

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION OWI
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ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 23-12

TO: STATE WORKFORCE AGENCIES
STATE WORKFORCE ADMINISTRATORS

FROM: JANE OATES
Assistant Secretary

SUBJECT: Instructions and Planning Guidance for the Agricultural Outreach Plans (AOP) for Program Year 2013 and the Designation of Significant Migrant and Seasonal Farm Worker (MSFW) States

1. **Purpose.** The purpose of this Training and Employment Guidance Letter (TEGL) is to transmit guidelines to State Workforce Agencies (SWAs) on the preparation and submission of the AOP, and to designate the significant MSFW states for Program Year (PY) 2013.

2. **References.**
 - a. Wagner-Peyser (W-P) Act, as amended (29 U.S.C. 49 et seq.);
 - b. Workforce Investment Act of 1998 (WIA), as amended (29 U.S.C. 2801, et seq.);
 - c. Wagner-Peyser regulations, 20 CFR 653.107 and 651.10;
 - d. TEGL No. 21-11, *Requirements for 2012 State Workforce Plans*; and TEGL No. 21-11 Change 1, *Inclusion of the American Job Center Brand in 2012 State Workforce Plans*;
 - e. *State Integrated Workforce Plan Requirements for Workforce Investment Act Title I/Wagner-Peyser Act and Department of Labor Workforce Programs (OMB No. 1205-0398)*; and
 - f. *Planning Guidance for State Unified Plans and Unified Plan Modifications Submitted under Section 501 of the Workforce Investment Act (WIA) (OMB No. 1205-0398)*.

3. **Background.** States have a responsibility under W-P regulations to provide services to MSFWs on a basis that is qualitatively equivalent and quantitatively proportionate to services provided to non-MSFWs. As required in W-P regulations at 20 CFR 653.107, each SWA must develop an annual outreach plan, describing its strategies on how to contact MSFWs who are not being reached by the normal intake activities conducted by the local offices. The AOP also describes the activities planned for providing the full range of employment and training services to the agricultural community, both MSFWs and agricultural employers, through the American Job Center (AJC) network (also referred to as the One-Stop Career Center system).

RESCISSIONS None	EXPIRATION DATE June 30, 2014
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The AOP is an annual requirement that previously had been submitted as a separate plan and now is an integral component of the state's Strategic WIA Title I and W-P Integrated or Unified Workforce Plan (State Workforce Plan). Since the development of an AOP is required annually, states must submit the AOP to ETA each year as a modification to their State Workforce Plan. This TEGL provides guidance to SWAs to develop and submit a new AOP as a modification to the State Workforce Plan.

States with approved AOPs as part of their State Workforce Plan must submit the AOP for PY 2013 in accordance with guidance provided in this TEGL. A small number of states received an extension of their State Workforce Plans through June 30, 2013, including an extension to the PY 2011 AOPs. States that are required to submit a full State Workforce Plan must also include the updated AOPs for PY 2013 in their submission, in accordance with guidance provided in TEGL No. 21-11.

The Employment and Training Administration (ETA) is required to designate the 20 states with the highest number of MSFW applicants which are considered the significant MSFW states. This TEGL provides the list of significant MSFW states for PY 2013, and the requirements for those states.

4. **Planning Requirements.** In accordance with the Paperwork Reduction Act, the Office of Management and Budget (OMB) approved the *State Integrated Workforce Plan Requirements for Workforce Investment Act Title I/Wagner-Peyser Act and Department of Labor Workforce Programs* (Integrated Workforce Plan) and *Planning Guidance for State Unified Plans and Unified Plan Modifications Submitted under Section 501 of the Workforce Investment Act (WIA)* under OMB control number 1205-0398. The Integrated Workforce Plan requirements are available on ETA's Web site at <http://www.doleta.gov/usworkforce/wia-planning/docs/integrated-planning-guidance.pdf>. The Unified Plan requirements are available at <http://www.doleta.gov/usworkforce/wia-planning/docs/unified-planning-guidance.pdf>. The detailed requirements for the AOP are found in Attachment A of this TEGL.
5. **Agricultural Outreach Plans.** As outlined in W-P regulations at 20 CFR 653.107, each SWA is required to operate an outreach program in order to locate and to contact MSFWs who are not being reached by the normal intake activities conducted by the local offices. To this end, each state agency must develop an annual AOP, setting forth numerical goals, policies, and objectives. Regulations at 20 CFR 653.107 require that the outreach plan comply with planning instructions and resource guidance issued by ETA. In order to be approved, the outreach plan must include the following elements:
 - Assessment of need
 - Assessment of available resources
 - Proposed outreach activities
 - Services provided to agricultural employers and MSFWs through the AJC network
 - Numerical goals
 - Data analysis

Attachment A of this TEGL provides further details of the data elements and information which are required in the AOP.

- 6. Significant State Designation.** Significant MSFW states are those states designated annually by ETA and include the 20 states with the highest number of MSFW applicants. The designation of the significant states is based on the total number of MSFW participants in the W-P program as reported in the Labor Exchange Reporting System (LERS) 9002A report. The significant MSFW states must make maximum efforts to hire outreach staff with MSFW experience for year-round positions and shall assign outreach staff to work full-time during the period of the highest MSFW activity. Such outreach staff shall be bilingual if warranted by the characteristics of the MSFW population in the state, and must spend a majority of their time in the field.

ETA also identifies the 5 states with the highest estimated year-round MSFW activity. The factors used to establish these top 5 states are W-P activities performed on behalf of MSFWs seeking assistance (e.g., applicant registrations, referrals to employment, referrals to supportive services, career guidance, job search activities, and referrals to WIA services) as reported in the LERS 9002A report. These 5 states must assign, in accordance with state merit staff requirements in W-P regulations at 20 CFR 653.107(i), full-time, year-round staff to outreach duties.

The 5 states with the highest estimated year-round activity (California, Florida, Texas, Washington, and Michigan) correspond with the top 5 significant MSFW states. Attachment B provides the full list of these significant MSFW states and the list of the 5 states with the highest estimated year-round MSFW activity.

- 7. Performance Outcomes.** ETA has established program performance indicators for SWAs reflecting equity indicators and indicators measuring minimum levels of service to MSFWs.

The 5 equity indicators address W-P services and include: 1) MSFWs referred to jobs; 2) MSFWs that received staff-assisted services; 3) MSFWs referred to supportive services; 4) MSFWs provided career guidance; and 5) MSFWs provided job development contacts. All states are required to meet at least 4 of the 5 equity ratio indicators. Achieving equity occurs when the ratio of the services provided to MSFWs over the services provided to non-MSFWs is greater than or equal to one.

The 7 minimum service level indicators address other W-P services to MSFWs and include: 1) MSFWs placed in a job; 2) MSFWs placed in a job with a wage exceeding the Federal minimum wage by at least 50 cents/hour; 3) MSFWs placed long-term (150 days or more) in a non-agricultural job; 4) the review of significant MSFW local offices; 5) field checks on agricultural clearance orders; 6) outreach contacts per staff day; and 7) processing of complaints. All significant MSFW states are required to meet at least 4 of the 7 minimum service level indicators, while the other (non-significant) states should make maximum efforts to meet these same levels.

8. **Action Required for Submission of the AOP.** The SWAs must develop the annual AOPs for PY 2013 as a modification to their five year WIA Title I and W-P Integrated or Unified Workforce Plans and submit the AOPs to the appropriate ETA Regional Administrator within 90 days of issuance of this TEGL, preferably in an electronic format for approval. A copy should also be sent to the National Monitor Advocate, at nma@dol.gov.
9. **Importance of Cooperative Agencies' Participation and Public Comment.** In developing the AOP, and in accordance with 20 CFR 653.107 (d), the SWAs must solicit information and suggestions from WIA 167 National Farmworker Jobs Program (NFJP) grantees, other appropriate MSFW groups, public agencies, agricultural employer organizations, and other interested organizations. In addition, at least 45 days before submitting the final outreach plans to the Regional Administrators, the SWAs must provide the proposed plans to NFJP grantees, public agencies, agricultural employer organizations, and other organizations expressing an interest and allow at least 30 days for review and comment. The SWAs must also provide the State Monitor Advocates an opportunity to review and comment on the AOP. The plan must include the list of organizations from which information and suggestions were solicited, any comments received, and State responses to those comments.
10. **Inquiries.** Please direct questions regarding this notice and instructions to the appropriate Regional Monitor Advocate.
11. **Attachments.**
 - Attachment A: Summary of Annual Agricultural Outreach Plan Requirements
 - Attachment B: List of significant MSFW states and the 5 states with the highest estimated year-round MSFW activity

Summary of Annual Agricultural Outreach Plan Requirements

The Agricultural Outreach Plan (AOP) portion of the State Plan must describe plans for providing services to the agricultural community, both for agricultural employers and Migrant and Seasonal Farmworkers (MSFWs), as described in Wagner-Peyser (W-P) regulations at 20 CFR 653.107, the Workforce Investment Act (WIA) Title I final regulations at 20 CFR 652.107(b)(1), the WIA/W-P Act Integrated Workforce Planning Guidance, and the Unified Planning Guidance. This attachment provides greater detail on what states must include in the AOP section of the State Plan.

A. Assessment of Need. The assessment of need must include:

(i) A review of the previous year's agricultural activity in the state.

- ✓ Identify each major labor intensive crop activity in the previous year, indicating the months of heavy activity and the geographic area of prime activity.

(ii) A review of the previous year's MSFW activity in the state.

- ✓ Estimate the agricultural labor employed in each of the crops identified in item (i) above. Estimate the number of MSFWs involved in each, and indicate crop areas that experienced labor shortages.

(iii) A projected level of agricultural activity in the state for the coming year.

- ✓ Identify any changes from last year's crop activities as described in item (ii) above.

(iv) A projected number of MSFWs in the state for the coming year, which must take into account data supplied by WIA Section 167 National Farmworker Jobs Program (NFJP) grantees, other MSFW organizations, employer organizations and federal and/or state agency data sources such as the U.S. Department of Agriculture and the Employment and Training Administration.

B. Outreach Activities. The proposed outreach activities must be designed to meet the needs of the MSFWs in the state and to locate and to contact MSFWs who are not being reached by the normal intake activities conducted by the local offices.

The plan for the proposed outreach activities must include:

(i) Numerical goals for the number of MSFWs to be contacted during the program year by W-P staff. The number of MSFWs planned to be contacted by other agencies under cooperative arrangements during the fiscal year also should be included in the plan. These numerical goals must be based on the number of MSFWs estimated to be in the state in the coming year, taking into account the varying concentration of MSFWs during the seasons in each geographic area,

the range of services needed in each area and the number of W-P and/or cooperating agency staff who will conduct outreach.¹

(ii) Assessment of Available Resources. The assessment of the resources available for outreach must include:

1. The number of SWA staff positions the state will assign to outreach activities. The assessment must indicate the full-time equivalent positions for each local office to which staff must be assigned, and the number of staff assigned to the state office for this purpose.
2. Where the number of SWA staff positions assigned to outreach activities is less than in the prior year, please provide an explanation for the reduction and the expected effect of the reduction on direct outreach activities, as indicated in 20 CFR 653.107(h)(3)(i).
3. Identify resources to be made available through existing cooperative agreements with public and private community service agencies and MSFW groups. (States are encouraged to initiate cooperative agreements with WIA Section 167 NFJP grantees for outreach position).

(iii) The tools which will be used to conduct outreach contacts, including personal contact, printed matter, videotapes, slides, and/or cassette recordings.

C. Services Provided to MSFWs through the American Job Center Network. The plan must provide specific information on how core, intensive, and training services required under WIA Title I will be provided to MSFWs through the American Job Center (AJC) network (also referred to as the One-Stop Career Center system). States should provide information on how MSFWs will be provided staff-assisted services and how MSFWs will be served in an electronic environment in the AJCs and/or affiliate sites. States should consider how they will enable these AJC customers to advance their skills and be competitive in a local, regional and global economy.

D. Services Provided to Agricultural Employers through the American Job Center Network. The plan must describe efforts that will be taken to provide services to agricultural employers in states with an adequate supply of U.S. workers and in those states where a shortage of workers is anticipated. The services provided to agricultural employers can be incorporated into the section of the WIA/W-P plan on serving employers in general.

¹ The numerical goals that must be included in the agricultural outreach plan are in reference only to the proposed outreach activities and are not negotiated performance targets.

E. Data Analysis.

(i) Previous year's history (based on Program Year (PY) 2011 data):

Number of agricultural job orders and openings received,
Number of agricultural job orders filled,
Percent to be filled,
Number of interstate clearance orders received, and
Number of interstate clearance orders initiated.

(ii) Plan for upcoming year (based on estimated data):

Number of agricultural job orders expected to be received,
Number of agricultural job orders projected to be filled,
Percent to be filled,
Estimated number of interstate clearance orders the state will receive, and
Estimated number of interstate clearance orders the state will initiate.

F. Other Requirements.

(i) *State Monitor Advocate.* The plan must contain a statement that indicates that the State Monitor Advocate has been afforded the opportunity to review and comment on the PY 2013 AOP.

(ii) *Review and Public Comment.* The plan must provide information indicating that WIA Section 167 NFJP grantees, other appropriate MSFW groups, public agencies, agricultural employer organizations and other interested employer organizations, have been given an opportunity to comment on the state AOP. Include the list of organizations from which information and suggestions were solicited, any comments received, and state responses to those comments.

LIST OF SIGNIFICANT MSFW STATES FOR PY 2013

	STATE	MSFW Applicants¹
1	CALIFORNIA	57,492
2	FLORIDA	19,700
3	WASHINGTON	17,767
4	TEXAS	11,629
5	MICHIGAN	10,503
6	OREGON	9,489
7	NORTH CAROLINA	7,783
8	IOWA	4,871
9	ARIZONA	4,377
10	GEORGIA	2,678
11	SOUTH CAROLINA	2,473
12	IDAHO	2,336
13	OHIO	2,295
14	ILLINOIS	2,046
15	UTAH	1,991
16	PENNSYLVANIA	1,619
17	NEW MEXICO	1,445
18	VIRGINIA	1,191
19	COLORADO	912
20	NEBRASKA	786

STATES WITH HIGHEST ESTIMATED MSFW ACTIVITY FOR PY 2013²

California
Florida
Washington
Texas
Michigan

¹ Data used to designate significant MSFW states was obtained from the Labor Exchange Reporting System (LERS) 9002A report for PY 2011, except for the states of PA and TX. The data for these two states was obtained from the Standardized Quarterly Performance Report, ETA Report 9132 for PY 2011.

² Data used to identify the five states with the highest estimated MSFW activity is based on data on services provided to MSFWs through the Wagner-Peyser program as reported on the LERS 9002A report for PY 2011.