

**Governor's Council on Migrant Labor Minutes**  
Wednesday, January 18th, 2023  
10:00 AM – 12:00 PM/Noon  
Via MS Teams

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Call to order: 10:00 AM CST

Meeting recorded via MS Teams at 10:00 AM CST

Roll Call taken by **Katie Mueller**

**MEMBERS PRESENT:**

Lupe Martinez (in and out of the meeting due to technology issues), Ben Obergon, Erica Sweitzer-Beckman, John Bauknecht, Laura Waldvogel, Jose Martinez, Erica Kunze, Aimee Jo Castleberry, Carolyn (Carrie) Flyte, Kate Lambert, Rep. Jodi Emerson

**DWD STAFF PRESENT:**

Katie Mueller (Section Chief – BJS), Dom Tervalon (Program & Policy Analyst – BJS), Angelica Vasquez (State Monitor Advocate – BJS), Jennifer Wakerhauser (DWD Chief Legal Counsel), Caitlin Madden (DWD Deputy Legal Counsel), Arielle Exner (Legislative Liaison), Elena Guzman (Employment and Training Analyst – BJS), Beatriz Contreras (Employment and Training Specialist – BJS),

**OTHERS IN ATTENDANCE:**

Corey Walton (USDOL), Jenna Carte (USDOL)

**AGENDA ITEMS**

**1. CALL TO ORDER:**

**Lupe Martinez** called the meeting to order at 10:00 AM CST. The roll was taken by **Katie Mueller**. There were a quorum with 8 members present at the time of roll call.

**2. ELECTION OF COUNCIL OFFICERS**

**Erica Sweitzer-Beckman** asked for verification on the nomination of individuals who aren't present. To answer **Katie Mueller** asked **Caitlin Madden**. **Caitlin** shared that there wasn't anything in the Bylaws or Roberts Rules that said it wasn't possible. There should however be an acceptance of the nomination as acknowledgement.

**Lupe Martinez** called in due to issues with the internet in his area.

**Erica Sweitzer-Beckman** nominated **Lupe Martinez** as Council Chairperson. **John Bauknecht** seconded with **Lupe** accepting.

Regarding nomination process, **Lupe** reminded **Erica Sweitzer-Beckman** that nominations should be called three times before finalizing nomination. **Lupe Martinez** also confirmed declaration by acclamation for elections.

**John Bauknecht** nominated **Jose Martinez** as Vice Chair with **Jose** accepting. **John** then nominated **Erica Sweitzer-Beckman** as Secretary. **Erica** accepted the nomination.

### **3. APPROVAL OF AGENDA AND PRIOR MEETING MINUTES**

**Laura Waldvogel** motioned for approval of this meeting's agenda.

**Jose Martinez** seconded. August 3<sup>rd</sup> minute approval first motioned by **Jose Martinez** and seconded by **Laura Waldvogel**. August 19<sup>th</sup> minute approval first motioned by **Laura Waldvogel** and seconded by **Jose Martinez**.

**Lupe Martinez** asked **Erica Sweitzer-Beckman** to take over meeting due to bad wifi at his current location.

### **4. US DEPARTMENT OF LABOR (USDOL) WAGE AND HOURS UPDATE**

**Corey Walton** led presentation on outreach update with emphasis on two items.

1. **Corey** mentioned an outreach effort taking place in Minnesota. He wanted to see if there was any interest in Wisconsin for the same type of outreach. The program focuses on addressing questions about how the complaint process works and who to contact. This is a five-agency collaboration between USDOL, EEOC, the State of Minnesota, OSHA and Federal OSHA. Training for MSFW staff in Minnesota took place on how to deliver this outreach. **Corey** said he'd follow up with this group to update them on how the training went to see if there'd be interest for the same type of training in Wisconsin.
2. **Corey** brought up an email he sent out regarding a press release for a case that involved two Wisconsin forestry-based companies where \$1.1 million was found for 263 workers.

**John Bauknecht** had an observational question for USDOL. He had some concerns over the collaborative handling of different cases across the complaint process initiative. **John** noted that investigation issues would occur in dealing with one agency getting a report on an issue(s)

and not sharing it with the other agencies. This presents a problem with cycling information during investigations leading to lack of collaboration. John wanted there to be emphasis on how to speed up investigation processes that will lead to a uniform, jointed investigation where all wrongdoing is effectively reviewed and examined. **Jenna Carte** answered that collaboration only occurs when there's an overlap of jurisdiction for the same program area(s). Agencies have to follow their own screening processes. **John Bauknecht** followed up by explaining the issue of an agency working with the migrant worker having to determine the best agency to contact regarding an issue(s). **John** shared a case of migrants being sexually assaulted in camp, not receiving pay and being discriminated against. **Jenna** said that USDOL Wage and Hour's could look into the no pay factor and that they'd share the other issues with affiliated partners to examine.

**Jose Martinez** wondered if USDOL has had discussions on putting together a potential task force for proper coordination of investigations. **Erica Sweitzer-Beckman** noted that the Code of Federal Regulations provides a structured code for investigation of cases. This requires annual meeting of agencies and division. She shared an example of a group that conducts these meetings in the form of the Chicago Area Workers Rights Initiative. Erica also said that it would be good to include foreign labor certification as a focal point along with wage and hour.

**Jose Martinez** commented on the impact of the pandemic to the migrant population. This is due in part to mobile farm workers finding out that they've been replaced at their previous employer by H2A workers. **Jose** wanted to know the process of filing a proper complaint that won't affect workers getting back to work.

**Erica Sweitzer-Beckman** said that **Jose's** comments were a great segway into the Migrant Labor Laws portion of this meeting. She shared that the laws require that workers meet H2A qualification and gain proper training to meet these requirements.

## **5. MIGRANT LABOR LAWS**

**Katie Mueller** let the group know what that **Rep. Jodi Emerson** joined the meeting. She went on to answer **Jose's** question in regard to the hiring of H2A workers. **Katie** said employers must accept applications and hire qualified domestic workers halfway through the H-2A contract. Workers must provide resumes and meet minimal job requirements. According to ETA 790 materials must be submitted to DOL with a job description. Katie recommended reaching out to MSFW Staff including the new Foreign Labor Certification coordinator, **Elena Guzman**. Staff will work with employers on referrals. The employer must provide the same benefits to the non-H-2A worker as they do H-2A workers including housing for workers outside the commuting area. Resume assistance is available through local job centers and through outreach workers.

## **6. STAFFING UPDATES**

**Katie Mueller** briefly introduced **Elena Guzman** who started with DWD in November 2022. **Elena** has been working through the H2A applications that have been submitted.

**Arielle Exner** was introduced by **Katie** as the new Legislative Liaison who started yesterday, January 17<sup>th</sup>.

**Katie** mentioned that the reappointment of council members will be discussed later in the meeting.

## **7. STATUS REPORT UPDATE**

**Katie Mueller** started by sharing that on January 11<sup>th</sup> Migrant Housing Applications were submitted to the Wisconsin Farmworker Coalition with 69 received: 60 to house H2A Visa workers; 1 migrant and 8 for both.

**Katie** shared numbers from the end of 2022 with 232 camp applications being submitted with 22 camps being certified, 20 of which are H2A certified, 2 for both, 227 camps were certified. There were 2,874 activities conducted, no contractors certified as January 1<sup>st</sup>. At the end of 2022 there were 40 certified contractors with 54 agents.

Foreign Labor Certification:

- 162 H2A application submitted
  - 2,642 workers
    - DOL approved 2,614 works
- Last Wednesday, 42 applications received
  - 522 workers requested
    - 10 approved

**Erica Sweitzer-Beckman** suggested that it would be helpful to have the updated list of contracted farm laborers circulated like the camp certification reports. She felt it would be good for workers to know if they're certified or not. **Katie** made a note of **Erica's** suggestion for the future. **Jose Martinez** asked if there's a similarity in numbers of H2A workers approved last year compared to this year at the same time. **Katie Mueller** had no answer at the time. **Katie** said there could be some monthly breakdown of numbers for the near future.

## **8. DWD RULE 301 UPDATES**

**Katie** confirmed that work is being done on the rule. Currently, there's no timeline update. Internal reviews are taking place. Ad Hoc Committee is working through changes with workshops and feedback sessions from with attendees and council members can attend. **Erica Sweitzer-Beckman** clarified that changes to DWD 301 rule must be approved by the council. **Erica Sweitzer-Beckman** asked if we can expect a specific quarter for any updates. **Katie**

**Mueller** said currently there's nothing to report only that work is being done. **Jennifer Wakerhauser** chimed in with the factor of the Legislature being back in session affecting the time with drafting the rule updates. **Laura Waldvogal** said that a timeline would be helpful especially considering the health and safety of the farm workers. **Kate Lambert** wanted to know if there'd be a lead time for employers to implement the rule. **Jennifer** answered with it depends on how fast updates make their way through the legislative review process. Council review with public hearing to follow would highlight the group seeing activity on the rule updates. **John Bauknecht** stated that it would be ideal to have rule updates pass before the season begins. **Jennifer Wakerhauser** replied that this would be unlikely to occur even in the best case scenario.

## **9. POPULATION REPORT**

**Katie Mueller** shared the population report via screen share with group: <https://dwd.wisconsin.gov/jobservice/msfw/pdf/migrantpoprep2022.pdf>. **Katie** brought the groups attention to the additional column for DOL's H2A approved workers and how employers either respond or don't respond to survey. She emphasized that tracking of H2A workers began back in 2013. **Katie** mentioned that the numbers aren't 100% accurate due to some working being counted twice based on their changing work environment and/or employer's observation.

**Katie Mueller** pointed to the Annual Report that captured data from June 1<sup>st</sup>, 2021 – July 1<sup>st</sup>, 2022 that will be shared with council members for review upon request to **Katie**. It will be reviewed for approval at the next meeting. Comments and edits can be share with **Katie** as well.

**Erica Sweitzer-Beckman** commented on the Ad Hoc Committee's past participation with DWD on MSFW and Unemployment Insurance (UI) and will be reviewing DWD Rule 301 updates. **Jose Martinez** wondered about the Ad Hoc Committee appointments. He is not a member and would like to be appointed. **Erica Sweitzer-Beckman** had noted the Bylaws recent changes he could be approved during this meeting.

**Erica Sweitzer-Beckman** nominated **Jose** to the Ad Hoc Committee. The Council approved unanimously.

**John Bauknecht** asked who was on the Ad Hoc Committee. **Erica Sweitzer-Beckman** answered (**John Bauknecht, Jose Martinez, Erica Sweitzer-Beckman, Erica Kunze, Aimee Jo Castleberry, Kate Lambert, Laura Waldvogel**) with supported clarification from **Katie Mueller**.

## **10. AD HOC COMMITTEE FOR MINIMAL HOURS UPDATE**

**Erica Sweitzer-Beckman** said that an updates will be available at the next meeting and/or during the summer. The council will be reviewing work guarantee amounts as well as vote and

recommend any changes. She encouraged group participation. Formal committee appointments can be made at March's meeting.

### **11. UNEMPLOYMENT INSURANCE (UI) NAVIGATOR PROGRAM GRANT UPDATE**

Jose Martinez updated the council that things are moving along with 6 locations (5 are up and running; Menominee is waiting on a hire approval before next steps). Office locations in Milwaukee, Wautoma, Oshkosh, Green Bay, Keshena and Menominee. Most of the staff (85%) are bilingual. QR codes are being used for message delivery of the program. Quarterly Report from October to December reflected that 345 participants were contacted, 881 flyers distributed. Outreach efforts target the farm worker community, people of color and tribal communities. **Erica Sweitzer-Beckman** requested an updated program staff list and outreach materials. **Jose** said he'd follow up with his staff on the distribution of these materials along with the quarterly report. **Katie Mueller** would follow up by sharing with the council.

### **12. NEW BUSINESS**

**Laura Waldvogel** left meeting at 11:15 AM. **Katie Mueller** mentioned sharing the council appointment terms and names of council members along with members up for renewal. Process will involve application completion with resume submittal. **Katie** with review applications with **Arielle**.

**Jose Martinez** brought up study on settling of farm worker populations. He wanted to know if it was relevant enough for the group to review and find gaps. **Erica Sweitzer-Beckman** proposed evaluation and review of **Jose's** mentioned study.

**Erica Sweitzer-Beckman** suggested that a training session on the H-2A program could be held that would be for employers and migrant labor advocates to explain the H-2A program and process to better help everyone understand the program.

### **13. PUBLIC COMMENTS**

There were no public comments at the meeting

### **14. MIGRANT LABOR COUNCIL 2023 MEETING SCHEDULE**

**Katie Mueller** shared dates (April 19<sup>th</sup>, 2023; August 23<sup>rd</sup>, 2023 (switched to the 9<sup>th</sup> due to schedule conflicts among council members); October 25<sup>th</sup>, 2023). Virtual meetings will continue for the time being with potential for hybrid options for the near future. **Erica Sweitzer-Beckman** would like one hearing styled meeting for folks to attend in person. **Kate Lambert** suggested at least one more virtual meeting with hybrid options going forward especially for business purposes. April 19<sup>th</sup> meeting will be held virtual via TEAMS

### **15. MEETING ADJOURNED AT 11:34 AM CST**