The US Department of Labor (DOL) certified 378,000 seasonal farm jobs to be filled by H-2A workers in FY23, up two percent from 372,000 in FY22. DOL received almost 21,000 applications from about 13,000 unique employers, reflecting the fact that some farm employers file multiple applications. The average number of jobs certified per application was 20.

The top five H-2A states, FL, CA, GA, WA, and NC, each had 25,000 to 50,000 jobs certified and collectively accounted for half of all H-2A jobs certified. The number of certified jobs rose by two percent among the top five states, from 188,000 to 192,000, but rose fastest in GA and WA, up eight percent, and fell seven percent in CA.

The number of jobs certified rose in 37 states between FY22 and FY23 and fell in 14. The fastest growth was in states with few certifications, including ND, NM, and WV, each up over 20 percent. The largest decline was in AZ, down 18 percent.

The top five H-2A states include 44 percent of the US hired worker employment reported by USDA’s Farm Labor Survey in 2023 and 50 percent of QCEW agricultural employment in 2022 (NAICS 11). CA and WA have among the highest hourly AEWRs, while FL, GA, and NC have among the lowest.

USDA reported that the average hourly earnings of US field and livestock workers were $17.55 an hour in 2023, up almost $1 an hour or six percent from 2022. DOL uses the earnings of field and livestock workers to set the Adverse Effect Wage Rate (AEWR) for H-2A guest workers in 15 multistate regions plus CA, FL, and HI. Three states, CA at $19.75 and OR and WA at $19.25, have AEWRs of over $19 in 2024, while seven southeastern states including FL and GA have AEWRs of less than $15 an hour.

There are three major implications of the FY23 H-2A job certification data. First, half of H-2A jobs and workers are in five states, and these states have half of US agricultural employment covered by unemployment insurance (QCEW) and 44 percent of US direct-hire farm worker employment (FLS). Most of this employment is in CA and WA, states with 31 percent of FLS and 41 percent of QCEW agricultural employment.

Second, rapidly rising average hourly earnings and AEWRs may have slowed the growth of the H-2A program in CA but not in WA. Most H-2A jobs in WA are in apples, with smaller numbers in berries and cherries. H-2A jobs in CA are divided between berries, leafy green vegetables such as lettuce, and many other commodities. AZ and CA had fewer H-2A jobs in FY23 than FY22 for reasons that...
include heavy rains in spring 2023 that delayed the planting of crops and left some land fallow.

Third, DOL regulations that require H-2A workers with nonfarm jobs, such as those who drive commercial trucks or who do construction work on farms, to be paid the wages earned by similar nonfarm workers often doubled the AEWR for these “nonfarm occupations,” which may have reduced demand for H-2A workers. Rising labor costs are encouraging more farmers to adopt labor-saving technologies, including machines to prune and weed crops. Some farmers are changing crops, switching from more labor-intensive raisin grapes to more-mechanized almonds. Finally, imports of fresh produce from lower-wage countries continue to increase; 60 percent of US fresh fruit, and 40 percent of US fresh vegetables were imported in 2022.

**Background**

The H-2(A) program has since 1952 allowed US farmers who anticipate recruiting too few US workers to fill seasonal farm jobs to be certified by the US Department of Labor (DOL) to recruit and employ guest workers. Farm employers must satisfy two major criteria to be certified:

- the employer tried and failed to recruit enough US workers while offering the higher of the federal or state minimum wage, the prevailing wage rate, or the Adverse Effect Wage Rate (AEWR)
- the presence of H-A workers will not have any adverse effects on similar US farm workers

DOL has implemented the no adverse effect primarily by requiring employers to offer and pay AEWR, which is based on USDA’s Farm Labor Survey of farm employers who hire crop and livestock workers directly, that is, the FLS excludes farm labor contractors and other nonfarm entities that bring workers to farms. The average hourly earnings of crop and livestock workers were $17.55 in 2023, and ranged from $14.53 in southern states such as Arkansas to $19.75 in California.

Employers typically pay $100 to $250 per worker to a recruiter if needed (most H-2A workers return to the same employer year-after-year, reducing recruitment costs), and $1,500 to $3,500 per contract in agent or attorney costs if the employer does not have in-house staff to process H-2A applications. A typical contract requests 20 H-2A workers, making the per worker cost $75 to $175 in agent or attorney fees but as low as $15 to $35 per worker for a contract requesting 100 workers.
The cost of each Mexican H-2A worker is about $750 in government fees and processing costs and $500 to $750 to house workers at the US consulate and transport them to the US. Once in the US, H-2A workers earn $120 to $150 a day, and employers pay $10 to $30 a day to house and transport each worker from their housing to the fields.

Over a typical six month or 25 week contract that involves to 125 to 150 days of US work, the extra costs of an H-2A worker over a US worker who is not housed or transported by the employer is about $5,000, based on $2,000 to get an H-2A worker to the US worksite and $3,000 at $20 a day for housing and food over 150 days. The wage bill for 125 days of work at $130 a day is $16,250, so the total costs of an H-2A worker are $21,250.

Employers would have to pay payroll taxes on US worker earnings of $16,250 that range from eight to 12 percent across states, reducing the $5,000 extra cost of an H-2A worker to about $3,500. If H-2A workers are 20 percent more productive than the US worker, most of the extra H-2A costs disappear.

The H-2A program aims to supplement the US farm workforce, that is, employers are certified to recruit H-2A migrants only if they cannot recruit enough US workers to fill seasonal farm jobs. Over 80 percent of average employment on US crop farms involves US workers, including many unauthorized Mexican-born workers who arrived in the 1990s and have settled in the US. Farmers say these workers are aging out of farm work, and their US-educated children shun seasonal farm jobs, explaining why they recruit H-2A workers.

Worker advocates, on the other hand, argue that H-2A workers who are tied to their employers by contracts are vulnerable because, if they lose their US jobs, they lose the right to be in the US. This vulnerability encourages H-2A workers to work hard and scared and narrows cost differences between US and H-2A workers.

**States**

H-2A employment is concentrated in three-interrelated ways, by commodity, size of employer, and area or state. Five states account for over half of H-2A job certifications. In Florida and California, most H-2A workers are brought to farms by FLCs.

The state data below are from FY22 and are based on unique employers, some of whom file multiple applications. Florida accounted for a seventh of H-2A jobs in FY22, when some 415 Florida employers were certified to fill 51,000 jobs with H-2A workers.
The 50 largest employers, each certified for 200 or more H-2A workers, accounted for 70 percent of the state’s total H-2A job certifications; the 19 employers who were each certified for 500 or more H-2A workers accounted for 40 percent of the state’s total.

Farm labor contractors (FLCs) must have contracts with fixed-site farm operators to be certified to bring H-2A workers to farms. The 47 percent of Florida FLC employers, each certified for 100 or more H-2A workers, accounted for almost 90 percent of Florida FLC H-2A job certifications. At the other end of the FLC size spectrum, the four percent of Florida FLC employers who were each certified for less than 10 H-2A workers accounted for less than one percent of Florida FLC H-2A job certifications.

The largest direct-hire Florida H-2A employers in FY22 were tomato firms, led by Ag Mart, certified for 1,700 H-2A workers at an average contract weekly wage of $445, Pacific Tomato, certified for 760 H-2A workers at $440 a week, Gargiulo, certified for 645 workers at $505 a week, and Florida Pacific, which was certified for 400 workers at $445 a week. Mature-green tomatoes are picked for piece rate wages, and most pickers earn more than the weekly wages specified in their contracts (hours per week times the AEWR).

FLCs accounted for three-fourths of Florida’s H-2A jobs. The four Florida FLCs each certified for 1,000 or more H-2A workers, Temp Labor, Ag Labor, D&K, and R&R, collectively accounted for a third of the 27,000 H-2A jobs certified to Florida FLCs. The 50 largest Florida FLCs, each certified for 200 or more H-2A workers, accounted for two-thirds of the H-2A jobs certified to FLCs.

California is second to Florida in H-2A job certifications, accounting for an eighth of the US total in FY22, and has a similar H-2A employer size structure. Some 355 California employers were certified to fill 44,000 jobs with H-2A workers in FY22. The 50 largest California employers, each certified for 135 or more H-2A workers, accounted for 85 percent of the state’s total, and the 22 California employers who were each certified for 500 or more H-2A workers accounted for 70 percent of the state’s total.

The eight percent of California direct-hire H-2A employers, each certified to employ 100 or more H-2A workers, accounted for two-thirds of all direct-employer H-2A job certifications. At the other end of the size spectrum, the 47 percent of direct-hire employers who were each certified for less than 10 H-2A workers accounted for five percent of California’s direct-employer H-2A job certifications.

The 48 percent of California FLC H-2A employers who were each certified to employ 100 or more H-2A workers in FY22 accounted for almost 90 percent of California FLC H-2A job certifications. At the other end of the FLC size spectrum, the 17 percent of California FLC H-2A employers who were each certified for less than 10 H-2A workers accounted for less than one percent of California FLC H-2A job certifications.

FLCs accounted for three-fourths of California’s H-2A jobs in FY22. The largest California FLC, Fresh Harvest, was certified for 6,500 workers in California, followed by Foothill with 3,260, Elkhorn with 2,670, Empire with 2,400, Rancho Nuevo with 2,300, and Royal Oak with 2,275. The largest direct-hire H-2A employers were Sierra Cascade with 1,300 certifications and Peri and Sons with 1,000 certifications. Some 385 Georgia employers were certified to fill 35,000 jobs with H-2A workers in FY22. The
50 largest Georgia H-2A employers, each certified for 200 or more H-2A workers, accounted for 45 percent of the state’s total, while the 10 Georgia employers who were each certified for 500 or more H-2A workers accounted for 20 percent of the state’s total. FLCs accounted for two thirds of Georgia’s H-2A jobs, led by Ada, J&J, and Golden Eagle, each with about 750 certifications. The largest direct-hire H-2A employers were Hamilton Farms with almost 1,000 certifications and Bland Farms with 900.

Washington accounted for almost 10 percent of US H-2A job certifications and presents a different picture. Washington is a direct-hire H-2A state, with almost 90 percent of H-2A jobs certified in FY22 to employers who hired H-2A workers directly rather than via FLCs.

Some 185 Washington employers were certified to fill 33,000 jobs with H-2A workers in FY22. The 17 Washington employers who were each certified for 500 or more H-2A workers accounted for 60 percent of the H-2A jobs certified in the state, and the 55 employers who were certified for 100 or more H-2A workers accounted for 87 percent. The 28 percent or 48 Washington direct-hire employers who were each certified to employ 100 or more H-2A workers accounted for 86 percent of all direct-employer H-2A job certifications. At the other end of the size spectrum, the 20 percent of direct-hire employers who were each certified for less than 10 H-2A workers accounted for less than one percent of Washington direct-employer H-2A job certifications.

The 77 percent of Washington FLC employers who were certified for 100 or more H-2A workers accounted for 97 percent of Washington’s FLC H-2A job certifications. Nine FLCs accounted for 11 percent of Washington’s H-2A jobs, including seven who were certified for 100 or more jobs. At the other end of the FLC size spectrum, the 20 percent of Washington FLC employers who were each certified for less than 10 H-2A workers accounted for less than one percent of Washington FLC H-2A job certifications.

Some 255 North Carolina employers were certified to fill 26,000 jobs with H-2A workers in FY22. The 50 largest NC H-2A employers, each certified for 90 or more H-2A workers, accounted for 80 percent of the state’s total, and the five NC employers who were each certified for 500 or more H-2A workers accounted for 40 percent of the state’s total.

The largest direct-hire H-2A employer was the NC Growers
Fresh Harvest is the Largest FLC Employer of H-2A Workers

Agricultural Worker program of the Immigration Reform and Control Act of 1986 by allowing currently unauthorized workers to legalize their status and make it easier for farmers to employ H-2A migrant workers.

Implications

FLCs account for most of the H-2A certifications in the leading H-2A states such as Florida and California. Among both direct-hire employers and FLCs, a small number of employers account for most H-2A job certifications, suggesting that there are economies of scale to recruit and employ H-2A workers.

The concentration of H-2A certifications raises questions. Will H-2A employment evolve like other crop service businesses, such as those that apply fertilizer and pesticides? Complex regulations and the ability of specialist firms to invest in technology encourages many farm operators to outsource fertilizer and pesticide application to specialist firms. FLCs could become specialists in providing hand labor to farms by understanding complex H-2A regulations and achieving economies of scale in recruiting, transporting, housing, and supervising H-2A workers.

The Farm Workforce Modernization Act (HR 4319), approved by the House in 2019 and 2021, was re-introduced in June 2023. The FWMA would repeat the Special Agricultural Worker program of the Immigration Reform and Control Act of 1986 by allowing currently unauthorized workers to legalize their status and make it easier for farmers to employ H-2A migrant workers.

IRCA’s unexpected effects were more important than its expected effects. The SAW program allowed 1.1 million mostly Mexican men to become legal immigrants after they documented at least 90 days of farm work in 1985-86. Many of the
SAWs provided false documents, and SAW family members were not legalized. The result was the diffusion of now-legal SAWs throughout the US, their spread from agriculture to construction, food processing, and services, and more unauthorized migration as the family members of SAWs arrived from Mexico.

The H-2A program did not expand as expected after IRCA because of the 1990s upsurge in unauthorized migration. The Florida sugarcane harvest was mechanized after H-2A workers sued for underpayment of wages, and North Carolina emerged as the major user of H-2A workers after ex-administrators of the program created the NCGA to help farmers to navigate the H-2A system.

The H-2A program remained at less than 100,000 jobs certified until the recovery from the 2008-09 recession. When large-scale unauthorized Mexico-US migration did not resume, migrants who paid $5,000 to $10,000 in smuggling fees and eluded the Border Patrol sought year-round jobs. As the unauthorized workers who arrived in the 1990s and early 2000s aged and exited the seasonal farm workforce, more farmers turned to the H-2A program. Associations, agents, and FLCs helped farmers to employ H-2A workers whose high productivity and contracts provided cost-effective labor insurance to farmers seeking seasonal workers.

How would the FWMA affect the farm labor market? The FWMA would legalize unauthorized farm workers, make it easier to employ H-2A workers, and require farm employers to use E-Verify to check new hires.

FWMA’s legalization program would allow unauthorized foreigners who did at least 180 days of farm work over the previous two years to become Certified Agricultural Workers (CAWs). CAWS must continue to do at least 100 days of US farm work a year to maintain their status, and their spouses and minor children in the US could receive work and residence visas and work in any industry or attend K-12 US schools. After CAWs complete four to eight more years of farm work, the CAW and his or her family could apply for immigrant visas, which could lead to the legalization of perhaps 800,000 unauthorized farm workers and 1.5 million to two million family members.

FWMA would make it easier for employers to hire guest workers by granting three-year rather than the current usual maximum 10-month H-2A visa to the workers recruited by employers, allowing dairies and other livestock farms that offer year-round jobs to employ up to 20,000 H-2A workers a year or 60,000 after three years. AEWRs would be set by job title rather than having one AEWR per state, a change implemented by DOL by regulation in February 2023 that is opposed by many current H-2A employers. The FWMA would freeze AEWRs for one year and limit AEWR increases while DOL and USDA studied the need for and effects of AEWRs.

With H-2A workers allowed to remain in the US for up to three years and filling both seasonal and year-round farm jobs, farm employers may recruit guest workers further from afield, as in Central or South America or in Asia countries where wages are lower than in Mexico, making it easier to attract the best workers from these sending countries. Finally, instead of being the last employers required to use E-Verify to check the status of new hires as with IRCA, the FWMA would make farmers among the first employers required to check new hires via the internet-based system.

There are few prospects for enacting the FWMA in the divided Congress of 2023-24. Instead, DOL has made changes to the H-2A program by regulation, setting AEWRs by job title, using two rather than one employer survey to determine AEWRs, and changing the methodology to determine prevailing wages. The result of these changes is widespread dissatisfaction, with some employers suing to block the new AEWR methodology and some worker advocates contesting prevailing wage determinations.

The FWMA Would Largely Repeat IRCA’s Agricultural Provisions

The NCGA is the Largest H-2A Employer, with Almost 11,000 Jobs Certified

NC Growers association
Growing North Carolina

The FWMA Would Largely Repeat IRCA’s Agricultural Provisions

FARM WORKFORCE MODERNIZATION ACT
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