



www.nfwm.org

H-2A Guest Worker Program

The U.S. has a long history of inviting foreign workers to help fill gaps in farm labor particularly given the seasonal nature of the work. The H-2A Program is a guest worker program offering temporary status to agricultural workers for 10 months or less. Employers must first show that they have tried and are not able to find U.S. workers to meet their labor needs. The H-2A program has grown rapidly from 139,832 jobs in 2015 to over 242,000 in 2018.

The H-2A program includes some basic requirements to protect workers from negative effects on their wages and working conditions, as well as to protect immigrant workers from exploitation. Despite that, the makeup of the H-2A program, including the dependence of H-2A workers on their employers, is inherently flawed and leads to exploitation and abuse of both foreign and domestic farm workers.

Recruitment & Hiring

Although there are these stipulations in place around finding local workers before requesting H-2A guest workers, many employers use various tactics to get around the parameters. These tactics include interviews scheduled at inconvenient times and locations, hiring taking place too early in the season, limiting domestic worker's hours to discourage them from continuing work, employment contracts demanding that workers give away their right to sue a grower for lost wages, and unrealistic work demands and productivity quotas.

The guest worker programs has inherent discrimination. The employers do not have to follow the Civil Rights Act of 1964 or the Age Discrimination Employment Act of 1967 since hiring happens outside the U.S. H-2A employers/recruiters look specifically for young single men without family living in the U.S. so that the worker is available to work every day. They can reject workers who seek higher wages or benefits and hire workers who accept less. Once an employer hires H-2A workers, they are unlikely to go back to hiring domestic workers.

Recruitment happens outside of the U.S. so there is no way to regulate the process and it is highly exploitative. The H-2A program has been extremely profitable for companies and recruiters who often charge thousands of dollars in recruiting, visa, and travel fees for job placement in the United States. Workers will take out high-interest loans and/or provide

collateral, like home deeds, for a chance to secure a job. Tied to one employer workers have no choice but to accept the pay leaving many workers in debt-bondage. Polaris, an anti-trafficking organization, released a report showing that the H-2A program was the category with the most reported trafficking cases - over 300.

Housing

Housing has been an amenity that employers must provide to guest workers since the Bracero Program. Employers must provide housing for their workers at no cost. The housing must meet federal and state safety standards.

The provided housing is typically substandard, overcrowded, and in some cases, even squalid. Worker housing is often located in remote rural locations; inspections are lax and sometimes occur only once - before workers move in. The housing that is sometimes provided is a barrack style set-up making it very challenging for women workers and families.

Wages

Guest worker programs drive wages down and deprive immigrant workers from bargaining power and political representation. The guest worker program requires a set wage for farm workers to receive. It is often higher than the wages that undocumented workers receive even on the same farm. Qualified U.S. workers may seek higher wages or an extra benefits like paid sick days. Employers prefer to hire guest workers who are willing to accept the approved terms. In addition to the difference in wages, employers are incentivized to hire guest workers rather than domestic workers because they do not have to pay social security and unemployment taxes on the guest worker wages.

Transportation

Workers rely on their employers for transportation anywhere. This extreme power imbalance leaves workers with little agency to report abuses or fight for the rights to which they are legally entitled.

If the farm workers do not receive what they were promised, or are otherwise exploited, workers have few options but to go back home. If they violate their contract in doing so, they must pay for their own transportation and risk not being able to return in the future.

The Department of Labor is currently proposing changes to the H-2A program which will loosen the obligations of finding domestic workers, pass more costs on to the workers and diminishes wages. The abuses faced within the agricultural sector are not limited to immigrant farm workers. These changes affect each and everyone of us. National Farm Worker Ministries advocates for a permanent solution for workers with temporary status. As people of faith and conscience who believe in the idea of caring for your neighbor, whoever that is, farm workers are our neighbors and community members and their work should be honored. They literally feed us.