

Wafla Commends Washington State Employment Security Department on Improved 2016 Agriculture Wage and Prevailing Practice Survey

Organization Praises Agency Engagement in Survey Drafting Process

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Olympia -The Employment Security Department (ESD) has released its 2016 Agriculture Wage and Prevailing Practice Survey, which will be sent to agricultural employers in September. The ESD surveys agricultural employers annually about wages, bonuses and housing, and the U.S. Department of Labor uses that data to set minimum wages and employment standards for employers who use the H-2A legal worker program.

“We commend the ESD on its hard work and improvements to the Agriculture Wage and Prevailing Practice Survey,” said Dan Fazio, wafla Executive Director. “The 2016 survey is a clear improvement from the 2015 survey and comes much closer to the standards required by the Department of Labor.”

“ESD was extremely responsive in working with wafla and other stakeholders this year and the agency adopted nearly all of our recommendations,” continued Fazio. “We thank them for this.”

Wafla will be hosting one or more webinars with ESD staff to explain the survey to growers. Wafla encourages all of its members to attend the webinars to gather information about the survey.

“We neither encourage nor discourage wafla members from completing the survey,” said Fazio. “The survey is voluntary and it’s up to each individual wafla member to decide whether or not to participate in the survey.”

ESD has made many changes and improvements to the 2016 survey. The biggest change for 2016 is that ESD is going to separately survey workers in order to test the veracity of the employer survey. Another major change in this year’s survey is that it will be administered by the University of Washington. The 2015 survey was administered by Washington State University. “We thought that Washington State University did an outstanding job with the survey,” said Fazio.

However, key survey issues related to wages and practices questions remain unresolved. The most important unresolved issue for the survey is to determine piece rate wages. Guidance for these surveys was written over 30 years ago, when it was permitted in many places for agricultural employers to pay solely by piece rate, without a minimum hourly guarantee. Federal survey guidance documents therefore require the ESD to indicate when a piece rate carries an hourly guarantee, and this is even

more crucial today when government imposed prevailing wages and living wage mandates may differ among respondents.

“Wafila’s position is that the ESD survey must quantify the hourly guarantee that an employer is offering in order to accurately determine the true wage,” said Fazio. “In the 2016 survey, ESD has inserted a footnote which tries to accomplish this, but does not require employers to report the specific hourly guarantee, and therefore it will not effectively capture the hourly guarantees for employers who use the H-2A program.”

“Although the 2016 survey will not effectively capture hourly guarantees for employers who use the H-2A program, it’s a step in the right direction,” continued Fazio. “However, the larger point is that piece rates are a dynamic, market driven pay scale that are not amenable to government surveys, mandates, and wage setting.”

In addition to wage information, the survey also asks about prevailing practices. Prevailing practice information will not be used from employers who use H-2A, because the purpose of the survey is to obtain information regarding the employment practices of employers who do not use H-2A.

Housing is the most important issue related to prevailing practices. The H-2A program requires free housing for workers, and could also require free housing to non-employee family members if it is a prevailing practice among employers who do not use the H-2A program.

The current prevailing practice in Washington is that employers either do not provide any housing, or provide free housing only to workers. The 2016 survey makes it clear that free housing means totally free housing, however, the survey falls short in allowing employers to answer yes if they provide free family housing to **any** domestic seasonal worker who requests it.

“We believes that the question should only be answered in the affirmative if the employer provides free family housing to **all** domestic seasonal workers who request it,” stated Fazio. “That would be a more accurate reflection of the information DOL seeks to capture related to housing.”

“All-in-all, the 2016 survey is a vast improvement over the 2015 survey,” said Fazio. “And we look forward to continuing to work with ESD, and other stakeholders, to continue to improve the survey so that it accurately reflects agricultural wage and prevailing practices for H-2A workers.”

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