



POLICY BRIEF

Academic exercise or push for unionization? New study pans H-2A use in Washington

By Pam Lewison,
Agriculture Policy Director
October 2026

Key Takeaways

1. A UCLA Latino Policy & Politics Institute study makes sweeping claims about Washington's H-2A program from limited evidence, relying on just 43 interviews and 179 surveys.
2. Federal law already requires H-2A employers to recruit and prioritize available U.S. workers before and during the employment period.
3. Labor shortages, not simply H-2A hiring, are driving increased reliance on guest workers, as farmworkers become less migratory and regional worker shortages grow.
4. Several of the UCLA study's policy recommendations lack supporting evidence or face legal and practical problems, including expanded unionization and reliance on undocumented workers.



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Introduction

An out-of-state researcher has concluded Washington state's H-2A use is primarily due to exploitation of the federal program. In a study published earlier this year, the author's findings lay out four stiff accusations of Washington's agricultural employers:

1. Growers use regulatory loopholes to treat the H-2A program as a default hiring mechanism rather than a last-resort labor program.
2. State enforcement actions confirm that employer misuse of the H-2A program has enabled widespread gender discrimination against women workers and disproportionate displacement on Washington farms.
3. Expanded use of the H-2A visa program has reduced employment opportunities for local immigrant farmworkers across the state.
4. Loss of farm employment has triggered deep and compounding impacts for farmworker households and heightened immigration enforcement.

While the findings in the study are troubling, so, too, is the lack of evidence to support the findings in the paper published through the University of California at Los Angeles Latino Policy & Politics Institute Latina Futures 2050 Lab.

[Manufacturing farmworker displacement: How local agricultural workers are displaced in Washington state](#) draws a straight line between hiring farmworkers with an H-2A visa and the displacement of female farmworkers in the state. The report conveniently turns a blind eye to several key components of federal law, the promotion of unions and the hiring of undocumented workers. The study uses a mixed method approach – using surveys and interviews – with a deceptively small sample size to make generalized statements about all employers and farmworkers in our state and the H-2A program to support the author's bias and a favored policy of farmworker unionization.

Weak Evidence Behind Sweeping Claims

The author claims Washington state's farmers and ranchers utilizing the H-2A program are exploiting a regulatory "loophole" in employment advertising requirements in the pursuit of "managing their labor force more tightly." She argues it "allows growers to manage the mobility of H-2A workers, including when they arrive, work, and leave. ... they have a controlled workforce with little recourse for rights in a program that is highly unregulated, with very little oversight of workplace abuses."

This dramatic conclusion is drawn from just 43 farmworker interviews and 179 surveys. We asked for copies of the data to independently verify the results but were told that none of the study data is available for review and all interview respondents' names have been changed for privacy.

The study notes there are approximately 113,000 farmworkers in Washington state annually. To have a [representative sample](#) of our farmworker community, the study would have needed to gather information from at least 383 people. That sample size would give the author a margin of error of about 5 percent, which is the standard for small population surveys. When “mixed method” studies like these are done, typically interviews are conducted first to help the researcher develop survey questions and overall profiles of “typical” interview respondents. However, none of that information is provided in the published study nor is there any information about how the interviewees were found, how the surveys were distributed, or what the survey data responses revealed.

When contacted about the study methodology, the author replied with the following:

“As you might imagine, confidentiality is the epitome in this type of work. I reached farmworkers for this research through various outlets, primarily by connecting with them myself over the past two years of continuous research in Washington State. In essence, I gained the farmworkers’ trust and focused heavily on qualitative interviews.”

There are only three quotes in the study. One from an anonymized “president of a major grower association,” one from a Washington State Employment Security Department employee, and an aggregated comment from “workers.” From these three comments and three high-profile cases of abuse of the H-2A program prosecuted by the Washington State Attorney General’s Office, the author concludes that there are systemic abuses of the H-2A program occurring in our state. She provides little to no data to support that claim.

Why Washington Farmers Use H-2A

What testimony in the legislature, data from the Washington State Department of Agriculture and the U.S. Department of Agriculture, and independent data collection demonstrate is that there are numerous factors that have spurred the increase in H-2A use.

Several compounding factors have cut into the agricultural labor market and impacted hiring practices. A [recently released study](#) conducted in-state with more than 643 respondents, noted the overtime law had wrought significant changes in the work structure of farms statewide. Among the results reported were reduced hours among both local and visa-holding employees as well as an interest in having the overtime law altered.

The study also notes a “loophole” in the law allowing agricultural employers to advertise through ESD for job openings. Under the federal rule, employers have strict rules for local employee recruitment ([20 CFR 655.150–655.158](#)) that include:

1. Advertising for 60 days prior to beginning the H-2A hiring process;

2. Contacting all U.S.-based employees who worked with the employer the previous year;
3. Maintaining a full record of every person who applies or is hired;
4. Advertising for at least half of the employment period upon the start of work; and
5. Giving preferential hiring status to local applicants.

The study identifies the “loophole” as employers advertising exclusively online for job openings rather than actively seeking out prospective employees through social media apps or local radio advertisements. However, federal requirements are clear that employers must contact previously employed local workers with the contact information provided during their last term of employment, if those employees were not fired, to offer them employment in the coming work season, making the claim of a “loophole” in the system disingenuous at best.

The disconnect between how the H-2A program works – identifying a lack of local workforce – and claiming farmworkers live “somewhere” in Washington state that can answer the labor shortage is also problematic. There has been a generational shift in the migratory movements of farmworkers, with [83% of farmworkers choosing to settle](#) into a specific locale rather than following seasonal work. This change from a migratory farmworker force to a more sedentary one has also increased the reliance on the H-2A program by creating regional labor scarcity. Because farm work is a job, not a caste, farmworkers also choose other work when the work season is over and do not return. As fewer people respond to job advertisements, the reliance on H-2A applications increases.

The study’s author offers a series of solutions to “fix” the H-2A hiring “loophole” erroneously identified in the study. Each solution offered by the study has its own legal hurdles and challenges attached to it:

1. Strengthen labor rights for farmworkers across the state.
2. Develop a statewide biannual survey to accurately count the number of local farmworkers in the state.
3. Require the Employment Security Department (ESD) to close the H-2A recruitment loophole and mandate meaningful outreach to local farmworkers.
4. Invest and develop emergency rental and childcare assistance programs for all workers.

The author concludes local farmworkers would be more empowered in the workplace if Washington state passed laws that “strengthen worker rights in the workplace.” She suggests, specifically, the passage of Senate Bill 6045, a stalled bill that would have extended the ability to create unions and striking authority to all farmworkers statewide, to better empower local farmworkers. There is no evidence provided in the study to support the conclusion that unionization and striking authority will provide more job opportunities, however.

The study also recommends creating a survey through the Agricultural Seasonal Workforce Services (ASWS) committee “in collaboration with local farmworker rights organizations” to get an accurate count of the number of farmworkers in the state. The suggestion, while admirable, conveniently ignores that surveys through government agencies rely on self-reported data from local and immigrant farmworkers and the ASWS committee already includes members of several farmworker rights organizations. The primary role of the ASWS committee is not data collection, but rather, oversight of the Employment Security Department (ESD) in its capacity as the state agency tasked with ensuring all H-2A-related activities in the state follow federal rules.

The study recommends undocumented workers as part of the solution to filling in the gap in the local workforce and lessening Washington state’s reliance on H-2A workers. There is a significant flaw with this plan: knowingly hiring undocumented workers is illegal. The study author is encouraging agricultural employers to break the law after villainizing the same group of individuals for being exploitative for utilizing what the author calls a “loophole” in federal requirements. The only way agricultural employers can be certain they are hiring people who are legally eligible to work on their farms is to rely on systems like E-Verify, which would automatically preclude undocumented workers from the employment pool. Additionally, this recommended solution is tied to a “mandate” for “meaningful outreach to local farmworkers.” There is, however, no metric for what constitutes “meaningful outreach” or how its success will be measured.

The study’s final recommendation suggests rental and childcare assistance for all workers. There is, however, no proffered funding mechanism for how these rental and childcare assistance programs should be funded. Washington state is currently facing a [budget shortfall](#) not expected to ease before 2031. With the long-term budget forecast in mind, there is little room in the state’s coffers for additional social programs.

Conclusion

There may be a small clue about why some of these errors and oversights exist in the study. When social science research is conducted and relies heavily on qualitative analysis, most studies include an “acknowledgement of bias.” It is a mea culpa from the author alerting the reader there is baggage that has clouded the judgement of the researcher. In the author’s bio she notes she is a “... former immigrant rights and labor organizer whose scholar-activist lens informs her work.” The bio continues, describing her as, “... deeply committed to community-engaged research to better serve farmworker and immigrant communities.” Rather than burying this information in the author bio, it should have been listed at the beginning of the study with a brief explanation about how it informed the author’s work, view of the data collected, and potential ways in which it may have skewed the study’s conclusions or created a blind spot in some of the literature review and research.

There are hundreds of thousands of farmworkers in Washington state. Each of their work experiences is valid and deserving of being told. There is no farmworker story that is unimportant. Research that skews data to make an entire community appear exploitative and abusive, however, devalues the stories of all farmworkers. Particularly when that research is easily dismantled with minimal additional effort

looking at federal regulations, state policy, and researcher biases. Washington state's farmworkers deserve a better platform from which to tell their stories and so, too, do all the H-2A workers who help our farms thrive in the absence of people to fill the 36,000 or so empty positions available annually.

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Pam Lewison is the Director of Agriculture Policy. She is also a fourth-generation farmer raising hay, teff, and other rotational crops and finishes a few beef cattle annually for direct-to-consumer sale. Additionally, she serves as the current Washington CattleWomen's Association president. Her writing and expertise have been featured in ag publications like Capital Press and large news publications like The Seattle Times and The LA Times. She also contributes to the Pacific Research Institute on agricultural issues. Her research has been utilized in numerous hearings in Olympia and she has had the good fortune to work with several lobbyists and legislators on both sides of the aisle. She holds a master's degree in Agricultural Leadership, Education, and Communications from Texas A&M University—College Station and a bachelor's degree in English—Creative Writing from Washington State University—Pullman. Her belief in what WPC stands for in the ag space is simple: food does not have a political party; everyone eats.