

The Cultivator

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Official Newsletter for North Carolina Gold Star Growers

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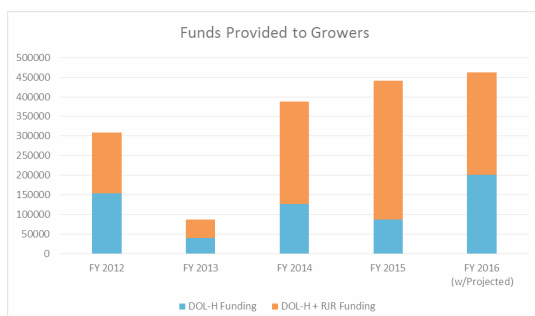
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Telamon and Gold Star Growers: A Winning Team

How do you make the repairs you need to farmworker housing? What about going above and beyond the regulations? Air conditioning! That would be a healthy move. More toilets! The standards require one toilet for 15. Another requested improvement—partitions between toilets, adding stalls. In the clamor for funding assistance, Telamon Corporation came to the rescue.

Founded in 1965, Telamon's mission is "to provide educational services that lead to better jobs, better lives, and better communities." The Telamon Corporation is headquartered in Raleigh. The bulk of this nonprofit organization's income is federal grant money. In 2015, more than \$66,000,000 was received in federal grants and was used in 11 states, primarily in the Southeast.



Telamon has three main lines of business: (1) early childhood and family support services for eligible children and families, including migrant and seasonal farmworker families, using Head Start centers and home-based services; (2) providing employment and training services primarily to migrant and seasonal farmworkers; and (3) providing housing and financial empowerment services. While Telamon provides a variety of services, one of these aligned neatly with those of the Agricultural Safety and Health Bureau's Gold Star Growers Program—a program designed to recognize growers who go above and beyond the requirements of the law in providing migrant housing. From 2012 to 2016, Telamon partnered with a number of North Carolina growers to match funding to improve on-site migrant housing. Telamon provided up to \$7,500 in matching funds for repairs to migrant housing, including improvements to water and septic systems.



Ron Wright, R.J. Reynolds Tobacco

This relationship with Gold Star Growers was a positive one. Many improvements to the migrant housing stock in North Carolina were the result. This partnership has helped make housing safer and more comfortable for thousands of farmworkers. As time went on, R.J. Reynolds Tobacco contributed to the Telamon housing effort, providing support and additional funds targeted to tobacco growers.

But missions change, and the money moves with them. Telamon Corporation determined in 2016 that funding for farmworker housing owned and operated by farm operators, had received substantial benefit here in North Carolina. Telamon planned to move away from on-farm housing projects and direct its efforts to worker education and support.

"We unfortunately no longer have funding to support our on-farm housing programs."

— Suzanne Orozco, Telamon

Suzanne Orozco, executive director of the Telamon Corporation, explained, "We learned in June of 2016 that Telamon was not selected to receive the DOL National Farmworker Jobs Program Housing funds. So regardless of our plans, we unfortunately no longer have funding from DOL or RJR to support our on-farm housing programs."

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By the Numbers

North Carolina is one of the most diversified agricultural states in the nation. The state has about 52,000 farms, which contribute \$78 billion to the state's economy (including food, fiber and forestry), account for more than 17 percent of the state's income, and employ 16 percent of the workforce. How about some details?

No. 1

North Carolina is No. 1 nationally in the production of flue-cured tobacco and sweet potatoes, both labor intensive, high value crops.

Top 20

North Carolina is a Top 20 Migrant and Seasonal Farmworker (MSFW) Significant State with the 7th highest year-round MSFW activity in the nation. Even with the tobacco buyout and increased mechanization over the years, North Carolina growers still need an abundance of labor.

90,000

The N.C. Department of Commerce estimates the statewide Migrant and Seasonal Farmworker (MSFW) workforce during peak harvest at about 90,000 workers, 22 percent of which is H-2A foreign labor.

18,000

More than 18,000 workers in North Carolina's agricultural industry hold H-2A visas legally authorizing them to work temporarily in the United States. H-2A workers can remain in the U.S. until completion of their employment contracts with sponsoring employers. When they finish, workers must return to their country of origin, hoping to be recalled to work the following year. The majority of these workers come from Mexico and work here about 10 months.

1,600

Number of North Carolina growers who use the H-2A system. H-2A employers are required to reimburse workers for the cost of transportation and subsistence from their home country to the place of employment and back upon completion of the work contract.

\$10.72

The hourly wage rate for H-2A workers and workers in corresponding employment. This is set by USDOL's H-2A regulations at 20 CFR 655.120(l). The wage rate is determined by region, and North Carolina and Virginia are in the region designated Appalachian I. Data can be found at <https://www.foreignlaborcert.doleta.gov/adverse.cfm> if you need more information.

300

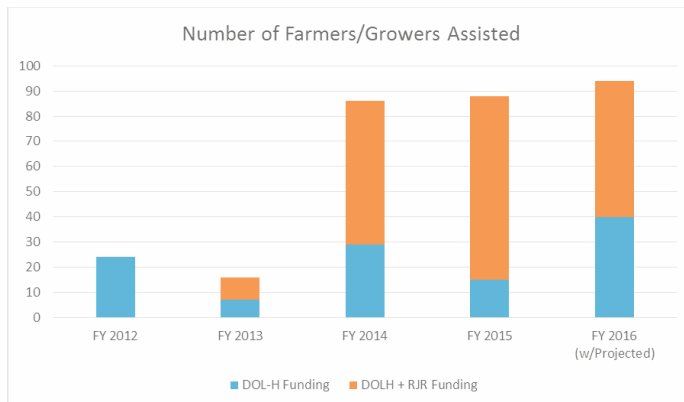
The approximate number of farm labor contractors (FLCs) operating in North Carolina annually.

32

Farm labor contractors (FLCs) who are using the H-2A program in 2016.

Telamon and Gold Star Growers

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When asked about future projects, Orozco added, "We will be closing out the housing contracts that we had already obligated and will finish spending out the R.J. Reynolds funds over the next few months. We do not expect to enter into any more contracts this year."

Telamon's current focus will be providing direct housing support and with it, financial counseling. Other supportive services will be created to serve farmworkers who are enrolled in the USDOL National Farmworker Jobs Program (NFJP) Employment and Training program.

"It was a great program, and we're sorry to see it go!"

— Ron Wright, RJRT

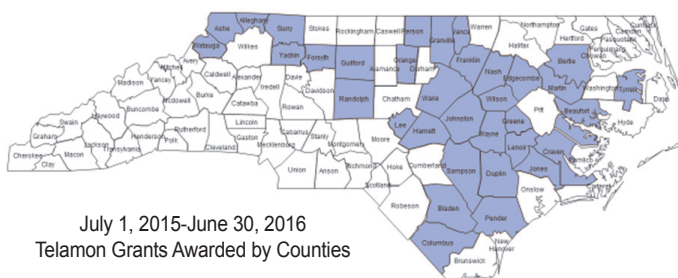
As Ron Wright of RJRT explained, "Once Telamon decided that on-farm housing improvements were no longer their focus, we realized that the Telamon housing program we supported no longer existed. For this reason, R.J. Reynolds had to move funding to other priorities. It was a great program, and we're sorry to see it go!"

The Bottom Line?

Cumulative Statistics for On Farm Housing (OFH) Projects, All Funding Sources, Over 5 Years (At a Glance)

- Total number of farmworkers impacted by Telamon OFH Program: **7,043**
- Total number of farmers/growers receiving Telamon OFH Grant Funds: **310**
- Total amount funding disbursed to N.C. growers for OFH Program: **\$1,079,619.68**

We can all be glad for what was, and appreciate the combined efforts of Gold Star Growers, RJRT and government funding. A good investment!



Farm Safety DVD Update

Building on their past combined and successful efforts, the N.C. Department of Labor, the N.C. State College of Agriculture and Life Sciences video team, and RJR Tobacco have created one safety DVD with multiple farm safety segments. The DVD is composed of 11 bilingual video segments, with each video segment available in both English and in Spanish, running from 5 to 8 minutes each. Specific topics addressed are tractor safety, field sanitation, fork lift safety, green tobacco sickness, heat stress prevention, pesticide information, tobacco baler safety, tobacco harvester safety, wage and hour issues (which includes safe housing), burley production safety issues, and creating a farm safety plan.

The ultimate goal of this DVD is to provide guidance for those who farm and work in tobacco so that all employers and employees are aware of the best safety practices and safety and health regulations. The videos are intended for audiences in multiple states, with attention to both flue-cured and burley tobacco. Each segment is self-contained—you can watch one

segment without viewing others. You will be able to “click and point” to open the video segment you want to view.

The videos are meant to be instructional, focusing on the most essential facts. If the segment discusses a specific law or a regulation, the law/regulation is mentioned and given the correct web address for those who need further information.

Each segment has three guided questions that appear prior to the start of the video segment. The same questions are asked again following that video segment, and the correct responses are given at that time. Each video is short and to the point—they do not cover all aspects of the topic. The focus is on the most critical parts of the topic. Resources in the form of links may be provided if further information is required. If those viewing the DVD have additional questions or concerns, they are advised to contact their supervisor.



What's the Law: FLCs as H-2A Employers

*By: Miguel Rios, USDOL, Wage and Hour Division,
Southeast Region Agricultural Coordinator*

When a farm labor contractor (FLC) obtains certification from the U.S. government to bring in “guest workers” under the H-2A program, the FLC becomes an H-2ALC, or H-2A labor contractor. An H-2ALC is no different than an FLC. In fact, an H-2ALC must first obtain a certificate of registration—or “FLC card”—showing the activities he or she is authorized to perform, such as authorization to house (HA), transport (TA) or drive (DA), prior to submitting an H-2A application.

Q. How do the regulations define an H-2ALC?

A. An H-2ALC is an employer who is not a fixed-site employer, an agricultural association, or an employee of a fixed site employer or agricultural association; and who in addition to employing, may recruit, solicit, hire, furnish, house or transport any worker subject to the H-2A regulations.

An H-2ALC may apply for H-2A employees through the same method as an H-2A fixed-site employer, but with additional requirements. They are limited to a single area of intended employment per application, just as a fixed-site agricultural employer is limited. H-2ALCs must identify the name and location of the jobsite as well as the crops to be harvested and must provide a surety bond and a copy of each contract with each fixed-site employer connected with the job order.

Additionally, H-2ALCs must demonstrate that the housing where the workers will live, whether provided by the fixed-site grower or by the H-2ALC, has been properly inspected and approved for occupancy, and must also ensure that the transportation provided by either the fixed-site agricultural business or the H-2ALC meets the H-2A requirements.

Q. I'm thinking of hiring an H-2ALC to obtain my farm workers. As a grower, what are my responsibilities if I choose this route?

A. Think of the H-2ALC you've hired as if it were any other FLC. You may be considered a joint employer of the H-2ALC's workers, so if the H-2ALC you chose isn't following all of the rules and regulations outlined by the U.S. Department of Labor, you may run into problems. Request all documentation from the H-2ALC—a copy of the FLC card; a copy of the H-2A contract; a copy of vehicle insurance policy showing sufficient coverage under the regulations, etc. Once the work begins, insist on reviewing the H-2ALC's time and payroll records for accuracy. Hiring an H-2ALC should not be viewed as a way of distancing yourself from the workers harvesting your crop. Don't just demand compliance from your H-2ALC, ensure it.

Q. If the H-2ALC is my employee, are the farmworkers his employees or are they considered my employees?

A. If you have an employee who has been certified as an H-2ALC, and he or she continues to be your employee after being certified as an H-2A employer, the H-2A workers furnished to you by the H-2ALC are also your employees. Similarly, if you hire an outside H-2ALC, and put him or her on your payroll as an employee, the H-2A workers are also your employees.

The regulations define an employer as a person (including any individual, partnership, association, corporation, cooperative, firm, joint stock company, trust, or other organization with legal rights and duties) that:

- (1) Has a place of business (physical location) in the U.S. and a means by which it may be contacted for employment;
- (2) Has an employer relationship (such as the ability to hire, pay, fire, supervise or otherwise control the work of employee) with respect to an H-2A worker or a worker in corresponding employment; and
- (3) Possesses, for purposes of filing an Application for Temporary Employment Certification, a valid Federal Employer Identification Number (FEIN).

Q. So what's the best way to ensure that problems don't become my problems?

A. As an employer and a grower, you must be well aware of your potential liability and do your due diligence to make sure the H-2ALC knows the regulations and is in compliance with them. Can you trust the H-2ALC? Do they have proper documentation? Have you seen it?

Q. Proper documentation? What would that be?

A. The H-2ALC qualifies under the Migrant and Seasonal Workers Protection Act as a labor contractor and as such needs to have a number of key work documents. You should ask to see them, and if you choose to hire the H-2ALC, you should keep copies in your work file.

As a grower you need to see: the ETA-790 H2A job order, which will have the grower's worksite and possible housing site listed; a valid FLC license and supporting documents; proof of insurance on vehicles; a valid driver's license; the housing certificates, if the FLC is providing housing; valid pesticide certification; examples of payroll records and proof of fair pay; proper bonding; professional references, such as letters from other growers testifying to the FLC's work quality. Make copies of these documents for your records. If any of these documents are missing, the problems that arise may be yours.

Additional information needed? Refer to:

www.dol.gov/whd/regs/compliance/whdfs26.pdf
www.dol.gov/whd/regs/statutes/mspa_debar.htm

Labor Commissioner Cherie Berry Set to Start a Fifth Term

Cherie Berry won a fifth term as N.C. Labor Commissioner on Nov. 8. This spring's growing season will mark the 17th year of agricultural safety and health under Commissioner Berry's administration.

Commissioner Berry pledged continued support to the grower community and urged those who have not conducted on-farm training to do so.

"Preventing accidents and injuries is good business," Commissioner Berry said. "Have a safety plan in place and train your workers. The newest DVDs produced by our Ag Safety and Health Bureau can assist with the effort."

2017 Gold Star Grower Luncheon Workshop



Gold Star Grower



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Learn more about our **Gold Star Grower** recognition program!

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