



H-2A Temporary Agricultural Program

H-2A Program Overview

- ▶ The H-2A temporary agricultural program allows agricultural employers who anticipate a shortage of domestic workers to bring nonimmigrant foreign workers to the U.S. to perform agricultural labor or services of a temporary or seasonal nature.
- ▶ Employment is of a seasonal nature where it is tied to a certain time of year by an event or pattern, such as a short annual growing cycle, and requires labor levels above what is necessary for ongoing operations.
- ▶ Employment is of a temporary nature when the employer's need to fill the position with a temporary worker will last no longer than 10 months, and except in extraordinary circumstances, last no longer than one year.
- ▶ **Application process must begin 75-90 days before the first date of need.**

H-2A Basic Program Requirements

- ▶ **Temporary Need** Full-time agricultural job opportunities for all workers requested during your recurring temporary employment period of ten months or less. Full-time is considered a minimum of 35 hours per week.
- ▶ **Corresponding Employment** Same terms and conditions of employment, including the applicable wage, to workers performing any of the work listed in your job order or performed by the H-2A workers.
- ▶ **Three-Quarter Guarantee** Guarantee to offer each covered worker employment for a total number of hours equal to at least 75% of the workdays in the employment period.
- ▶ **Recruiting** Actively recruit U.S. workers and track all applicants until the end of the positive recruitment period, which is the 50% point within the H-2A employment period for most employers
- ▶ **Wages** At a minimum, workers must be paid the highest of the Adverse Effect Wage Rate (AEWR), the prevailing hourly wage or piece rate, the agreed-upon collective bargaining wage, or the Federal or State minimum wage.
- ▶ **Worker's Compensation Insurance** Provide workers' compensation insurance for all workers.
- ▶ **Housing** Provide free housing to all non-local workers that meets federal, state, and local standards. Provide adequate kitchen facilities or three meals per day.
- ▶ **Travel** Provide, pay in advance, or reimburse non-local workers' reasonable inbound and outbound travel costs. Including the reasonable cost of transportation to and from the worker's home, a daily subsistence allowance for meals, overnight lodging, and visa issuance costs. Provide transportation between housing and job sites.
- ▶ **Equipment** Provide at no cost to the worker all tools and supplies necessary to perform the work.

Current Adverse Effect Wage Rate (AEWR)

Colorado - \$15.58/Hour

Effective December 29, 2021