

# Farm Labor Stabilization and Protection Pilot Program (FLSP)



November 2023

# Agenda

## FLSP Webinar Small Growers

Nov 27, 2023

- FLSP Overview
- Allowable costs
- Evaluation Criteria
- How to Apply / Application Walk-through

**Q&A**

- H-2A Overview

**Q&A**



# FLSP Webinars

<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>
Monday	27-Nov	4:00 pm EST
Thursday	7-Dec	4:00 pm EST
Friday	15-Dec	2:00pm EST
Thursday	21-Dec	4:00 pm EST

Updates at  
[www.ams.usda.gov/  
 services/grants/flsp/  
 /assistance](http://www.ams.usda.gov/services/grants/flsp/assistance)

# 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>
<p><i>Silver</i>: recommended but not required</p> <p><i>Platinum</i>: required</p>	<p><i>Silver</i>: choose at least two</p> <p><i>Platinum</i>: choose at least <i>three</i></p>	<p><i>Silver</i>: recommended, but not required</p> <p><i>Platinum</i>: choose at least one</p>
<ol style="list-style-type: none"> <li>1. Recruitment via NCA Ministries.</li> </ol>	<ol style="list-style-type: none"> <li>1. Overtime Pay</li> <li>2. Bonus Payment</li> <li>3. Paid Sick Leave</li> <li>4. Weekly Housing Maintenance Plan</li> <li>5. Collaborative Working Group</li> <li>6. Innovative External Partnership</li> </ol>	<ol style="list-style-type: none"> <li>1. Worker-Driven Social Responsibility (WSR) program</li> <li>2. Collective Bargaining Agreement (CBA)</li> <li>3. Committing to Neutrality, Access, and Voluntary Recognition</li> </ol>

# Supplemental Employee Commitments: Recruitment

## RESPONSIBLE RECRUITMENT

Silver: recommended, but not required

Platinum: required

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

Grant applicants can recruit workers from US or any H-2A participating country. However, **additional incentives and increased application competitiveness** for NCA recruitment.

***Platinum commitment***: 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. No-cost to employers.

*For grantees (of any award level)*: **NCA vetting and visa processing** is supported with free Consulate and Recruitment technical assistance.

# Recruitment from Northern Central America

*Each government is ready to help companies interested in hiring workers. Please reach out for more information.*



## **El Salvador:**

- [h2visas@escpvisas.com](mailto:h2visas@escpvisas.com)
- [h2visa.elsalvador@rree.gob.sv](mailto:h2visa.elsalvador@rree.gob.sv)



## **Guatemala:**

- [movilidadlaboral@mintrabajo.gob.gt](mailto:movilidadlaboral@mintrabajo.gob.gt)
- [h2jobs@mintrabajo.gob.gt](mailto:h2jobs@mintrabajo.gob.gt)



## **Honduras:**

- [pttusa@trabajo.gob.hn](mailto:pttusa@trabajo.gob.hn)

On your correspondence  
cc:  
[NCA@SesoLabor.com](mailto:NCA@SesoLabor.com)

# 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).

# JOINING THE FAIR FOOD PROGRAM

A new grower commits to implement the FFP Code of Conduct and FFSC conducts an entry audit to confirm that:

- The grower has started to implement a direct hire system.
- The grower has started to implement a timekeeping system in which workers control their registration device.
- Workers have been provided with an education session by the CIW Education Committee.
- The grower's supervisors have been trained on FFP policies, by the company and the FFSC.
- The grower has purchased or ordered adequate shade structures
- Any known outstanding complaints have been resolved.
- Following the audit, FFSC and the grower then agree on a corrective action plan.

**CONTACT**

[info@fairfoodstandards.org](mailto:info@fairfoodstandards.org)



# 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.

# 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\(b\)](#).

# Is the FLSP program really designed for Small Growers?

**YES!!**

- Proximity to your employees – visibility on the ground, relationships with workers – these natural benefits of being closer knit can help support your compliance and ability to make FLSP commitments
- FLSP Application designed to be intuitive—let the questions be your guide
- The grant impact can be significant for smaller growers
- Technical Assistance at no cost



# 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.

# 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](http://www.ams.usda.gov/flsp)) or navigate to the opportunity in [Grants.gov](http://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.

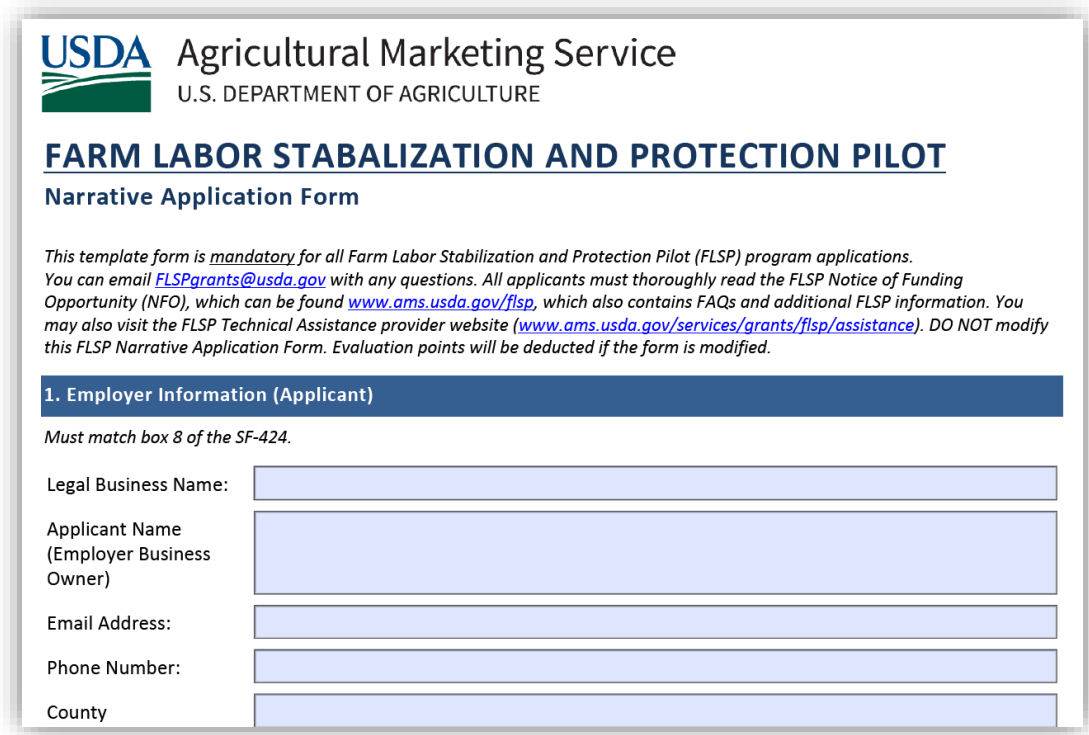
## 5. Decide on your desire Award Level (**Baseline, Silver or Platinum**)

- 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](http://www.ams.usda.gov/flsp) and [Grants.gov](http://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](mailto: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](http://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](http://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:

Applicant Name  
 (Employer Business Owner)

Email Address:

Phone Number:

County

# Important Dates

## Application Opens:

- September 22, 2023

## Application Closes:

- January 3, 2024, at 11:59 p.m. Eastern Time

A red starburst graphic with a jagged, multi-pointed border, containing the text "New date!" in white.

**New date!**

*If we don't get to your question now, we will follow up by FAQs and/or email*

## **More Questions?**

- Attend USDA Office Hours
- Tune into weekly FSLP webinars (live, or recordings posted online)
- Check the FAQs! Updated weekly: [www.ams.usda.gov/services/grants/flsp/faq](http://www.ams.usda.gov/services/grants/flsp/faq)
- Email [FLSPgrants@usda.gov](mailto:FLSPgrants@usda.gov)



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

**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 AEWR, 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

# Getting started with H-2A

- Evaluate **labor requirements** during peak seasons based on crop cycles, planting/harvest schedules
- Research applicable **Adverse Effect Wage Rate (AEWR)**. It varies based on job type and location, updated annually via federal register
- Secure compliant **housing**
- Arrange daily **transportation** between housing and worksites
- Research **state laws**, in addition to federal
  - Key areas: wage rates, rest periods, worker protections, benefits

# Getting started with H-2A

- **Understand program dates and deadlines**
  - Job order filing window opens 75-60 days before start date
- **Prepare detailed job order**
  - Outline job duties, minimum qualifications, requirements
- **Gather required documents**
  - Contracts, insurance policies, inspections, licenses
- **Plan for worker expenses**
  - Travel costs from home to consulate and worksite
  - Visa fees paid to consulate
  - Transportation to/from worksites

# H-2A Housing

- Provide free housing meeting OSHA standards
- Ensure adequate beds, bathrooms, kitchen and laundry access
- Full kitchen with appliances, cookware for meal prep
- Onsite laundry facilities or transport to laundromats
- Frequently self-inspect housing for damage, hazards
- Request inspections early

*If we don't get to your question now, we will follow up by FAQs and/or email*

## **More Questions?**

- Attend USDA Office Hours
- Tune into weekly FSLP webinars
- Check the FAQs! Updated weekly: [www.ams.usda.gov/services/grants/flsp/faq](http://www.ams.usda.gov/services/grants/flsp/faq)
- Email [FLSPgrants@usda.gov](mailto:FLSPgrants@usda.gov)