



Agricultural Worker Rights Program

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Legal Aid of Nebraska

- Non-profit law firm
 - Variety of civil cases
- 8 offices across the state

Our Program

- Agricultural, migrant and seasonal workers
- Cover entire state
- Representation and outreach
 - Advice through litigation

H-2A Guestworker Program

H-2A Visa Requirements

- Guestworker
 - No path to stay
- Temporary Work Visa
 - 9 out of 12 months
 - Can renew 3 times

H-2A Program Requirements

- No US workers able, willing, qualified and available at TIME and PLACE needed
 - MUST hire US referrals from NDOL if within first 50% of contract period
 - Can displace foreign worker
 - Cannot expect more

H-2A Program Requirements

- Must pay AWER: \$14.38 per hour
- 3/4ths Guarantee
 - If employer doesn't have work, must still pay workers for $\frac{3}{4}$ of contract value

H-2A Job Requirements

- Bona fide and necessary
 - Prominent in industry
 - Applied uniformly
- Examples
 - Language
 - Skill and education in skilled jobs like repro

H-2A Employer Requirements-BEFORE

- Apply with DOL
- Complete Contract
 - This is the most important document!
- Work with Office of Foreign Labor
- Certify housing
- Advertise
 - Some asking to use Facebook
 - Some on DOL website

H-2A Employer Requirements-DURING

- Housing
 - Meet standards
 - Certified by DOL beforehand
 - Within 100 miles of worksite
- Free tools, supplies and equipment
- Meals
 - Provide 3 meals a day (can be at a charge-if *reasonable*)
 - OR kitchen facility

H-2A Employer Requirements-DURING

- Transportation (in country)
 - Inspected
 - Licensed
 - Insured
- Travel to and from country
 - Transportation and meals
 - Inbound: Must pay when get to 50% of contract
 - Unless takes below min. wage
 - Outbound: Must pay if complete work

H-2A Employer Requirements-DURING

- Worker's Compensation
 - MUST be carried for H-2A
- 3/4ths Guarantee
 - Even if don't have the work, must pay the workers for $\frac{3}{4}$ of the value of the contract

H-2A Employer Requirements-DURING

- Personnel records
 - If fire, must be for cause
- Payroll records
 - Start and stop time each day
 - Days worked

H-2A Employer Requirements-DURING

- Pay stubs
 - Total earnings
 - Hourly rate or piece rate
 - Hours total offered and worked
 - Wage amount
 - Itemized Deductions
 - Can be transportation and food (if in contract)
 - Beginning and end dates of pay period
 - Name and information of employer and employee

H-2A Worker Requirements-DURING

- What listed on contract
 - Type of work
 - Hours

H-2A Issues

- Requirements
 - What can be required
 - Explicit vs. implicit
- NE is one of the favorite states
 - Employers
 - AWER
- Can use FLC



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