

H2A Information

As H2A employers it can be challenging at times to keep up with changing wages and regulations. Here are a few key points to help you stay on track.

On December 22, 2017 the Department of Labor released the new Adverse Effect Wage Rate for H-2A Workers who perform herding or production of livestock on the range.

All States Except California and Oregon

The new wage for all states except for California and Oregon is *\$1,584.22 per month effective January 1, 2018.* When the new rule went into effect in November 2015, there was a 2 year transition period to get to the fully monthly AEW. 2018 will be our first year on the full monthly AEW. Going forward, this salary will adjust annually on January 1st by the Employment Cost Index published by the Bureau of Labor Statistics for the preceding annual period.

All range herders must be paid twice a month and provided statements with each paycheck. The statements must have the following:

- Employers name, address and FEIN
- Worker's name, home address and job title
- Monthly pay rate
- Beginning and end dates of the pay period
- Total days of work offered and actual days worked
- Workers total earnings for the pay period
- Total net pay

The regulations require that all H2A herders be paid at least twice monthly. All other H2A workers must be paid at least every two weeks (bi-weekly). Regardless of what a worker requests, you must pay them according to at least the minimum requirement. i.e. some workers state they do not want paid until the end of the month...you MUST pay them at least twice monthly (for herders).

There is a difference between "twice monthly" and "bi-weekly." Make sure to calculate correctly. Example:

Twice-monthly = Pay on 15th and 30th. $\text{Monthly wage}/2 = \text{wage per pay period}$

Bi-weekly = Pay every other Friday. $52 \text{ weeks per year}/12 \text{ months} = 4.333$.

$\text{Monthly wage}/4.333 * 2 = \text{wage per pay period}$.

Other Provisions:

Workers must also be provided at no cost to the worker housing, bedding, tools, supplies, and equipment required to perform the duties assigned, meals or the groceries and kitchen facilities to prepare meals.

Transportation Reimbursement Requirements:

A worker needs to be reimbursed for any expenses they accrued in order to get job and any of their travel back home. These expenses can include but are not limited to:

Meals \$12.07/day minimum w/o receipts, \$51.00 maximum w/receipts

Lodging If no receipts, no less than the most economical and reasonable costs.

Transportation from home village to embassy If no receipts, no less than the most economical and reasonable costs.

Travel from Embassy to final workplace WRA pays the travel upfront and then bills the expense by a prorated expense monthly to members.

Interview fee/VISA printing fee the herder incurs from embassy \$190.00

Passport Expense This expense is the only one that the herder does not need to be reimbursed for.

Trending Topics:

A common topic heard in H2A circles are the repercussions of President Trump's Executive Order: Buy American and Hire American.

This order has spurred several government agency initiatives that impact processes, policies and implementation of the H2A visa program. The new USCIS policy that shifts and increases the burden of proof for extension petitions. Another initiative by the U.S. Department of Labor has intensified the scrutiny of interview, reporting and hiring practices with U.S. work authorized applicants for H2A jobs. It is more critical than ever for employers to document and report all applicants and, of course, continue to give preference to qualified U.S. applicants. Although no specific announcement has been made, the U.S. State Department has increasingly become more stringent in evaluating visa applicants and certainly less forgiving of previous unlawful presence in the United States.

Legislation:

As apart of the ASI H2A Committee we continue to monitor Representative Goodlatte's Ag Act bill however, there isn't any movement on it as Congress dukes it out over tax reform.