Immigration: SAWs, IRCA, H-2A

Philip Martin: plmartin@ucdavis.edu
Highlights

• Waves of newcomers = core of seasonal workforce: Chinese, Japanese, Filipinos, Dust Bowl, Mexicans. Who next?
• IRCA (1986) assumption: legalize current unauthorized, & labor costs rise to retain SAWs or hire H-2A. Wrong.
• AgJOBS (2000): try IRCA again, with changes:
  – Must continue to work in agriculture after legal
  – New guest workers: no housing, lower AEWR
• H-2A: from east to west coast program?
CA began with big farms: wheat & cattle in 1860s
Golden Spike: May 10, 1869

Transcontinental Railroad

Promontory Point
Sacramento
Omaha

The Last Rail is Laid
Break up big CA farms to get workers for fruit?

• Assumption: fruit farming requires to get seasonal workers
• But 12,000 Chinese RR men were available. Driven out of SFO and SMF. Farmers hired Chinese (come with wind, go with dust)
• Economic effect: low wages paid to Chinese were *capitalized* into higher price of land
• Small farmer: pay high price for land, but value of farmer’s time for doing own work = same (low) wages paid to Chinese
“With no particular effort on the part of the employer, a farm labor force would emerge when needed, do its work, and then disappear—accepting the terms and conditions offered without question.”
Chinese to Japanese

• 1882: US stopped additional Chinese migration
  – Would California get Iowa family farms producing fruit?
  – No, Japan permitted emigration in 1886

• Japanese: newcomers = lowest wages but:
  – Quickie strikes (Japanese=$0.50/day, Chin=$1)
  – Some Japanese work for a share of the crop, sell to consumers, get marketing experience
  – Buy marginal land, grow vegetables to sell
Japanese: 1886 until 1907 Gentlemen’s Agreement
Durst Hop Ranch
Site of Wheatland Hop Riot
August 3, 1913
SECOND MAJOR LABOR DISPUTE IN THE U.S.A.
INITIATED BY THE I.W.W. LABOR MOVEMENT
Dedicated August 3, 1988
Camp Far West Parlor No. 218 N.D.G.W.
Wheatland Historical Society
Braceros 1: 1917-21
GET RID OF ALL FILIPINOS OR WE’LL BURN THIS TOWN DOWN
Mexican repatriation: Early 1930s
Dorothea Lange and Paul Taylor
THE GRAPES OF WRATH
John Steinbeck
Los Braceros
1942-1964

The Bracero Program
1942-1964

Bittersweet Harvest

Los Braceros
1942-1964
4.6 million Braceros
5.3 million apprehensions

<table>
<thead>
<tr>
<th>Year</th>
<th>Braceros</th>
<th>Apprehensions</th>
<th>Mexican Immigrants</th>
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<tbody>
<tr>
<td>1942</td>
<td>4,203</td>
<td>11,784</td>
<td>2,378</td>
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<tr>
<td>1943</td>
<td>52,098</td>
<td>11,175</td>
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<td>62,170</td>
<td>31,174</td>
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<td>1945</td>
<td>49,454</td>
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<tr>
<td>1946</td>
<td>32,043</td>
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<td>1947</td>
<td>19,632</td>
<td>193,657</td>
<td>7,558</td>
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<td>1948</td>
<td>35,345</td>
<td>192,779</td>
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<tr>
<td>1949</td>
<td>107,000</td>
<td>288,253</td>
<td>8,803</td>
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<tr>
<td>1950</td>
<td>67,500</td>
<td>468,339</td>
<td>6,744</td>
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<tr>
<td>1951</td>
<td>192,000</td>
<td>509,040</td>
<td>6,153</td>
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<tr>
<td>1952</td>
<td>197,100</td>
<td>528,815</td>
<td>9,079</td>
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<tr>
<td>1953</td>
<td>201,380</td>
<td>885,587</td>
<td>17,183</td>
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<tr>
<td>1954</td>
<td>309,033</td>
<td>1,089,583</td>
<td>30,645</td>
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<tr>
<td>1955</td>
<td>398,650</td>
<td>254,096</td>
<td>43,702</td>
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<tr>
<td>1956</td>
<td>445,197</td>
<td>87,696</td>
<td>61,320</td>
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<tr>
<td>1957</td>
<td>436,049</td>
<td>59,918</td>
<td>49,321</td>
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<tr>
<td>1958</td>
<td>432,857</td>
<td>53,474</td>
<td>26,721</td>
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<tr>
<td>1959</td>
<td>437,643</td>
<td>45,336</td>
<td>22,909</td>
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<tr>
<td>1960</td>
<td>315,846</td>
<td>70,684</td>
<td>32,708</td>
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<tr>
<td>1961</td>
<td>291,420</td>
<td>88,823</td>
<td>41,476</td>
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<td>1962</td>
<td>194,978</td>
<td>92,758</td>
<td>55,805</td>
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<tr>
<td>1963</td>
<td>186,865</td>
<td>88,712</td>
<td>55,986</td>
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<td>1964</td>
<td>177,736</td>
<td>86,597</td>
<td>34,448</td>
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<tr>
<td>Total</td>
<td>4,646,199</td>
<td>5,307,035</td>
<td>545,941</td>
</tr>
</tbody>
</table>
Chavez: Time 1969; but few contracts in 1973
BOYCOTT

GALLO WINE!

If your kids are among the luckiest students in the nation, they will have a union teacher to guide their studies, union members who provide custodial and support services, possibly a union principal and their school bus drivers may be union. When they pledge allegiance to the flag, most likely, it will be union made by workers at the Annin Flag Co.

Editors note: as with all Do Buy lists this list does not include all available union-made products and services. We welcome your suggested additions and invite you to add your products to our online database at www.unionmade.org.
Figure 9
Agricultural Labor Relations Board
Elections Held
1975-76 Through 1995-96

ULP Charges Filed, 1975-1997

Source: ALRB Cumulative Statistics. Prepared by Vijay Pradhan and Howard Rosenberg

Agricultural Labor Relations Board
"La Ley Laboral"

Popular Links
- ALRB Decisions
- Office Directory
- Job Opportunities
- GC Press Releases
Harvest labor down 90%
1979: 1st contracts under ALRA expiring.
UFW: strike for wages up $3.75 to $5.25, 40% increase.
Chavez & Brown
CA 1983: ¾ Mex-born; 20% US-born, 25% unauthorized, 50% unauthorized in citrus, raisins, & tree fruit; solo men
1986: 1.6 million Mexicans apprehended just inside US, over 4,300 a day
President Reagan signed IRCA in 1986: sanctions on employers & amnesty for 2.7 million unauthorized foreigners, 85% Mexicans
Migrants' False Claims: Fraud on a Huge Scale

By ROBERTO SURO, Special to The New York Times
November 12, 1989

"One certain product" of the agricultural amnesty program [SAW], Rep Schumer (D-NY) said, "is that in developing immigration policies in the future, Congress will be much more wary of the potential for fraud and will do more to stop it."

Ag: 2% of US workers, but SAWs = 40% of those legalized under IRCA

California farm workers and the SAW legalization program
Philip L. Martin  J. Edward Taylor  Philip Hardiman

There are some indications that the Special Agricultural Worker program has been too successful

The Immigration Reform and Control Act of 1986 (IRCA) provides that workers with 90 days of qualifying work in the 12 months ending May 1, 1986, may become legal U.S. residents under the Special Agricultural Worker (SAW) program. This article reviews the characteristics of workers reported by California farm employers to unemployment insurance (UI) authorities in 1985 to project SAW applications.

California farm employers reported nearly 906,000 workers in 1985 (table 1). Analysis of a 5% sample of these workers shows a farm payroll of $2.8 billion and 10.5 million weeks of farm work. The "average" worker earned $3,100 for 12 weeks of work. Three-fourths of all workers had just one farm job in 1985; the 237,000 with more than one farm job averaged 2.2 each. About 12% of all workers were migrants, and 25% were seasonal workers. These UI figures include all those employed on California farms—farm workers, supervisors, clerks, and accountants. About two-thirds of the total were farm workers.

SAW legalization requires that employers pay $100 or more in wages during a calendar quarter to report the names, Social Security numbers, and earnings of their employees and to pay a tax of 3% to 6% on the first $7,000 of each employee's earnings. We obtained a 5% random sample of all workers who were reported at least once by a crop, livestock, or agricultural services employer in 1985. Of the 1.2 million workers reported, 433,000 California SAW applicants. These figures suggest that employers did not report large numbers of farm workers to UI.
1990s: Unauthorized spread out

- NAWS 1995: 50% unauthorized. Farmers: we need alternatives to H-2A (17,000 certs)
- 1996: Rep Richard Pombo (R-CA): allow 250,000 guest workers via employer attestation, with 25% of wages withheld to induce returns
- 1998: AgJOBS approved in Senate (Clinton threatened veto)
  - 10 month visas IF not enough US workers on registries; up to 28% tax & wage withholding
  - IF worker does > 6 months farm work in each of 4 years, can become immigrant
Presidents Fox & Bush elected in 2000. AgJOBS negotiated
AgJOBS: Legalization & Guest Workers

• Legalization: unauthorized become probationary immigrants & earn regular immigrant status with:
  – >150 days of farm work a year for 3 years or
  – >100 days of farm work a year for 5 years
  – New mechanisms to credit workers for farm work not done due to natural disaster, strikes, pregnancy etc

• Guest worker changes:
  – Attestation: employer asserts need. End DOL-supervised recruitment of US workers
  – Housing allowance instead of free housing; workers find own housing (adds $1 to $2 an hour to labor costs)
  – AEWR of $11 an hour (CA in 2014) rolled back by $1 to $2 an hour and studied (wage rollback offsets new housing allowance)
Piece meal or comprehensive immigration reform?
May 1, 2006: Demonstrations against enforcement only
What does the Act Provide?

The Senate bill includes...
1. A path to permanent legal status for most of the 12 million undocumented immigrants in the country
2. A new temporary worker program
3. Significant increases in family- and employment-based permanent visas
4. Important reforms to the agricultural worker program
5. Significant reforms to the high-skilled immigration programs
6. Relief for undocumented high school graduates (DREAM Act).

The bill also includes some very harsh enforcement provisions and erosion of due process protections that will need to be addressed and corrected as negotiations move forward.

Current Status

The Comprehensive Immigration Reform Act (CIRA) of 2006 passed the U.S. Senate 62-36 on May 25, 2006. Since that time, leaders in the House of Representatives have indicated that they are not willing to accept many of the provisions in the Senate bill, including provisions which create a path to citizenship for the 11-12 million undocumented in the country.

House leaders have since announced their intention to hold hearings throughout the country in July and August to hear the opinion of the American people on the provisions in the Senate bill.

Take Action to Shape the Bill!

The CIRA has been approved by the Senate and must next be approved by the House of Representatives. During this time, the bill will be discussed and modified. Influence what it will say.

Call or fax your Representative and Senator and tell them to endorse:

1. A viable path to citizenship for the 11-12 million undocumented in the country
2. A temporary worker program which protects the rights of all workers
3. Reform of the family-based immigration system to reduce waiting times for family reunification
4. Restoration of due process protections for immigrants

Source: American Immigration Lawyers Association
2006 Senate: Comprehensive

• Enforcement: border fences, more BP agents, all employers must use E-Verify, but no national ID

• Earned legalization: 3 groups
  – 7 mil >5 years in US: immediate probationary status, & after 6 years can become regular immigrants
  – 3 mil in US 2-5 years: immediate proba status, but return to countries of origin and re-enter US legally (touchback) to become regular immigrants
  – 2 mil in US <2 years: no status; expected to leave

• New H-2C guest workers: employers make job offers to foreigners who get 4-year H-2C visas
2007 Senate: NO to comprehensive Reform

• Enforcement: border fences, more BP agents, mandatory E-Verify, certify that enforcement working before legalization

• Tougher earned legalization:
  – All 12 million unauthorized could apply for indefinite Z-1 work visas
  – Z-1 could become regular immigrant after 8 years: $4,000 fine, pass English test, & return to apply in country of origin (touchback)

• New Y-1 guest workers: employers make job offers to foreigners who receive 2-year renewable Y-1 visas
2013 Senate gang of 8: Republicans on top
6 things to know about the new immigration bill S.744.

1. It's been a long time coming. For the first time in years, we have a real chance to create lasting change in our broken immigration and enforcement systems.

2. Citizenship. An achievable path to citizenship for 11 million aspiring citizens who are currently undocumented.

3. Keeps families together. This bill contains provisions to reunite families separated by immigration detention and deportation.

4. DREAMers. Young adults brought to the U.S. as children would be given a five-year path to citizenship if they've stayed in school or performed military service.

5. Worker protections. Exploited immigrant workers who blow the whistle on employer abuse would be eligible to apply for special visas. Employees who underpay or abuse undocumented workers would face 10-year imprisonments and enforced back-pay compensation.

6. Achievable border security. We need to stay vigilant to make sure border security measures don't become an excuse to stop the undocumented from receiving legal status and earning citizenship.

Call your Senator and ask for a path to citizenship 888-979-7604 #TimeisNow

Crime Pays Under S.744

Registered Provisional Immigrants

U.S. Citizens & Legal Immigrants

Compare the Consequences of the Crimes

<table>
<thead>
<tr>
<th>Crime</th>
<th>Illegal Immigrants Under S.744</th>
<th>U.S. Citizens &amp; Legal Immigrants</th>
</tr>
</thead>
<tbody>
<tr>
<td>Misdemeanor offenses, including but not limited to driving under the influence, assault, battery and crimes of domestic violence</td>
<td>Eligible for crime to be waived for RPI status</td>
<td>Up to 1 year in jail for each offense under 18 U.S.C. 3559</td>
</tr>
<tr>
<td>Falsely representing or knowingly using a Social Security Number obtained with false information</td>
<td>Eligible for crime to be waived for RPI status</td>
<td>Felony punishable by up to 5 years under 42 U.S.C. 408(a)(7)(A), (B)</td>
</tr>
<tr>
<td>Falsely claiming citizenship on Form I-9</td>
<td>Eligible for crime to be waived for RPI status</td>
<td>Felony punishable by up to 3 years under 18 U.S.C. 911</td>
</tr>
<tr>
<td>Knowingly altering a Social Security Card</td>
<td>Eligible for crime to be waived for RPI status</td>
<td>Felony punishable by up to 3 years under 42 U.S.C. 408(a)(7)(C), (B)</td>
</tr>
<tr>
<td>Document fraud to prove eligibility for employment</td>
<td>Eligible for crime to be waived for RPI status</td>
<td>Felony punishable by up to 15 years imprisonment under 18 U.S.C. 1546(a)</td>
</tr>
<tr>
<td>Willful failure to pay tax, file a return, keep required records, or supply required information</td>
<td>Eligible for crime to be waived for RPI status</td>
<td>Imprisonment up to 1 year or a fine up to $25,000 (or both) under 26 U.S.C. 7203</td>
</tr>
<tr>
<td>Willful attempt by any person to evade or defeat any tax or the payment of any tax</td>
<td>Eligible for crime to be waived for RPI status</td>
<td>Imprisonment of up to 5 years or a fine up to $100,000 (or both) under 26 U.S.C. 7201</td>
</tr>
<tr>
<td>Unlawfully present aliens who were in U.S. for more than 180 days but less than 1 year &amp; voluntarily depart the country</td>
<td>Eligible for crime to be waived for RPI status</td>
<td>Prohibited from reentering the U.S. for 3 years under 8 U.S.C. 1182(a)(9)(B)</td>
</tr>
<tr>
<td>Unlawfully present aliens who were in U.S. for 1 year or more &amp; departed or were removed from the country</td>
<td>Eligible for crime to be waived for RPI status</td>
<td>Prohibited from reentering the U.S. for 10 years under 8 U.S.C. 1182(a)(9)(B)</td>
</tr>
</tbody>
</table>
Obama: I will “fix as much of our immigration system as I can on my own, without Congress” in 2014.
November 20, 2014: Expand Deferred Action for Child Arrivals (DACA) for unauthorized youth brought to US
November 20, 2014: Deferred Action for Parental Accountability (DAPA) for unauthorized parents of legal children. 3-year work permits
**DACA:** from 1.2 to 1.5 million eligible for work permits  
**DAPA:** 4 million adults eligible for work permits

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**Estimated number of illegal immigrants who could get relief from deportation under the president’s immigration plan**

<table>
<thead>
<tr>
<th><strong>NEWLY ELIGIBLE</strong></th>
<th>** Already eligible for the deportation deferral program for young immigrants**</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parents of U.S. citizens and legal permanent residents in the U.S. for five or more years <strong>more than 4 million</strong></td>
<td><strong>270,000</strong></td>
</tr>
<tr>
<td>Population newly eligible under expansion of deportation deferral program for young immigrants</td>
<td><strong>1.2 million</strong></td>
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H-2As: 75,000 in FY07, 140,000 FY15. Fresh Har = 1/3 of CA

### Applications Received

<table>
<thead>
<tr>
<th></th>
<th>YTD</th>
<th>Q1</th>
<th>Q2</th>
<th>Q3</th>
<th>Q4</th>
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<tbody>
<tr>
<td>Florida</td>
<td>17,942</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>North Carolina</td>
<td>17,696</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Georgia</td>
<td>14,393</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Washington</td>
<td>11,844</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>California</td>
<td>8,591</td>
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<tr>
<td>Louisiana</td>
<td>7,787</td>
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<tr>
<td>Kentucky</td>
<td>6,722</td>
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<tr>
<td>New York</td>
<td>5,039</td>
<td></td>
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<tr>
<td>Arizona</td>
<td>3,763</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>South Carolina</td>
<td>3,594</td>
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### Applications Processed

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<th>Q2</th>
<th>Q3</th>
<th>Q4</th>
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</thead>
<tbody>
<tr>
<td>Total</td>
<td>7,568</td>
<td>1,022</td>
<td>3,407</td>
<td>2,124</td>
<td>1,015</td>
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<tr>
<td>- Certified</td>
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<td>964</td>
<td>3,298</td>
<td>2,011</td>
<td>932</td>
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<tr>
<td>- Denied</td>
<td>210</td>
<td>38</td>
<td>57</td>
<td>64</td>
<td>51</td>
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<tr>
<td>- Withdrawn</td>
<td>163</td>
<td>30</td>
<td>52</td>
<td>49</td>
<td>32</td>
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<tr>
<td>Positions Requested</td>
<td>145,874</td>
<td>22,639</td>
<td>45,480</td>
<td>49,020</td>
<td>28,735</td>
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<tr>
<td>Positions Certified</td>
<td>139,832</td>
<td>21,720</td>
<td>43,740</td>
<td>47,092</td>
<td>27,280</td>
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</tbody>
</table>

### Top States

- Florida: 30%
- North Carolina: 13%
- Georgia: 10%
- Washington: 8%
- California: 6%
- Louisiana: 5%
- Kentucky: 3%
- New York: 3%
- Arizona: 2%
- South Carolina: 2%
- Remaining States: 13%

### Top Crops

- Tobacco: 9%
- Berries: 5%
- Hay and Straw: 4%
- Apples: 4%
- Oranges: 3%
- Fruits and Vegetables: 3%
- Nursery and Greenhouse Workers: 3%

### Top Crops/Occupations

- Tobacco: 23,291
- Berries: 12,358
- Hay and Straw: 6,763
- Apples: 6,641
- Oranges: 5,733
- Fruits and Vegetables: 5,421
- Nursery and Greenhouse Workers: 4,997

### Top 10 Employers

- North Carolina Growers Association, Inc. (NCGA): 11,767
- Washington Farm Labor Assn.: 7,895
- Fresh Harvest, Inc.: 3,176
- Zirkle Fruit Company: 2,889
- Rodrigo Gutierrez-Tapia: 2,308
- Virginia Agricultural Growers Assn., Inc. (VAGA): 1,626
- R & R Harvesting, Inc.: 1,578
- Peri & Sons Farms, Inc.: 1,565
- H-2A Complete II, Inc.: 1,533
- Sierra Cascade Nursery, Inc.: 1,305

### Remaining States

- Tobacco: 23,291
- Berries: 12,358
- Hay and Straw: 6,763
- Apples: 6,641
- Oranges: 5,733
- Fruits and Vegetables: 5,421
- Nursery and Greenhouse Workers: 4,997

---

*Numbers represent the number of worker positions certified.*
Super labor contractors move H-2A from farm to farm?

Seasonal employers need a legal and stable workforce. WE CAN HELP!

H-2A or H-2B FREE CONSULT
Click here!

AgWorksH2
your fast track for reliable, legal labor
H-2A: is legal & tied to a US employer better than unauthorized?
If free agent guest workers, how many? How to monitor?