



# H2A GUEST WORKER PROGRAM - IS IT A FIT FOR ORGANIC FARMS?

## WRITTEN BY

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“It is highly unlikely in the near future that we will see immigration reform,” said Kevin Johnson, Dean of the School of Law at the University of California, Davis on March 17 at a conference on Immigration and Farm Labor. This deadlock in Washington only adds to the frustration felt by many U.S. farmers. A survey of farmer and rancher students enrolled in [California FarmLink’s](#) business education class in 2022 revealed that 100% of farms that had employees often or sometimes did not have enough to get all of their work done.

Many U.S. growers of labor-intensive

crops have long relied on immigrant workers from Mexico, including at least 50% of whom are not legally authorized to work here. But the number of Mexican immigrants has declined significantly in the last 15 years, as increasing export fruit and vegetable production and industrial growth in Mexico offers alternative employment to potential immigrants.

One option that many farmers are turning to is the H-2A temporary agricultural program which allows farmers to fill their seasonal jobs if they certify that locals are not available. But a novice, searching for information about the program could easily be deterred by

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complicated regulations and expensive requirements. The farmer must pay for transportation to and from the home country, provide housing, and pay a wage that is often higher than prevailing local rates.

The number of workers coming to the U.S. through the H-2A program has quadrupled over the past decade to almost 400,000, but what may come as a surprise is that over 65% of H-2A employers are farms with only one to nine employees. However, the majority of actual visas certified are for workers destined to labor on farms with 250 or more employees. In other words, while most of the employers are smaller scale, most of the workers go to large farms.

**So how are busy farmers making sense of this program that requires them to deal with multiple federal and state agencies, complicated timelines, and costly requirements?** The answer lies with farm labor contractors (FLCs), which are supporting businesses that now provide the majority of H-2A certifications. FLCs offer differing levels of support, but in addition to handling the paperwork, many of them recruit, transport, and house guest workers. In many cases, the workers recruited through FLCs are transferred from one farm to another, as different needs arise, which is an interesting development because the way the program was originally conceived was that the H-2A workers would be tied by contract to one farm where they would work for a specified period and then return home.



## PROBLEMS WITH H2A

While farm groups criticize the bureaucratic headaches and high costs of the program, farm labor advocates argue that the guest workers on the temporary H-2A visas cannot change employers and thus may have to endure abusive circumstances and may be isolated in housing that is tightly controlled employer. They say that the growth of the H-2A program has exacerbated the existing rural housing crisis for rural workers and in fact, is displacing the current domestic labor force of settled Mexican immigrants. The program “creates second-class citizens and is so bad that it cannot be reformed,” said Cynthia Rice of California Rural Legal Assistance at the U.C. Davis conference. Then she asked, “Why can’t we think of North America as a unit in which labor can move freely back and forth, just like traded goods?”

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## FARMWORKER MODERNIZATION ACT

The Farm Workforce Modernization Act that Congress has been debating for a number of years would incorporate Dianne Feinstein’s Blue Card program, whereby existing undocumented farm workers are given work visas that allow them to work, travel, and eventually

become legal permanent residents. Why this isn't an option for new immigrants is always explained as "politically infeasible," meaning the majority of Republicans in Congress won't allow it. This anti-immigrant stance has become so extreme that it has caused the dairy industry—which employs many undocumented immigrants and needs year-round workers—to petition for year-round H-2A workers, i.e. permanent workers through a seasonal temporary worker program.

## WITHOUT OTHER OPTIONS, FARMERS TURN TO H2A


In a class taught by [FairShare CSA Coalition](#), called "How to Become an Ethical H-2A Employer," farmers shared that they appreciate the H-2A program because employees with legal visas are an improvement over those without, and allowing the guest workers to return home to spend time with family is much more humane than the reality for undocumented immigrants who find traveling back and forth across the southern U.S. border difficult and dangerous. The trainers underscored the point that if a farmer is using a FLC they need to make sure that the FLC is ethical. In fact, while most FLCs are above board, many of the worst abuses recorded by U.S. Department of Labor inspectors are in situations where FLCs are involved.

One farmer using the H-2A program is Eve Kaplan-Walbrecht of [Garden of Eve](#) organic farm in Riverhead New York (and also on the [OFA Governing Council](#)). This is Eve's third year employing H-2A guest workers to fill her entire production crew of six. Her goal is to have staff who will stay for the whole season, and also have people who will come back year after year. She uses an agency to help with the paperwork, but recruits the workers herself, pays for their transport, and houses them on the farm.

When discussing the criticisms of the program she pointed out, "The thing is, you can poke holes in H-2A, but if there is no program, there is basically no way to get workers.



Labor security is the number one concern and stress — so what is the alternative that people are proposing? Look at what's happening in the supermarket! More and more produce is being grown outside of the U.S. People don't patronize American growers who are being fair and paying their workers more. I want to know how many of these fair labor organizations [that are criticizing H-2A] are buying their produce at Target and Costco — because that makes me upset, and I don't think those people own that. The workers in Mexico don't have protections and are getting paid so much less, but we farmers, supposedly are the ones abusing people?"

Although she wasn't at the UC Davis labor conference, Eve echoed Dean Johnson saying, "This country has decided that it is not going to do anything about immigration policy as far as I can see, and that leaves the farmers without a lot of other options." 

Judith Redmond is co-founder of Full Belly Farm in Guinda, CA and is currently developing a curriculum for farmers, ranchers and fishers who have employees and wish to offer high quality employment and work environments.



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