



ESD Administration of the H-2A Temporary Worker Visa Program

Legislative Auditor’s Conclusion

The Employment Security Department complies with most requirements and applies many best practices when administering the federal H-2A program. More work is needed to ensure effective coordination with other agencies, as required by state law.

Key points

- The H-2A Temporary Farmworker Visa program is a federal program. The Employment Security Department (ESD) implements state-level activities in Washington.
- ESD complies with federal H-2A requirements. Its practices are consistent with those in other states.
- Few U.S. farmworkers are hired for these H-2A jobs in Washington. There are many reasons, including federal rules, that can pose barriers to ESD's recruitment efforts.
- ESD dramatically increased its outreach to farmworkers in 2022. This likely contributed to a rise in complaints and apparent violations.
- ESD has taken steps to coordinate program compliance with the Departments of Health, Agriculture, and Labor and Industries. More work remains.

Recommendation

ESD should work with DOH, L&I, and WSDA to provide a plan for determining interagency coordination for field checks.

A field check is a random, unannounced visit to a work site where a U.S. farmworker is doing the work on an H-2A job order. ESD conducted 10 field checks in 2022.

Additional Detail

This study is one of three JLARC studies addressing issues that affect farmworkers

This study This study assesses state administration of the federal H-2A visa program, which allows employers to hire temporary foreign farmworkers.

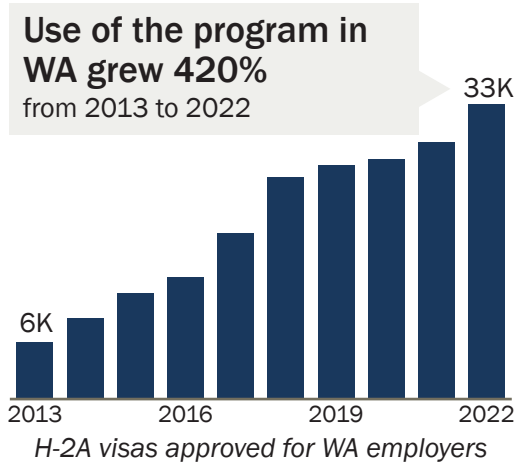
January 2024 A study of pesticide safety programs at the Departments of Health, Agriculture, and Labor and Industries was also published in January 2024.

2026 We plan to complete a study of farmworker safety, health, and wage protection programs at the Department of Labor and Industries in 2026.

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Additional Detail (cont'd)



ESD complies with federal H-2A program regulations and applies many leading practices

Compared to other states (CA, NC, OR, and GA) Washington's H-2A processes are:

- Similar for processing employer requests to start the process (i.e., job orders) and recruiting U.S. farmworkers.
- Leading by having:
 - Dedicated compliance office.
 - Advisory committee.
 - State funding for enhanced compliance activities.

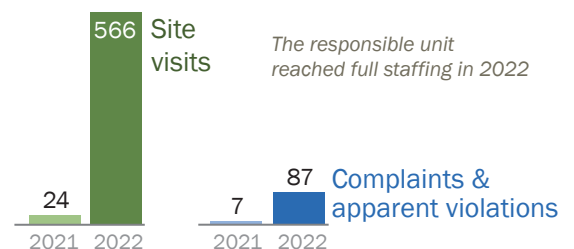
ESD increased site visits in 2022. Farmworker complaints and apparent violations rose.

During a site visit, ESD staff:

- Help farmworkers understand their rights and contracts.
- Observe working and living conditions.
- Provide contact information to farmworkers so they can share their concerns.

ESD resolved 69% of complaints and apparent violations informally with the employer, as directed by federal regulation. The remaining 31% were referred to enforcement agencies.

ESD offers employer training to encourage compliance.



WA employers hired 11 U.S. farmworkers for jobs on H-2A job orders in 2022. This is consistent with national rates.

There are many reasons, including federal rules, that can pose barriers to ESD's recruitment efforts.

1. Employers must use the state's recruiting system, which relies heavily on online tools.
2. Employers must start the recruitment process 60 to 75 days before the work begins.
3. ESD must redact the employer's name from the job order. This can slow the process and discourage applicants.

ESD coordinates with DOH, L&I, and WSDA. More work remains.

The agencies:

- Coordinate on outreach and to ensure farmworker housing meets safety and health standards.
- Do not currently coordinate on field checks.
- Participate on the Agricultural and Seasonal Workforce Services Committee as non-voting members.