



STATE OF WASHINGTON
EMPLOYMENT SECURITY DEPARTMENT

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February 8, 2024

Transmitted via email to: Eric.Thomas@leg.wa.gov and Jill.Satran@leg.wa.gov

Eric Thomas
Legislative Auditor
Joint Legislative Review and Audit Committee
Washington State Legislature

RE: ESD's Response to JLARC Preliminary Audit Report Findings

Dear Eric Thomas:

Thank you for the opportunity to respond to the Joint Legislative Audit and Review Committee's preliminary report titled, "[ESD Administration of the H-2A Temporary Worker Visa Program.](#)"

ESD's response to the report's one recommendation is as follows:

RECOMMENDATION:

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

State statute requires that ESD coordinate with DOH, L&I, and WSDA in the execution of field checks. ESD is currently working on an interagency agreement with L&I to coordinate field check activity. ESD should provide the Legislature a plan for extending that interagency coordination to include DOH and WSDA as required by state statute. The plan should have clear timelines, measurable progress benchmarks, and achievable outcomes.

Legislation Required: None

Fiscal Impact: JLARC staff assume this work can be done within existing agency resources.

Implementation Date: November 30, 2024

Agency Response: To be included in proposed final report.

AGENCY POSITION:

ESD concurs with the recommendation.

COMMENTS:

ESD will work with each of the agencies in RCW 50.75.020(2)(c) to develop written agreements detailing inter-agency coordination for field checks as follows:

1. Department of Health (DOH) & Labor and Industries (L&I)

Since 2023, ESD has coordinated the participation of DOH's Environmental Health and Safety and L&I's Division of Occupational Safety and Health in two field checks. These experiences have further identified the scope and content to be included in a written agreement as between (1) ESD and DOH and (2) ESD and L&I. As of the date of this response, ESD is working with DOH and L&I in planning inter-agency agreements detailing how the agencies will coordinate participation in ESD's field checks. In addition to field check coordination, the agencies contemplate that the inter-agency agreements will include continued regular cross-agency communication, cross-team compliance training, sharing of worker and employer compliance resources, and outcome data sharing. These agreements will include clear timelines, measurable progress benchmarks, and achievable outcomes.

2. WA State Department of Agriculture (WSDA)

Generally, WSDA's compliance authority is limited to the regulation and inspection of agricultural products in domestic and international markets and the management of agricultural pesticide use. The WSDA does not have a compliance role in any element of the H-2A program. As such, ESD's coordination with WSDA pertaining to field checks is tentatively planned to include "communication-only" coordination. Specifically, ESD will work with WSDA to develop a communication plan to inform WSDA of scheduled field checks and field check findings and outcomes. ESD believes that keeping WSDA informed of ESD's field check activity satisfies the RCW 50.75.020(2)(b) mandate to "coordinate" with WSDA. Additionally, keeping WSDA informed of ESD's field check activity can potentially position WSDA to act as an informed liaison, as needed, between ESD and agricultural employers, as well as to provide informed guidance to the ASWS Advisory Committee.

ESD would like to thank the audit staff for their efforts and diligence in reviewing this complex area. We enjoyed working with JLARC staff. Please do not hesitate to call Bertha Clayton, ASWS Director by phone at 509-715-4486 or via email at bertha.clayton@esd.wa.gov with any questions.

Sincerely,



Cami Feek
Commissioner
Employment Security Department

cc: Bertha Clayton, Agricultural and Seasonal Workforce Services (ASWS) Director, Employment Security Department (ESD)
Juan Gamez, Lodging Manager, Department of Health (DOH)
Caitlin Gates, Sr. Policy Analyst, Department of Labor & Industries (L&I)