

Farm Labor Stabilization and Protection Pilot Program (FLSP)



October 2023

Agenda

FLSP Webinar Basic Overview Oct 25, 2023

- FLSP background and goals
- FLSP Structure, requirements and supplemental commitments
- Application types / eligibility

Q&A

- Allowable use of grant fund
- Grant Evaluation Criteria
- Steps to Apply
- Technical Assistance

Q&A



Program Goals

- The FLSP program aims to improve food and agricultural supply chain resiliency by addressing challenges agricultural employers face with labor shortages and instability.
 - **Goal 1:** Drive U.S. economic recovery and safeguard domestic food supply by addressing current labor shortages in agriculture.
 - **Goal 2:** Reduce irregular migration from Northern Central America through the expansion of regular pathways.
 - **Goal 3:** Improve working conditions for all farmworkers.

- FLSP separate and distinct from H-2A Program.
- H-2A requirements:
Employers must demonstrate to Department of Labor (DOL) that:
 1. There are **insufficient U.S. workers** available to perform the labor or services in the labor certification application (Job Order), and
 2. That the employment of foreign workers will not adversely affect the wages and working conditions of workers in the U.S. similarly employed.

Eligibility & Award Amounts

- Up to \$65 million in **competitive** grants for **agricultural employers**
- The award amounts will be determined based on the
 - 1) projected number of full-time equivalent agricultural employees (**FTEs**) and
 - 2) requested award level (**Baseline, Silver or Platinum**).
- Fixed-Award grant over 24-month grant period

Table 1. Award structure, based on FTEs and applicant commitment level.

Award amount	1-10 FTEs	11-25 FTEs	26-75 FTEs	76-200 FTEs	201-500 FTEs	501-2000 FTEs	2001+ FTEs
→ Baseline	\$ 25,000	\$ 50,000	\$ 100,000	\$ 150,000	\$ 180,000	\$ 215,000	\$ 250,000
→ Silver	\$ 100,000	\$ 200,000	\$ 400,000	\$ 600,000	\$ 720,000	\$ 860,000	\$ 1,000,000
→ Platinum	\$ 200,000	\$ 400,000	\$ 800,000	\$ 1,200,000	\$ 1,440,000	\$ 1,720,000	\$ 2,000,000

Baseline Requirements (for all award levels)

1. Universal protections and benefits

- All commitments must be applied **universally to all applicant's agricultural employees**, H-2A or otherwise at each work site within the applicant's operation. If awarded, all commitments in the Awardee's application must be included in their H-2A Job Order.

2. Participation in FLSP research and reporting

- Awardees must **participate in research** conducted by a non-partisan, third-party university partner selected by USDA. USDA requires that all Awardees agree to grant access to their full agricultural workforce (or contractors).

3. Participation in Know Your Rights and Resources (KYRR) access and training

- In-person **2-hour KYRR session** conducted by USDA cooperator partner at start of workers' contracts, on-site in a conducive environment **scheduled within two weeks** of employees' start date.

4. Responsible Recruitment

- Describe recruitment methods for U.S. and foreign workers.
- If using a private recruiter:
 - Disclose of the name of all agents and sub-contractors,
 - Recruiter is **registered in the country in which they recruit**, if available.
 - Submit **Recruiter Partner Letter** with recruiter's complete written responses



Supplemental Employee Commitments for *Silver* and *Platinum*

→
Award Level
→

<u>RESPONSIBLE RECRUITMENT</u>	<u>PAY, BENEFITS AND WORKING CONDITIONS</u>	<u>PARTNERSHIP AGREEMENTS</u>
<ul style="list-style-type: none">• <i>Silver</i>: recommended but not required• <i>Platinum</i>: required	<ul style="list-style-type: none">• <i>Silver</i>: choose at least two• <i>Platinum</i>: choose at least <i>three</i>	<ul style="list-style-type: none">• <i>Silver</i>: recommended, but not required• <i>Platinum</i>: choose at least one
<ol style="list-style-type: none">1. Recruitment via NCA Ministries.	<ol style="list-style-type: none">1. Overtime Pay2. Bonus Payment3. Paid Sick Leave4. Weekly Housing Maintenance Plan5. Collaborative Working Group6. Innovative External Partnership	<ol style="list-style-type: none">1. Worker-Driven Social Responsibility (WSR) program2. Collective Bargaining Agreement (CBA)3. Committing to Neutrality, Access, and Voluntary Recognition

Supplemental Employee Commitments: Recruitment

RESPONSIBLE RECRUITMENT

Silver: recommended, but not required

Platinum: required

1. Recruitment via Northern Central American (NCA) Ministries.

Recruitment of any **new individual H-2A workers** via *Ministries of Labor* in Guatemala and Honduras and the *Ministry of Foreign Affairs* in El Salvador.

NCA vetting and visa processing is supported with free Consulate and Recruitment technical assistance for Awardees.

Supplemental Commitment Options: Pay, Benefits And Working Conditions

- **Overtime Pay.** Where not already required by state law.
- **Bonus Payment.** Clearly defined bonus payment to all employees transmitted at regularly scheduled intervals throughout the duration of the employee's contract.
- **Paid Sick Leave.** Paid sick leave plan that includes accruing at least 4 hours per (2-week/bi-monthly) pay period, with a minimum of 5 days leave per year.

PAY, BENEFITS AND WORKING CONDITIONS

Silver: choose at least two

Platinum: choose at least three

1. Overtime Pay
2. Bonus Payment
3. Paid Sick Leave
4. Weekly Housing Maintenance Plan
5. Collaborative Working Group
6. Innovative External Partnership



Supplemental Commitment Options: Pay, Benefits And Working Conditions (cont)

- **Weekly Housing Maintenance Plan** that works resolve issues in a timely fashion and address feedback or concerns from workers.
- **Collaborative Working Group(s)** of at least 50% workers that addresses issues such as workplace safety and health, pesticide safety, transportation safety, housing, reporting grievances or problems, etc.
- **Innovative External Partnership.** Implement or demonstrate a plan to support improving health, safety, worker representation, professional development, or other benefit or program, and note key partnership(s) that will help facilitate implementation.

PAY, BENEFITS AND WORKING CONDITIONS

Silver: choose at least two

Platinum: choose at least three

1. Overtime Pay
2. Bonus Payment
3. Paid Sick Leave
4. Weekly Housing Maintenance Plan
5. Collaborative Working Group
6. Innovative External Partnership

Supplemental Commitment Options: Partnership Agreements

PARTNERSHIP AGREEMENTS

Silver: recommended, but not required

Platinum: choose at least one

1. Worker-Driven Social Responsibility (WSR) program
2. Collective Bargaining Agreement (CBA)
3. Committing to Neutrality, Access, and Voluntary Recognition

- Worker-driven Social Responsibility ([WSR](#)) program.
- Collective Bargaining Agreement ([CBA](#)).
- Committing to Neutrality, Access, and Voluntary Recognition (where permitted under state law).

Application Types



Fixed-site Employer

Apply as an individual/
individual business.

Note: The employer is solely responsible for ensuring compliance with the terms of the grant.



Farm Labor Contractor (FLC or H-2ALC)

Apply as an individual/
individual business.
Applicant assumes
responsibility for grant
compliance at all
work sites.

Note: As the single responsible employer, the FLC is responsible to ensure that all grant commitments are implemented at all the worksites on its H-2A application. FLCs may choose to sub-award to all worksites. DOL cannot process disparate employer commitments in a single job order, thus all worksites must comply with the same commitments to the FLSP grant. Growers that utilize FLCs (H-2ALCs) will only be eligible as sub-awardees, under the jurisdiction of their labor contractor that applies for the grant. FLCs must decide whether or not they will subaward to any or all work sites.



Joint Employers (Non-Association)

Apply jointly for
FLSP grant, with one
primary applicant
Authorized Organization
Representative and
another sub-awardee,
both responsible for their
respective operations.
Submit H-2A job order
certification of joint
employment.

Note: Employers that typically apply as joint employers to H-2A but prefer to apply individually to FLSP will need to file a unique fixed-site H-2A application since DOL cannot process disparate commitments in a single job order.

Application Types



Association Joint Employers



Apply jointly for grant, with one primary applicant (presumably the Association, though it may be any participant willing to assume the Authorized Organization Representative role) plus sub-awardee(s) that have all agreed to shared commitments and compliance on their respective operations. Submit H-2A job order certification of association joint employment.

A **portion** of the members of an association can apply jointly, with one primary applicant (presumably the Association though it may be any participant willing to assume the Authorized Organization Representative role) plus subawardees that have all agreed to shared commitments and compliance on their respective operations. In these instances, a master association could file multiple separate job orders for each group of employers applying to FLSP that have all agreed to shared commitments and compliance on their respective operations.

Note: Individual *members* of associations that prefer to apply to the USDA FLSP as an individual/individual farm business, thus assuming grant responsibility (and benefits) only for their individual operation will need to coordinate with their filing agent (association) to submit a *unique job order*, instead of a joint H-2A application, since DOL cannot process disparate employer commitments in a single job order.



What Can The Funding Be Used For?

■ Broad categories include:

- Costs related to **hiring and onboarding** U.S. and H-2A workers including, for example but not limited to recruitment, applications, attorneys, and other consulting fees, etc.
- Costs related to **wages, business and administrative costs** related to compliance with the program commitments, etc.

See **Section 6.0** in FLSP General Terms and Conditions for more details on Allowable Costs.

• Housing maintenance costs

- *Allowable* for rental costs. However, lease agreements to own are not allowable. The lease or rental agreement must terminate at the end of the grant FLSP period of performance.
- Rearrangement and reconversion costs are *allowable*, including those incurred in restoring or rehabilitating the awardee's facilities to approximately the same condition existing before the start of the grant agreement, less costs related to normal wear and tear ([2 CFR § 200.462](#)).
- Any alterations to housing, or reconversion must ensure compliance with the National Environmental Policy Act (NEPA) - [7 CFR § 1\(b\)](#).



Project Evaluation Criteria

- Applications will be **reviewed and scored competitively** using the criteria listed below.
 - Alignment with FLSP Goals and complete Narrative Application Form
 - Responsible Recruitment
 - Supplemental Employee Commitments
 - Description of Employer Practices and Plans
 - Impact on your Operation

- See Section ***6.0 Project Evaluation Criteria*** in NFO for more details.

Key steps in applying to FLSP



1. Set up your required accounts.

- Obtaining/existing UEI number (allow 7-10 days)
- Active Sam.gov account (allow 7-10 days)
- Obtaining/existing TIN/EIN (allow 2 weeks)
- Creating Grants.gov profile (allow 4 weeks)



**** NOTE: Cannot apply to the program without these preliminary steps ****

Please begin these steps if you are **considering** applying to FLSP to prevent hiccups before 11/28 deadline. Begin these ASAP.

Key steps in applying to FLSP

2. Access and review FLSP materials.

- Visit the AMS website (www.ams.usda.gov/flsp) or navigate to the opportunity in Grants.gov (Assistance Listing 10.978).
- Read the [FLSP Notice of Funding Opportunity \(NFO\)](#) and determine if you are eligible (**Section 3.0**), [Narrative Application Form](#) and the [FLSP General Terms and Conditions](#).

3. Determine Application Type

- Review **Section 3.3 Application Types**.
- Consider implications of each option if you are part of an association (that is your agent) or typically apply for H-2A through a joint employment partnership.
- If part of an association or joint employer relationship, discuss their interest in the program and determine if you will apply together and at what level.



Fixed-site
Employer



Farm Labor
Contractor
(FLC or H-2ALC)



Joint Employers
(Non-Association)



Association Joint Employers



4. Determine the **range of awards** you are eligible for based on FTEs

- Calculate how many annual FTEs you have. To get FTE for the year, divide the total annual worker hours worked by 2080 (which assumes a 40-hour workweek for 52 weeks of the year).
- See **Table 1** (*Section 1.3* in [NFO](#)) with range of awards available, depending on the size of your operation and commitment level. Your FTE total tells you which **column** in the table you are eligible for.

4. Decide on your desire Award Level (**Baseline, Silver or Platinum**)

- Determine which commitments your operation would like to choose and consider how to implement each one based on the *Supplemental Employee Commitments describe* in NFO (Table 3).



Key steps in applying to FLSP

6. Fill out your application.

- All application forms/templates available on the FLSP website:
www.ams.usda.gov/flsp and Grants.gov (Assistance Listing 10.978).
- All applications **must** be submitted electronically. Paper/mailed applications will not be accepted.

USDA Agricultural Marketing Service
U.S. DEPARTMENT OF AGRICULTURE

FARM LABOR STABILIZATION AND PROTECTION PILOT

Narrative Application Form

This template form is mandatory for all Farm Labor Stabilization and Protection Pilot (FLSP) program applications. You can email FLSPgrants@usda.gov with any questions. All applicants must thoroughly read the FLSP Notice of Funding Opportunity (NFO), which can be found www.ams.usda.gov/flsp, which also contains FAQs and additional FLSP information. You may also visit the FLSP Technical Assistance provider website (www.ams.usda.gov/services/grants/flsp/assistance). DO NOT modify this FLSP Narrative Application Form. Evaluation points will be deducted if the form is modified.

1. Employer Information (Applicant)

Must match box 8 of the SF-424.

Legal Business Name:	<input type="text"/>
Applicant Name (Employer Business Owner)	<input type="text"/>
Email Address:	<input type="text"/>
Phone Number:	<input type="text"/>
County	<input type="text"/>

Important Dates

Application Opens:

- September 22, 2023

Application Closes:


- November 28, 2023,
at 11:59 p.m. Eastern
Time

Technical Assistance

All Technical Assistance (TA) info at:

www.ams.usda.gov/services/grants/flsp/assistance

TA tips

- Attend upcoming USDA Office Hours  see link for schedule
- Attend (or listen to recordings) of upcoming webinars
- Check the FAQs! (updated weekly) www.ams.usda.gov/services/grants/flsp/faq
- Email FLSPgrants@usda.gov
- Additional TA Providers
 - Grants Solutions (Grants.gov related)
 - Seso (H-2A related)



TA: Webinars

Webinar Dates

<u>Day</u>	<u>Date</u>	<u>Time</u>	<u>Type / Focus</u>
Wed	25-Oct	2:00pm EST	Basic Program Overview
Tues	31-Oct	2:00pm EST	NCA Recruitment
Wed	8-Nov	2:00pm EST	Achieving Silver/Platinum
Wed	15-Nov	2:00pm EST	en Español
Mon	27-Nov	2:00pm EST	Small Growers
Wed	6-Dec	2:00pm EST	H-2A overview

Updates at

<https://www.ams.usda.gov/services/grants/flsp/assistance>



TA: Office Hours

Office Hour Dates

<u>Day</u>	<u>Date</u>	<u>Time</u>
Thursday	26-Oct	4:00pm EST
Friday	3-Nov	2:00pm EST
Thursday	9-Nov	4:00pm EST
Friday	17-Nov	2:00pm EST
Monday	27-Nov	4:00 pm EST

Updates at

www.ams.usda.gov/services/grants/flsp/assistance

Introducing Seso

**FLSP Technical Assistance
Provider**



Daniel Ross
H-2A Compliance
Attorney

Seso's Technical Assistance

Timeframe	Resources Available
During the FLSP application window	<ul style="list-style-type: none"> • Webinars • Office Hours
During the FLSP award performance period	<ul style="list-style-type: none"> • Intake survey (to target your TA needs) • Webinars • Office Hours • 1:1 Consultation • H-2A Compliance Software • NCA Worker Recruitment • NCA Consulate Services

Bring all your H-2A questions to the Seso team of experts

H-2A Program Basics

The H-2A temporary agricultural program assists employers facing a shortage of domestic workers by allowing them to bring foreign workers to the U.S. for temporary or seasonal agricultural work, such as planting, cultivating, and harvesting.

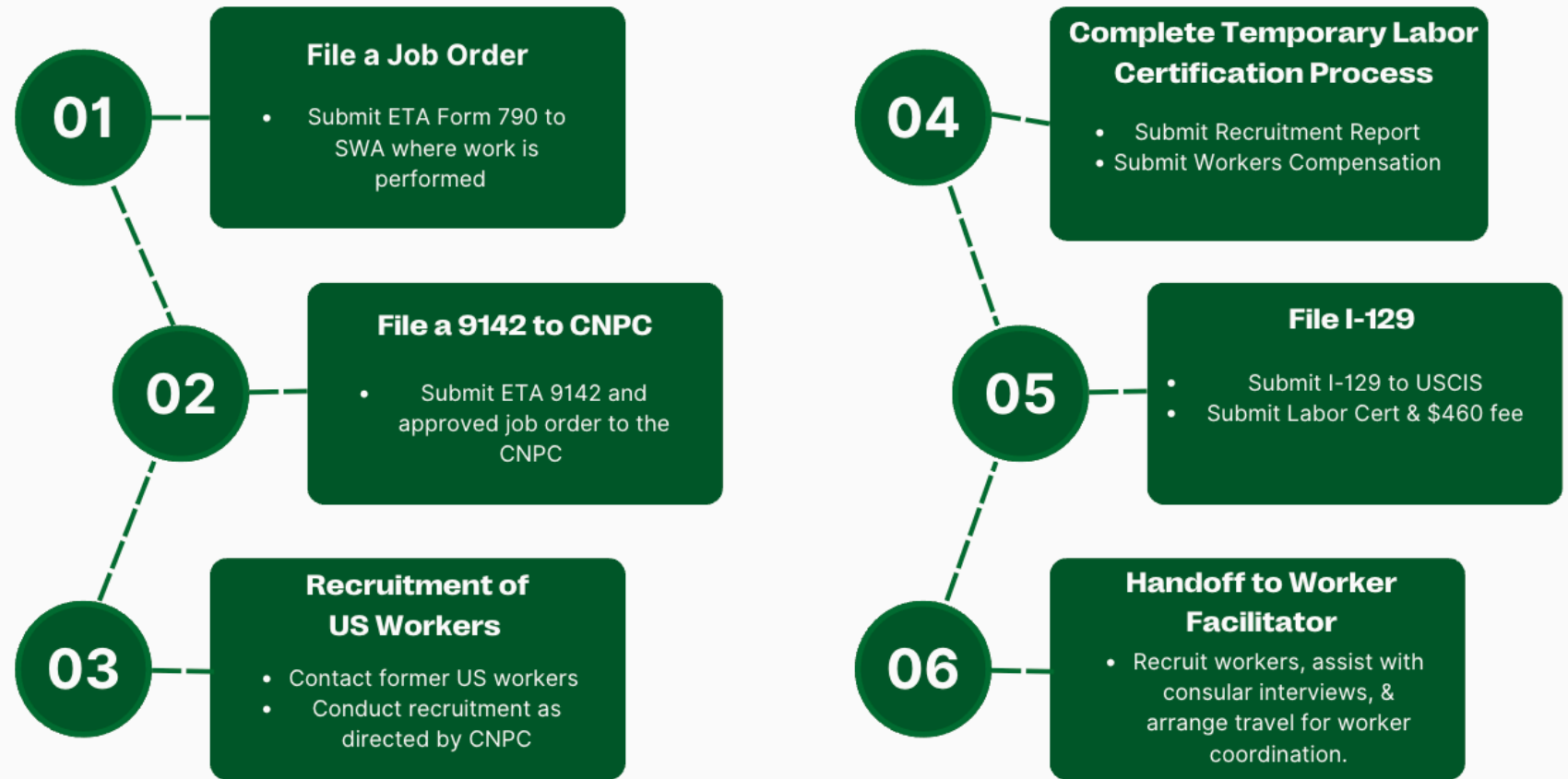
Seasonal work is tied to specific times of the year due to events or patterns, like annual growing cycles.

To participate, you work with your State Workforce Agency to recruit U.S. workers. They will publicly post your job order, and you must accept eligible referrals and contact former U.S. employees. If a qualified U.S. worker applies, you must employ them for at least 50 percent of the work contract period. After reaching 50 percent, you have no further obligation to hire.

Key H-2A Employer Obligations

- **Recruitment:** Employers must recruit and offer jobs to qualified US workers first, and continue recruiting until 50% of contract period
- **Corresponding Employment:** US and H-2A workers must receive same pay and benefits for same work, with no preferential treatment
- **Written Disclosure:** Disclose all terms and conditions of employment to applicants in writing
- **Wages:** Pay H-2A and US workers the highest of AEW, prevailing wage, bargaining wage, or minimum wage
- **Housing & Transportation:** Provide free, approved housing and transportation to H-2A workers, and pay visa and inbound/outbound travel costs

H-2A Program Simplified Timeline



■ What is considered an **FTE**? How do I know which Award Amount I am eligible for?

- To calculate “Full-Time Equivalency” (FTE) for the year, **sum total annual farmworker (“agricultural workers”) hours** worked by all directly hired farmworkers, and then **divide by 2080** (which assumes a 40-hour workweek for 52 weeks of the year).
- On the [Narrative Application Form](#), applicants will need to provide cumulative FTE annual totals of both H-2A and domestic worker for all sub-awardee partners/worksites.
- For example,
 - If you employ 100 H-2A farmworkers and 50 U.S.-based farmworkers throughout the year, you will first add up all H-2A farmworker hours (all 100 workers) for the year and divide that total number by 2080. Then, you will add up all the total hours for the 50 U.S.-based workers, and divide that sum total by 2080. There is a box on the **Narrative Application Form (Question 5)** where you will enter total annual FTEs totals H-2A and for U.S.-based workers.
 - If you apply as Joint Employer and your operation employs 5 U.S.-based farmworkers and the secondary employer employs 10 U.S.-based farmworkers, and collectively you hire 100 H-2A farmworkers, you will first add up all hours worked by both operations’ U.S.-based workers (total annual hours from all 15 U.S.-based workers) and divide that total number by 2080; then, add up all the hours worked throughout the season by the 100 H-2A workers jointly hired and divide that total number by 2080.

- **Can I recruit from any country, like South Africa, Mexico or otherwise?**
 - Assuming FLSP employers meet all H-2A requirements (including effort to effectively recruit U.S. based workers), they may recruit from any participating H-2A country. However, all applicants should note the benefits of recruiting from NCA countries within the FLSP program:
 - **More competitive score on application** (see *Section 6.1 Project Evaluation Criteria in the [NFO](#)*.)
 - **Higher award**, if combined with the other Supplemental Options (See *Table 3* in [NFO](#)).
 - **NCA Ministry Recruitment is free**, resulting in potential significant financial savings for employers.
 - **Free NCA technical assistance** for all grant awardees on free recruitment and consulate support technical assistance for any workers recruited via the government Ministries in North Central America.

- **Can the FLSP grant be used to search for any type of worker where we are unable to fill jobs? (e.g. domestic workers, production, etc).**
 - No, the grant is not open to any type of employee. The purpose of this program is to improve food and agricultural supply chain resiliency by addressing the challenges agricultural employers face with labor shortages and instability.
 - The program is open to all **agricultural employers**, who hire **agricultural employees** - also known as farmworkers or farm labor workers. Please see *Section 9 Definitions* of the [NFO](#) for specific definitions for both terms.

- **I'm an FLC but not a direct employer. Can I apply?**
 - You must be a **direct employer** to be eligible to apply directly to the grant. However, an applicant may choose you as their recruitment partner.
 - If you partner with an Applicant, you will need to submit a [Recruiter Organizations Template Letter](#).

- **Does the program help increase the availability of farmworker housing and help employers find and provide housing?**
 - Awardees are responsible for finding housing and maintaining its compliance with all local, state and federal regulations related to farmworker housing.
 - Can use to rent an apartment or other housing complex for seasonal workers but *lease agreements to own (i.e., lease-to-own or rent-to-own) are not allowable*. Any lease or rental agreement must terminate at the end of the FLSP grant period of performance.
 - Anything over \$5,000

Questions?

Please email

FLSPgrants@usda.gov