

# H-2A: The Agricultural Guest Worker Program

---

"When an alien resides with you in your land, you shall not oppress the alien. The alien who resides with you shall be to you as the citizen among you; you shall love the alien as yourself, for you were aliens in the land of Egypt."

Leviticus 19:33-34



# Farm workers are the backbone of our food system

---

In order to feed the country, an estimated 2 million farm workers labor in the fields across the United States, **handpicking the vast majority of fruit and vegetable crops** produced here and supporting our multi-billion dollar agricultural industry.



Agricultural work is **one of the most dangerous and least adequately compensated** jobs in the United States.

For their demanding physical labor, farm workers earn an annual average of between **\$10,000 to \$12,499** individually and **\$15,000 to \$17,499** per family.

# Who are our nation's farm workers?

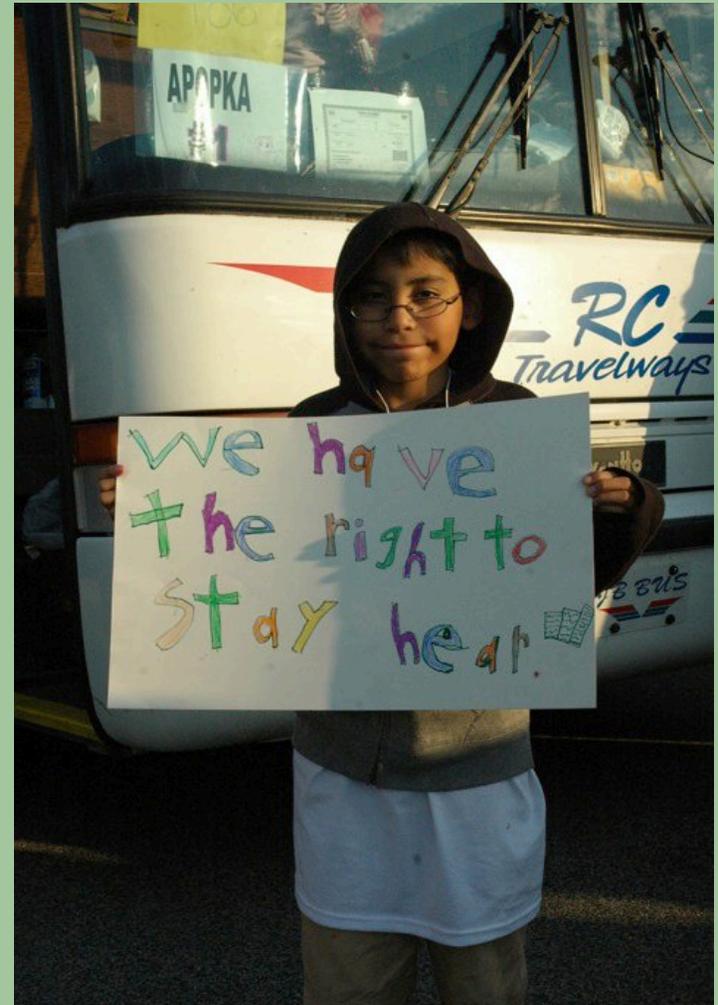
---

- Farm workers are U.S. citizens, legal permanent residents, seasonal laborers on special guest worker visas (H-2A workers), or undocumented workers.
- **The vast majority of farm workers** –78% according to the most recent National Agricultural Workers Survey– **are foreign-born** and crossed a border to get here.
- It is estimated that **at least 6 out of 10 of our country's farm workers are undocumented.**



# The Role of National Policy: Comprehensive Immigration Reform

- There are currently around **12 million undocumented** people in the United States.
- There is a strong need for **comprehensive immigration reform** in order to provide those already in the country with a pathway to citizenship.



# The H-2A Program I

---

- **H-2A is a seasonal agricultural visa** that allows employers to hire workers from abroad on a short term basis as non-immigrant “guest workers.”
- H-2A workers make **up less than 2%** of the total U.S. farm worker population. However, this number grows every year.
- In order to hire guest workers, employers must:
  - Meet certain wage and working conditions
  - Prove there is a shortage of U.S. workers
  - Demonstrate that the job is temporary



# The H-2A Program II

- The U.S. has had a long history of guest worker programs.

In general, we tend to **import workers when we need them**, for example during labor shortages or during wars.

- The earlier version of the H-2A program, called the **Bracero program**, was terminated because of the mistreatment of workers.

## Mexican Workers Wanted in October

Farmers and orchardists in Washington state have placed orders for approximately 6000 imported Mexican workers for the month of October, according to reports sent to

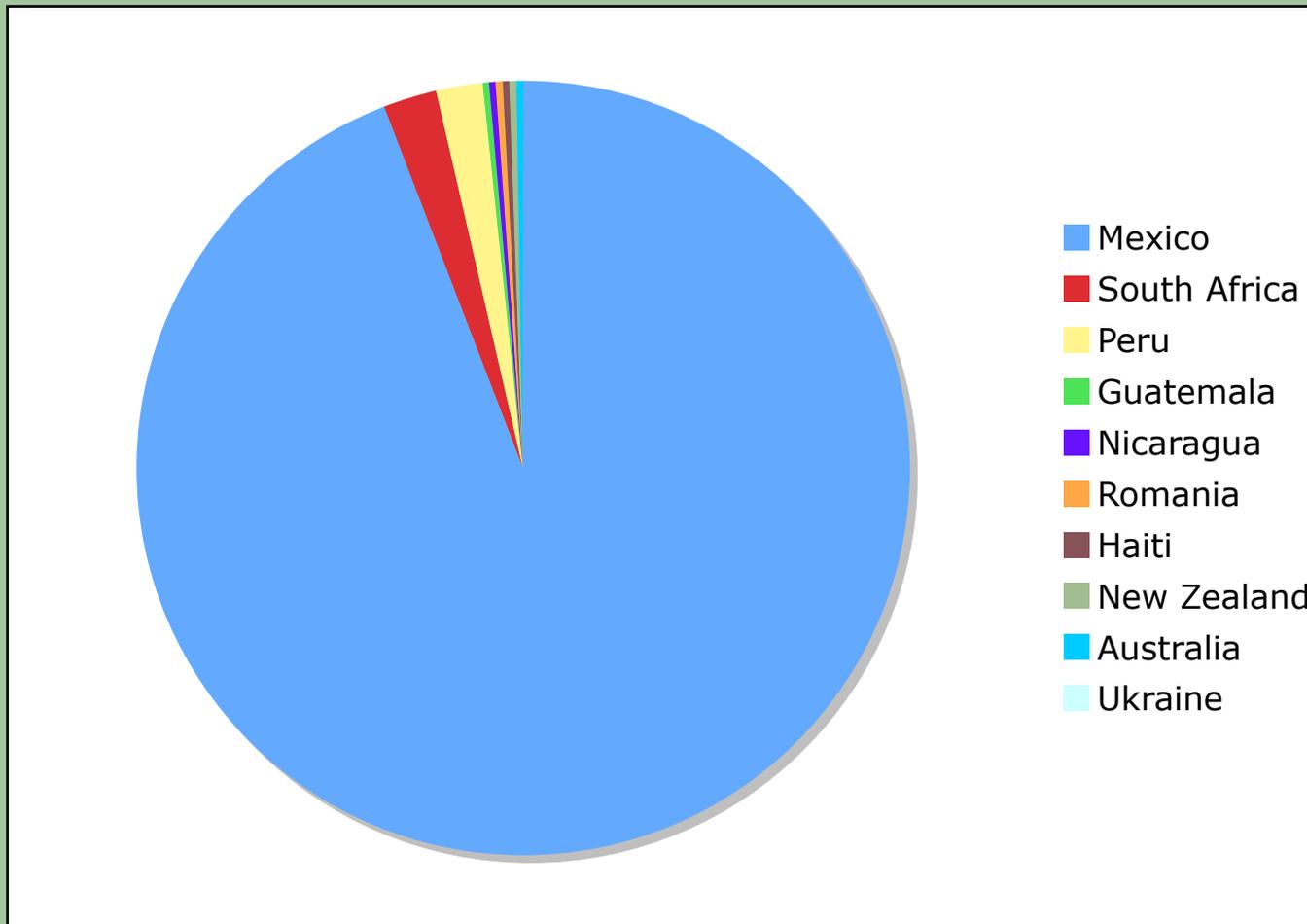
Figure 14. A description of the demand for Mexican laborers (Source: Northwest Farm News, September 9, 1943).

- **The current H-2A program is controversial.** Although the protections, benefits, and working conditions for the workers should be improved, it does provide workers with a legal pathway to work in the United States. It also provides the agricultural industry with a much needed workforce.

*To learn more, visit [nfwfm.org](http://nfwfm.org) for a timeline of agricultural labor in the United States.*

# Where do H-2A workers come from?

---



*In 2011, the DOL certified about 68,000 H2A worker positions*



# Benefits for Growers who Employ H-2A Workers

- **Choosing the ideal demographic:** U.S. anti-discrimination laws do not apply to foreign workers, so growers can choose their ideal workforce- usually young, single men.
- **Tax Exemption:** Employers don't have to pay certain taxes for guest workers (Social Security, unemployment) that they do have to pay for U.S. workers.
- **Avoiding extra demands and benefits:** Employers can reject U.S. workers who seek higher wages or extra benefits (like paid sick days) in favor of a guest worker who accepts the original job offer terms.
- **Lower Wages and Working Conditions:** H-2A workers provide a low-cost and productive labor force. H-2A workers accept pay and working conditions that U.S. workers cannot accept because of the high cost of living in the United States.
- **A stable work force.**

**Once an employer hires H-2A workers, they are unlikely to return to hiring U.S. workers.**

# Before recruiting guest workers, employers must prove that:

## 1. There are not enough qualified, willing & able U.S. workers available.

- Through the **50 Percent Rule**, the employer must give the job to any eligible U.S. worker who applies, until half of the time of the work contract is over.
- The employer must **actively recruit U.S. workers**, including advertising in a local newspaper on two separate days (and one must be a Sunday).

## 2. Employing H-2A workers will not adversely affect wages and working conditions of U.S. workers doing similar jobs.

- The employer **can't impose any restrictions** on U.S. workers that do not apply to H-2A workers.

# How do workers find out about the H-2A Program?

---



- **Almost all H-2A employers use recruiters** in other countries to find workers.
- Recruiters may look for workers by posting announcements in newspapers or by advertising the jobs to their networks or to community members.
- Sometimes the workers look for ways to migrate to the United States with a visa and they themselves seek a recruiter.

# Job Shops

- Although prohibited since 2008, a high percentage of the workers are charged up to **thousands of dollars** for visa, travel, and recruiting fees.
- **Job shops** are the intermediaries in other countries who charge high fees for job placement in the U.S.
- This exploitation takes place due to the **lax enforcement of the U.S. laws** that protect workers during the recruitment processes.
- Workers take out **high-interest loans** and/or provide collateral (for example, deeds to their house or car) for a chance at a job.



Image source: <http://www.bamco.com/newsroom/sustainable-sourcing/farmworker-welfare>



“Most H-2A workers arrive in the United States with significant debt. Some have paid as much as \$11,000 for the chance at a job.”

### Job Shops

(H-2A employers in the U.S. rely on private recruiters or “job shops”, to find workers in the sending countries)

### Debt & Fear

(Workers who can't pay recruitment fees may use personal property as collateral. They fear for their own safety and their families if they can't repay their debt.)

# Exploitation in the Recruitment Process

# H-2A Worker Protections I

---



Image source: en.wikipedia.org

- The H-2A program includes certain **protections for the workers.**
- In 2008, when his term was coming to an end, President Bush made drastic changes to the H-2A program, **cutting wages and reducing or eliminating other worker protections.**
- In 2009, Secretary of Labor Hilda Solis issued new regulations, largely **restoring the pre-Bush regulations** that had been in effect since 1987.

Source: Farm Worker Justice

# H-2A Worker Protections II

The current protections for H-2A workers include:

1. Provisions on how to set worker wages
2. A guarantee that employers will provide the workers with work for **at least three fourths of the number of hours in the job offer**, or pay for any shortfall
3. Workers who complete half the season with an H-2A program employer, must be **reimbursed for the transportation and subsistence costs** associated with traveling to the place of employment.



Source: Farm Worker Justice

Image source: vagabondjourney.com

# H-2A Worker Protections III



Image source top picture: 123rf.com

The current protections for H-2A workers include (cont.):

- Those who complete the full season must be paid **transportation costs for returning home**.
- H-2A employers must **provide housing for their workers at no cost** to the worker. The housing must meet federal and state safety standards.
- Employers soliciting H-2A workers must provide **workers' compensation insurance** for occupational injuries (but not health insurance coverage).

Source: Farm Worker Justice

# Flaws of the H-2A Program: Discrimination Rules

---



Image source: flickr.com

Since the hiring process of H-2A workers takes place outside the U.S., employers are not subject to U.S. regulations.

For example, because employers are **not subject to U.S. discrimination rules**, they can specifically ask for young, single, Mexican male workers.

# Flaws of the H-2A Program: Inability to Change Jobs

The most fundamental protection offered by a free market system--the ability to change jobs--is denied to H-2A workers.

- A worker on an H-2A visa can **ONLY** work for the employer who petitioned for them to come to the U.S.
- A worker who does not receive what was promised, or is otherwise exploited, has **few options but to go back home** (and if they violate their contract in doing so, they must provide and pay for their own transportation).
- This means it's much **less likely for a guest worker to complain** about wages, working conditions, or their own safety, because doing so could **threaten their job**.



(Image source: irjci.blogspot.com)



**Stress: Job Security**

(Debt, gaps in work, inability to voice complaints without fear of losing job)

**Stress: Cultural Adjustment**

(Language barriers, separation from family, discrimination in community)

**Health: Exertion**

(Bending over, staying low to the ground for long periods of time, strenuous manual labor)

**Stress: Physical Surroundings**

(Inability to maintain clean living environment due to substandard housing, living in crowded, isolated areas, limited access to transportation)

**Health: Heat**

(Heat exhaustion, exposure to sun)

**Health: Pesticide Exposure**

(Direct skin contact with pesticides & other chemicals on crops, breathing in chemicals, bringing them home on clothing)

# Mental & Physical Health of H-2A Workers

# Flaws of the H-2A Program: Lack of Enforcement of Regulations

The Cornell Institute for Public Affairs cites this statistic from 2004:

**“Of the nearly 6,700 employers certified to employ H-2A visa holders, only 89 were investigated by the Department of Labor.”**

**(In other words, only 0.0132%!)**

# Flaws of the H-2A Program: Substandard Housing

---

- H-2A housing can be very substandard and may be located in isolated areas. Frequently the workers have no contact with anyone besides a grower or a labor contractor. H-2A workers usually depend on them for transportation anywhere.
- Housing is sometimes inspected only once - **before the workers move in**. After inspection, housing is filled to over maximum capacity.



# Substandard Housing

“ Most H-2A workers live in mobile homes and overwhelmingly lack clothes washers, dryers, and vacuum cleaners. This makes it difficult to keep houses clean and lower the risk of pesticide and disease spread within homes, especially if clothes can't be washed. ”

## Overcrowding

(Uncomfortable, lack of access to basic appliances and hygiene & laundry facilities)



## Overcrowding: Health Risks

(Pesticide exposure & spread of disease)



## Infestations

(Climates that necessitate pesticide use, like in FL & NC, often mean housing is infested with insects!)

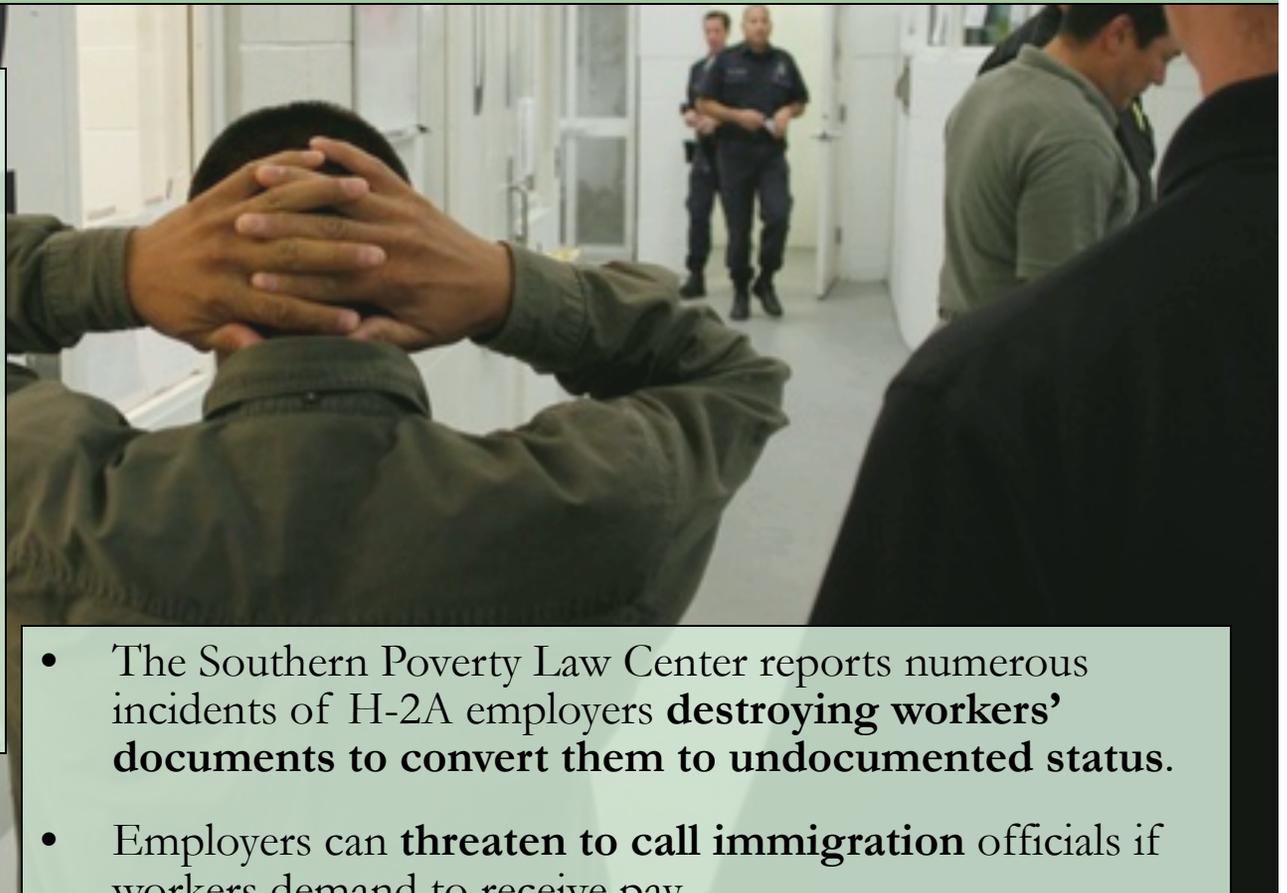


# Flaws of the H-2A Program: Living in Fear: The Deportation Card

In the H-2A system, employers decide whether workers can come to the U.S. and whether they can stay.

This extreme power imbalance leaves workers with little agency to report abuses or fight for the rights to which they are legally entitled.

Image source: Reuters



- The Southern Poverty Law Center reports numerous incidents of H-2A employers **destroying workers' documents to convert them to undocumented status.**
- Employers can **threaten to call immigration** officials if workers demand to receive pay.
- Workers who stand up for their rights can be **blacklisted** from being hired again in the future.

**Without CIR, we will be a nation of guest workers with no access to citizenship.**

**Farm worker organizations are fighting to protect the rights of H-2A workers...**

# H-2A Workers Organize: FLOC

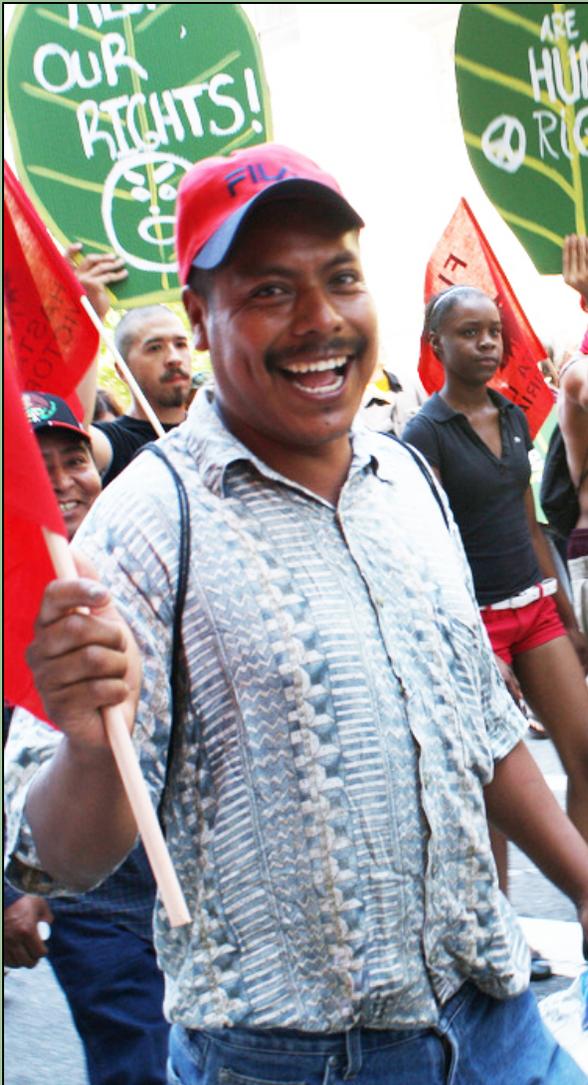
---

In 1998, the Farm Labor Organizing Committee (FLOC) began organizing farmworkers in North Carolina, a major pickle producing region. After organizing thousands of farmworkers and after a 5-year boycott of Mt. Olive Pickles, **FLOC signed contracts in 2003** with the North Carolina Growers Association. The contracts benefited workers involved with not only pickles, but also with sweet potatoes, tobacco, Christmas trees, and other crops.

These contracts set labor history, not only by changing the agricultural system, but by **protecting H-2A guest workers under union contracts.**



# H-2A Workers Organize: FLOC



Formerly, H-2A workers had little say regarding who employed them or the conditions of their work. **Now, through their union, they have their own direct voice** and are directly involved in labor negotiations, grievance procedures, and building structures to address issues such as health care, immigration policies, and transportation from their home areas in Mexico.

FLOC also works on guest worker recruitment, education, and training **on the Mexican side of the border.**

(Source: Farm Labor Organizing Committee)

# H-2A Workers Organize: CITA

By integrating the H-2A program with Mexican rural development efforts, the **Independent Agricultural Workers' Center** ( or CITA by its Spanish acronym) envisions the H-2A program as a way to benefit growers in the United States as well as migrant-sending communities in Mexico.

CITA serves as a “matchmaker” between prospective Mexican guest workers and U.S. growers.

They help workers on both sides of the border: in Mexico they help with the recruitment process, and in the United States they assist with disputes between workers and growers.



# H-2A Workers Organize: CITA



CITA provides services like financial literacy information, psychological counseling, and education about the guest worker system to Mexican H-2A workers

The organization also helps growers recruit workers in Mexico and assists in getting growers' H-2A applications through the Department of Labor and other agencies.

CITA hopes to train migrant-sending communities on how to facilitate employer petitions, pre-screen workers, and expedite the visa process, so growers can hire workers directly when looking to process H-2A visas.

By doing so, CITA hopes to provide an alternative source of financial income that could be used to develop the migrant sending communities.

(Source: The 2012 Hunger Report)

# Farm Worker Standards: The Equitable Food Initiative



NFWM was a founding member of the Equitable Food Initiative (EFI), a multi-stakeholder initiative made up of farm workers and growers, environmental and food safety organizations, and retail and food service industry representatives.

EFI has developed standards in the areas of farm labor, pesticide use, and food safety. Leadership teams, composed of workers and management, are trained in the implementation and ongoing monitoring of the standards, which will ensure a farm's compliance as well certification by third-party auditors.

These farm labor standards include vital benchmarks for the recruitment and treatment of H-2A guest workers.

[www.equitablefood.net](http://www.equitablefood.net)

# Farm Worker Standards: The Equitable Food Initiative

---

Here are some examples of the benchmarks established by the EFI:

- If the company provides farm workers with housing, the conditions and the infrastructure of the housing must ensure decency, privacy, and security. Housing is provided at reasonable or zero cost.
- Housing for farm workers complies with all federal, state, and local environmental health regulations.



# Farm Worker Standards: The Equitable Food Initiative

---

Here are some more examples of the benchmarks established by the EFI:

- Auditors and other representatives of the EFI have unimpeded access to housing and may make unannounced visits.
- The recruitment of farm workers, H-2A guest workers *and* U.S. citizens, occurs in a transparent and fair manner. Employment through recruitment is provided free of cost and without prejudice.
- Farm workers remain in control of their personal documents at all times.
- Each farm using H-2A guest workers provides access/transportation (at least weekly) to public telephones, religious services, medical attention, cultural events, Laundromats, etc.

# Conclusion

---

We believe that the H-2A program will be increasingly used by U.S. farmers. In order to **improve the working and living conditions of guest workers** we must:

- **Support organizations** that are working to improve the H-2A program and that are organizing guest workers
- Work in **solidarity with the people in the Global South** to improve the the social, political, and economic conditions in their home countries. The H-2A program should be seen as a labor option, but not as the only work choice for people in the Global South.
- Work to pass a **fair immigration reform bill** in the United States so that farm workers who are currently here as well as future guest workers will live with dignity and justice.
- Guest workers are often isolated and lack access to transportation. Find out where these workers live and **develop friendships and relationships of solidarity** with them.

# Further Resources

---



For updates on bills related to this topic, including the treatment of H-2A workers, visit our website at [www.nfwm.org](http://www.nfwm.org)

Other sources of information:

- Farmworker Justice
- Southern Poverty Law Center
- Department of Labor
- U.S. Citizenship and Immigration Services

**"Speak out for those who cannot speak, for the rights of all the destitute. Speak out, judge righteously, defend the rights of the poor and needy."**

**Proverbs 31:8-9**

Together With Farm Workers Harvesting Justice  
  
National Farm Worker Ministry

