

H-2A and Recruitment

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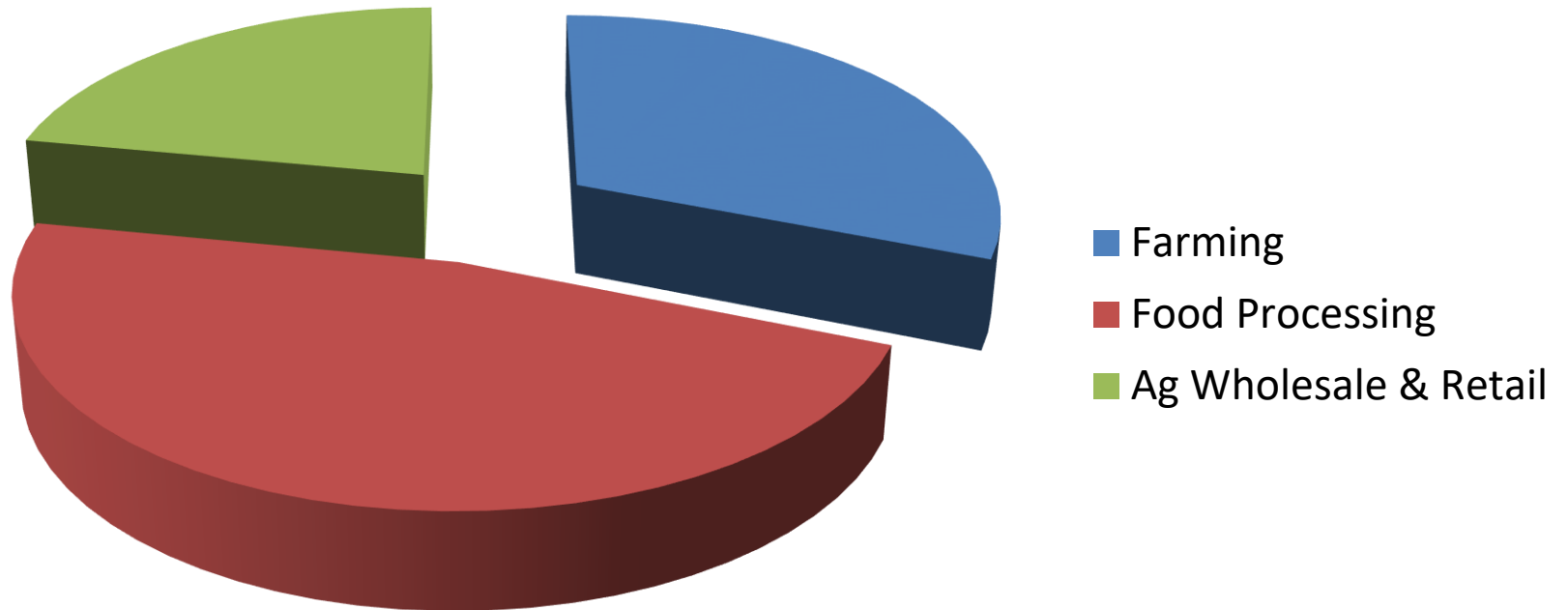
Why Are We Discussing H-2A?

- State Workforce Agency (SWA) has a mandated role
- Agriculture is key sector in Michigan Economy
- Job seeker interest in job postings
- Employer interest, questions, recruiting needs

Michigan's Food & Agriculture Industry: Fun Facts

- \$101.2 billion economic impact
 - \$ 13.6 billion or 13.4% = production agriculture
 - \$ 60.1 billion in 2006
- Total employment: 923,000
 - 22% of Michigan's employment
- 10,000,000 acres of farmland
- 56,000 farms
- 300+ commercial commodities
 - Including tart cherries, blueberries, dry beans, floriculture products & cucumbers for pickles
- Leads the nation in production of 18 commodities

Agriculture Employment



Migrant Labor - Impact

- 38 crops dependent on hand labor
 - Fresh market fruits & vegetables
- \$2.3 billion farm gate receipts
 - Much more in processed / market value
- Northern terminus of Texas & Florida migrant stream
 - Diversity of agriculture
 - Quality housing
- Estimated 49,000 workers in Michigan
 - Skill - Speed - Stamina

Ag Labor Issues

- National Immigration Debate
- States Targeting Migrants
- Competition w/ States & Jobs
- Reduction in Worker Availability
- Crop Losses - Asparagus through Apples
- How to Attract & Retain Skilled Migrant Workforce

One Approach...

H-2A Temporary **Agricultural** Program

Allows U.S. employers to bring foreign nationals to the U.S. to fill **seasonal** and **temporary** agricultural jobs for which U.S. workers are not available

In H2A-Speak:

- **U.S. or “Domestic” Workers** = workers based in the U.S.
 - Might be U.S. citizens
 - Might be non-citizens with a Green Card (permanent residence status) or other types of work-authorized status
 - Include migrant workers
- **H-2A Workers**
 - Foreign nationals holding an H-2A visa who are employed through an H-2A contract

Seasonal? Temporary?

- **Seasonal** employment:

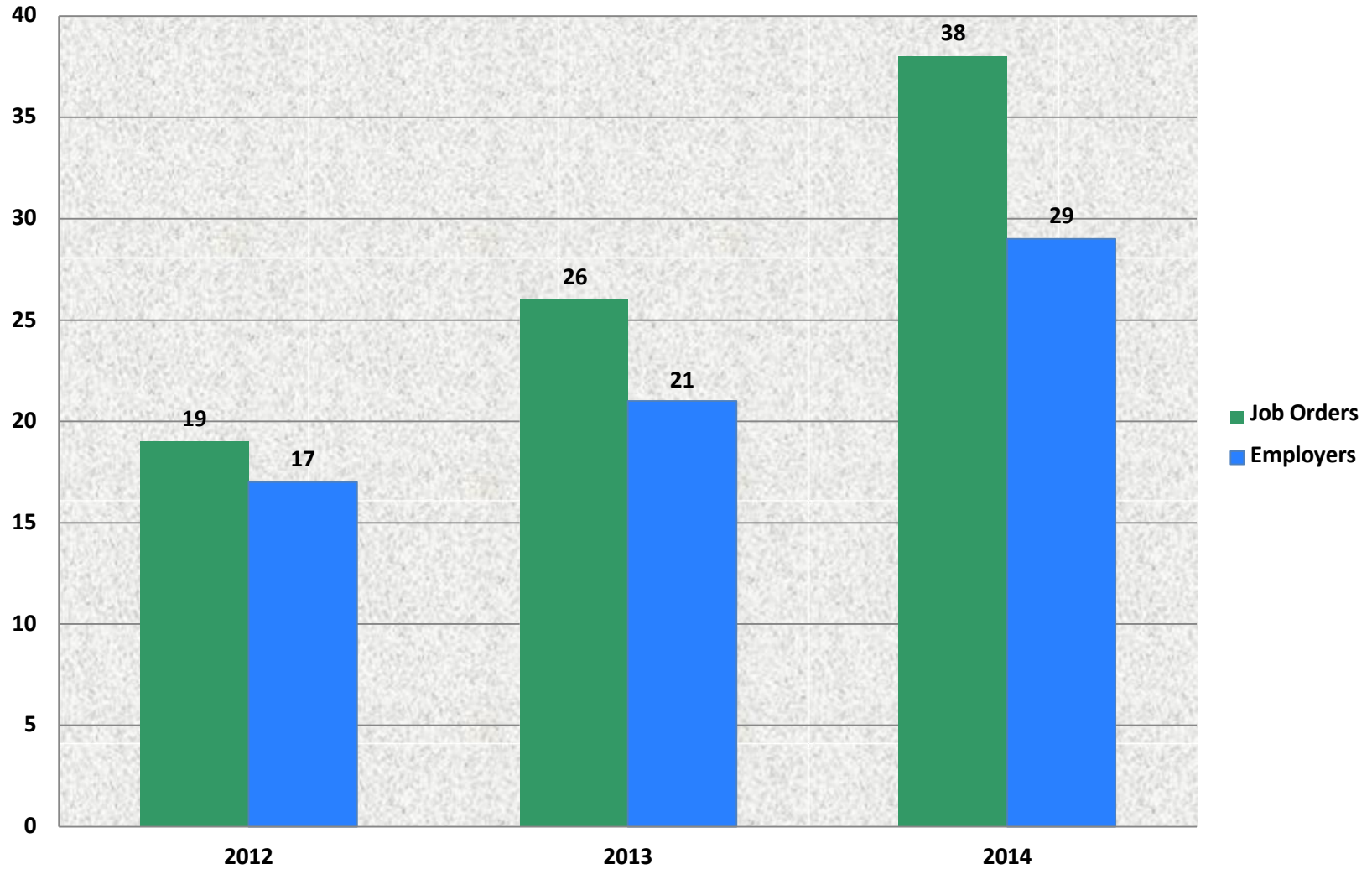
- Must be tied to a certain time of year by an event or pattern (e.g. a short annual growing cycle or a specific aspect of a longer cycle)
- Requires labor levels significantly above what's needed for ongoing operations

OR

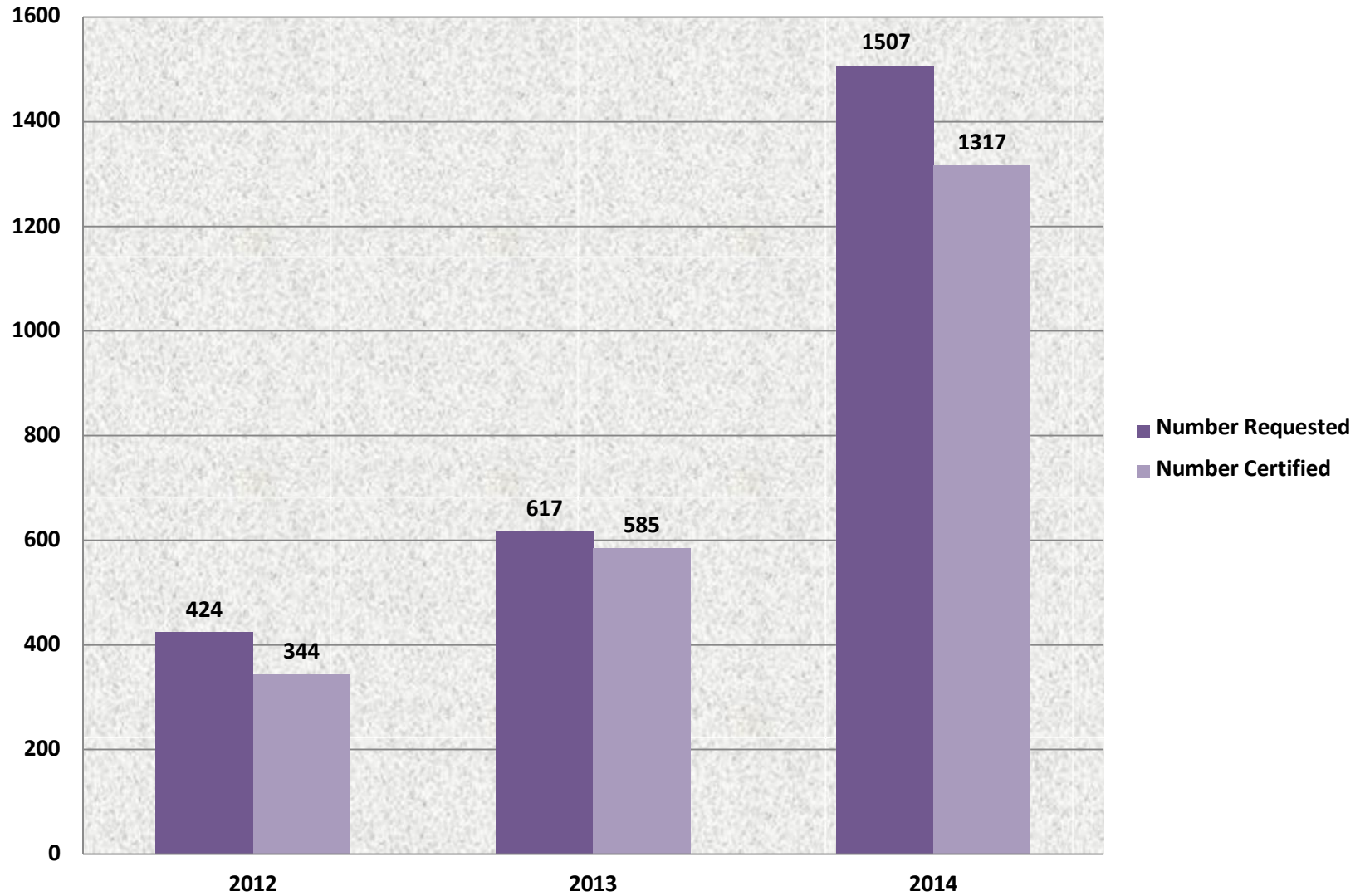
- **Temporary**

- Employer's need to fill the position will last no longer than 1 year (except in extraordinary circumstances) and usually 10 months or less

**By the Numbers:
Michigan H-2A Job Orders & Employers**



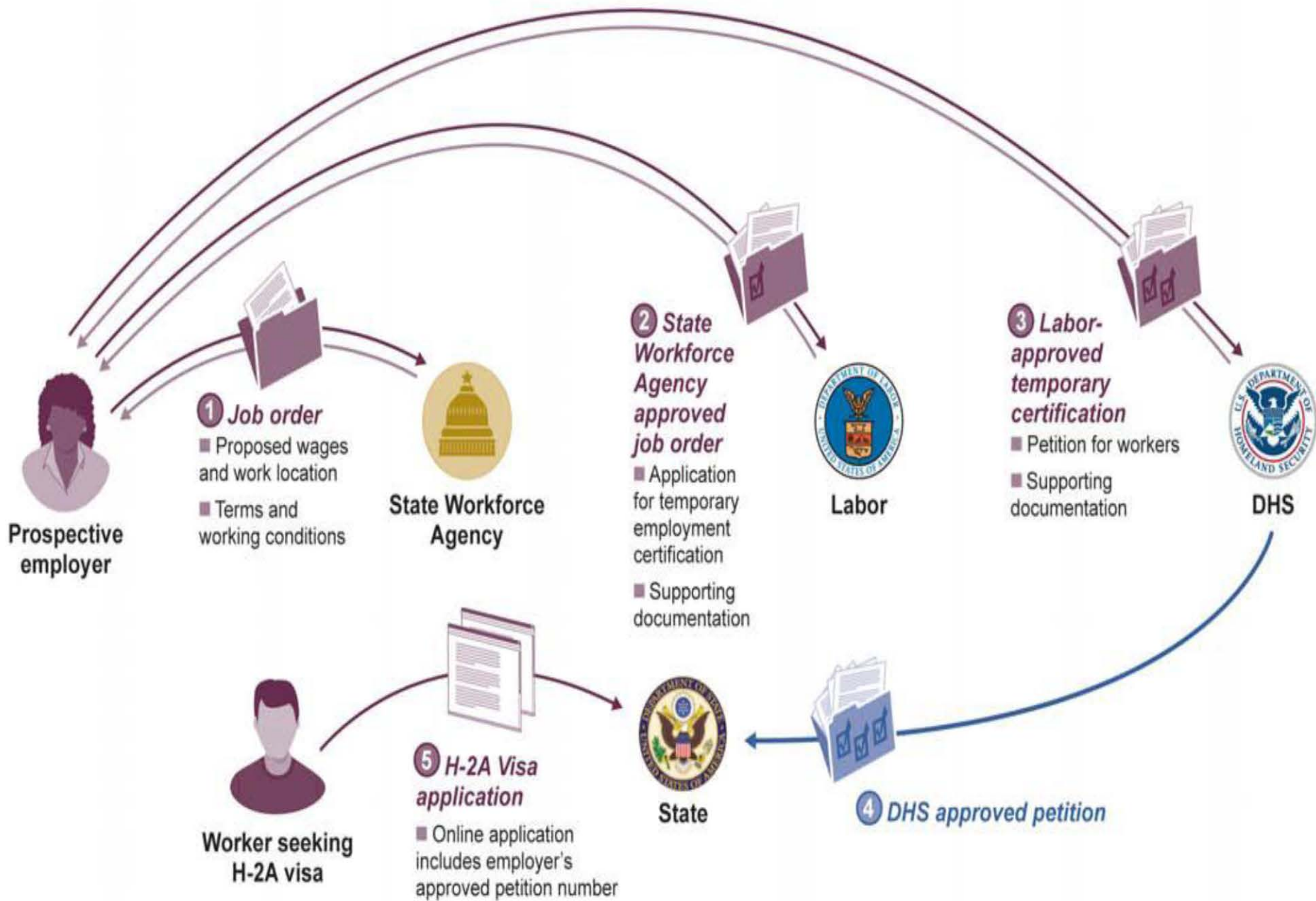
By the Numbers: Michigan H-2A Positions



FY 2014: H-2A Nationally

Selected Statistics by Worker Positions Certified

Top 10 States	North Carolina	14,502
	Florida	13,544
	Georgia	10,387
	Washington	9,077
	Louisiana	7,222
	Kentucky	6,755
	California	6,043
	New York	4,676
	Arizona	3,745
	Virginia	3,216



Source: GAO analysis of agency procedures.

Days until the first date the employer needs workers: **75**



State Workforce Agency reviews Job Order

Employer submits job order to State Workforce Agency

← **Earliest employer can submit job order** to State Workforce Agency is 75 to 60 days from work start

● **Deadline:** State Workforce Agency has 7 days to notify employer of any deficiencies

● Employer has 5 days to submit modifications to State Workforce Agency

60

● **Deadline:** State Workforce Agency has 3 days to respond to employer's modifications



Labor reviews employer's Application for Temporary Employment Certification

45

● **Deadline for employer** to submit to Labor a completed application for temporary employment certification as well as a State Workforce Agency approved job order

● Labor has 7 days to notify employer of any deficiencies

● Employer has 5 business days to revise application and submit modifications to Labor

● Employer must submit a recruitment report, provide evidence of workers' compensation insurance coverage, and show proof that a housing inspection has been conducted before Labor will make a determination

30

● **Deadline for Labor** to decide on granting employer a temporary labor certification

● Employer files a petition for nonimmigrant workers with DHS along with a temporary labor certification approved by Labor

● DHS reviews and approves or denies the petition

● DHS notifies employer of approval or denial and notifies State of approval



DHS reviews employer's request for workers



State reviews worker visa applications

● Worker can apply for a H-2A visa with State at an embassy or consulate abroad, if a visa is required (some workers are exempt from the visa requirement)

● State consulate/embassy adjudicates application, conducts interview with applicant, and issues or refuses a visa

● U.S. Customs and Border Protection reviews a worker's visa and other documents at the port of entry and approves or denies the worker's entry

● H-2A worker arrives and begins work

Agricultural Recruitment Process Using H-2A Program

- Local Job Order (recruiting within local area)



- Intrastate Job Order (recruiting throughout Michigan)



- Interstate Job Order (recruiting outside Michigan)



- H-2A visa workers, if still not enough U.S. workers

What Are Employers' Obligations?

- Fees
 - Application processing fee
 - Fee per # of H-2A workers certified
 - Visa petition fees
 - Other fees
- Positive recruitment & documentation
- Accept referrals up to 50% point (some exceptions)

What Are Employers' Obligations?

- Hours – at least 35 per week
- Wages – highest of:
 - Federal minimum wage
 - State minimum wage
 - Prevailing wage
 - AEW (Adverse Effect Wage Rate)
 - MI = \$11.56/hour (2015)
- No-cost housing for non-commuting workers
 - Free cooking facilities or
 - Meals (may charge capped amount to workers)

What Are Employers' Obligations?

- Transportation
 - Round-trip from place of recruitment to place of employment for non-commuting workers
 - Daily subsistence
 - Between work sites (all workers)
- Job description & qualifications
- Tools, supplies, equipment
- $\frac{3}{4}$ guarantee

What Do You Do When a Job Seeker Asks About an Ag Job Order?

- Refer them to the nearest Mi Works! or AES
- Check “How to Apply” instructions of Talent Connect
 - If it’s an AES or MWA staff person, they are the OHO
- Check FLCO website and look for the Job Order # on one of the lists
 - If you don’t find it, contact FLCO

Recruitment

- Active Recruitment
 - Recruiting willing, able & qualified job seekers to fill job order
 - Ends three days prior to “date of need” (start date) on the contract
- 50% Referral Period
 - Definition: Halfway point between contract start and end dates
 - Referrals made until 50% of contract period has expired
- After 50% Period
 - referrals are no longer being accepted

Workforce Development Agency website:

www.michigan.gov/wda

- Click on “Programs and Services”
- Click on Foreign Labor Certification Office

OR

Michigan Foreign Labor Certification Office
(FLCO)

www.michigan.gov/michaglabor



About Us

Programs and Services

Education and Training

Industry and Business

Veterans' Employment Services

Workforce Professionals

Governor's Talent Investment Board (GTIB)

Data and Public Notices

Migrant, Immigrant and Seasonal Worker Services

Michigan's diverse agricultural industry is a crucial part of our state's economy. The Migrant, Immigrant and Seasonal Worker Services Division is dedicated to supplying the labor needs of jobseekers and employers. In collaboration with our partners located at Michigan Works! One-Stop Service Centers, the full-range of employment services are offered including:

- Job search assistance and placement
- Registration assistance
- Testing
- Counseling
- Training opportunities
- Referrals to supportive services
- Job development
- Farmworker rights and labor law information



[Foreign Labor Certification Office](#)

[Map of Michigan Works! Offices with Agricultural Employment Specialists](#)

[Agricultural Employment Specialists](#) are outreach staff located in [Michigan Works! One-Stop Service Centers](#). All specialists are Spanish speaking and knowledgeable in the local labor market.

For any questions, at any time, contact:

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