



## H-2A Guidelines

**Recruitment:** The employer must agree to engage in the independent positive recruitment of U.S. workers. This means an active effort, including newspaper and radio advertising in the areas of expected labor supply.

**Wage Rate:** The wage or rate of pay must be the same for U.S. workers and H2A workers. The hourly rate must also be at least as high as the applicable Adverse Effect Wage Rate, Federal or State minimum wage or the applicable prevailing hourly wage rate, whichever is higher. If the worker is paid on a piece-rate basis and the piece rate does not result in an hourly piece rate earning during the period at least equal to the amount the worker would have earned had the worker been paid at the hourly rate, then the workers' pay must be supplemented to the equivalent hourly level.

**Housing:** The employer must provide free housing to all workers who are not reasonably able to return to their residences the same day. Such housing must be inspected and approved according to standards established by the Occupational Safety and Health Administration (OSHA).

**Meals:** The employer must provide either three meals a day to each worker or furnish free and convenient cooking and kitchen facilities for workers to prepare their own meals. If meals are provided, then the employer may charge each worker a certain amount per day for the three meals.

**Transportation:** The employer is responsible for the following type of transportation of workers: (1) After the worker has completed fifty percent of the work contract period, the employer must reimburse the worker the cost of transportation and subsistence from the place of recruitment to the place of work if such costs were borne by the worker. (2) The employer must provide free transportation between the employers' housing and the worksite for any worker who is provided housing. (3) Upon completion of the work contract, the employer must pay reasonable costs of the workers' subsistence and return transportation costs to foreign workers or provide transportation. The employer must advance such costs or provide transportation to U.S. workers as well.

**Workers Compensation Insurance:** The employer must provide either Workers Compensation Insurance or insurance coverage equivalent to Workers Compensation Insurance, for all workers. Proof of insurance must be provided before certification is granted.





**Tools and Supplies:** The employer must provide, at no cost to the worker, all tools and supplies necessary to carry out the work, unless it is common practice in the area and occupation for the worker to provide certain items.

**Three-fourths Guarantee:** The employer must guarantee to offer each worker employment for at least three-fourths of the workdays in the work contract period and any extensions. If the employer affords less employment, then the employer must pay the amount which the worker would have earned had the worker been employed the guaranteed number of days.

**Fifty Percent Rule:** The employer must agree to hire any qualified and eligible U.S. worker who applies for a job until fifty percent of the period, or the work contract, has elapsed.

**Labor Dispute:** The employer must assure that the job opportunity for which H2A certification is being requested is not vacant because the former occupant is on strike or is being locked out in the course of a labor dispute.

