs:

Employer representatives continue to emphasize the importance of coordination between state and federal agencies. This is essential to ensuring that any problems are promptly addressed and will also reduce duplication of effort. Communication and resource-sharing between agencies will reduce administrative costs while improving outcomes, improve customer service for employers and employees, and reduce the inconvenience of duplicative inspections and outreach visits during periods of peak agricultural activity.

The cost of participating in the H-2A program is high and is increasing. Cost considerations need to be considered as a priority when designing compliance requirements and the specific design of the H-2A program. The cost of the H-2A program is of paramount importance to the grower community.

Concerns relating to data collection:

Many ASWS committee members have expressed a desire for comprehensive and real-time information on the location, identity, and visa status of every employee in a workplace utilizing the H-2A program. While omniscience may be an aid to decision-making, the efforts and costs necessary to collect and maintain such information must be balanced with its practical utility. For example, a workplace with an H-2A contract is likely to include both temporary foreign workers and domestic workers in corresponding employment. Moreover, employers are required to actively continue domestic recruitment after initiation of the contract and so this data is likely to change on a regular basis. While there may be interest in these specific employee counts, they do not alter the contract terms or the applicable health and safety requirements which are tied to the workplace and the contract and are not to the individual employee's immigration status.



Presentation of Worker Perspective



Worker Perspective on ASWS Report

Introduction: Since the ASWS was formed in 2020, the size of the H-2A foreign agricultural worker program in Washington has only grown larger; we see even more displacement of local farm workers and more exploitation of the H-2A workers. The State of Washington must take stronger action if it is going to protect our local workforce and prevent labor trafficking of foreign farmworkers. The H-2A program structure is built to meet the needs of farm employers and not workers; it perpetuates structural racism, and fails to provide workers with the tools to protect themselves from exploitation.

A. The needs identified in the Worker Perspective to the 2020 Report remain largely unmet:

1. **Lack of Needed Data:** The agencies, including ESD, do not collect the data that workers need to address the problems that face them, and even where the agencies collect data, they do not organize it in a format accessible by the worker community. To respond to the harmful impacts of climate change such as increased weather extremes, wildfires and pandemics, workers, advocates, and policy makers need to know how many foreign workers are in our state at any given time and where they are. The current system does not require the employers to report the number of foreign workers who have actually arrived and are working on their farms. Also, there is no reliable source for where these workers are actually being housed. ESD's current data gathering and analysis systems do not meet the needs of the state's agricultural workers and employers.
2. **Need for accountable agency coordinated oversight mechanisms:** The ASWS has made progress in increasing staff presence on H-2A workplaces. However, coordination with multiple state agencies is needed to enforce the wide range of health and safety, wage, contract, and housing problems that exist. The state should have a mechanism to track worker complaints from referral to the appropriate enforcement agency to resolution. Workers need to know that complaints lead to results.
3. **Worker Voices in the Customer experience survey:** ESD needs to acknowledge the barriers of structural racism in traditional surveys of farmworkers, and be intentional in reaching out to workers in a way that collects authentic voices of workers. Based on past experience, we don't trust that the outreach to the farmworker community for the customer experience survey will be done adequately to get accurate information. The agency needs a shift in the way that it reaches out and communicates with the farmworker community to ensure that that local worker input is elevated and is considered in decision-making.



Presentation of Shared Issues





1. H-2A program impact to domestic workers:

1. The committee recognizes that the H-2A program in Washington is experiencing continued growth and consequently, this growth has impacted the state's domestic farm labor workforce.

The committee wishes to be engaged in learning, through a research study, accurate information about how domestic workers seek farm work, the barriers to recruitment experienced by domestic workers, and how domestic workers utilize (or do not utilize) ESD services.

The committee wishes to use the data from this research to identify and recommend solutions to improve ESD farmworker recruitment services

2. State agency coordination regarding worker complaints:

2. The committee believes that further coordination between ASWS and other states agencies, including Labor and Industries and Department of Health, is necessary to more comprehensively and efficiently receive, resolve, and/or refer complaints received from workers, or otherwise observed in the field (apparent violations).

The committee desires better tracking of worker complaints and improved communication between state agencies handling complaints to avoid duplication of work

3. Improved data keeping:

3. The committee desires improved data keeping and reporting from ESD as to domestic farmworker application, referral, and placement to agricultural jobs. The committee believes that this data is essential for determining the number of foreign workers present in the state, the number of domestic applicants to farmworker jobs, the number of applicants hired (or not hired by employers) and the number of workers in worker housing facilities.

Additionally, the committee desires to receive information from ESD regarding the outcome of referrals made by WorkSource to agricultural jobs, with the objective of learning why, or what not, domestic farmworker referrals are hired

4. Employer training, support and resources:

4. The committee believes that ASWS is well positioned to provide employer resources and training, particularly for new users of the H2A program.

The committee desires that employer resources and training be developed and delivered by ASWS with the objective of improving employer compliance with H-2A rules and regulations.



ADDENDUM III.

Motion to Approve Report Sections



Provided we have a quorum

“I move to approve the employer and worker perspectives and shared issues sections of the 2022 ASWS Advisory Committee Report”

- 2nd

Vote to Approve 2022 ASWS Report

Representing Agricultural Workers

- Michele Besso
- Edgar Franks
- Rosalinda Guillen
- Victoria Ruddy

Representing Agricultural Employers

- Jon DeVaney
- Mike Gempler
- Delia Pena
- Jeff Perrault

ADDENDUM IV.

Next Steps



Communications

- 508 Compliance Review

Commissioner

- Review & Final Approval

Legislature

Advisory Committee Recognition for Report Completion



A Job Well Done!

Shared Issues & Future Agenda Items Discussion



- Final Discussion regarding Shared Issues

- Future Agenda Items



Agricultural and Seasonal Workforce Services
ADVISORY COMMITTEE



Next ASWS Advisory Committee Meeting

Thursday, September 15, 2022

8:30 a.m. – 11:30 a.m.

Contact information

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

Employment Security Department • Policy, Data, Performance and Integrity