

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. 13-13

TO: STATE WORKFORCE AGENCIES
STATE WORKFORCE ADMINISTRATORS
STATE WORKFORCE LIAISONS
STATE AND LOCAL WORKFORCE INVESTMENT BOARDS

FROM: ERIC M. SELEZNOW /s/
Acting Assistant Secretary

SUBJECT: Instructions and Planning Guidance for the Agricultural Outreach Plans (AOP) for Program Year (PY) 2014; the Designation of Significant Migrant and Seasonal Farm Worker (MSFW) States; and the Designation of Significant MSFW and Bilingual Local Offices

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, the significant MSFW local offices, and the bilingual local offices for PY 2014.

2. **References.**

- Wagner-Peyser (W-P) Act, as amended (29 U.S.C. 49, *et seq.*);
- Workforce Investment Act of 1998 (WIA), as amended (29 U.S.C. 2801, *et seq.*);
- W-P regulations, 20 CFR 653.107 and 651.10;
- TEGL No. 21-11, *Requirements for 2012 State Workforce Plans*; and
- OMB control number 1205-0398, *Planning Guidance and Instructions for Submission of Strategic State Plan and Plan Modifications for Title I of the Workforce Investment Act and Wagner Peyser Act.*

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 develops 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 (formerly referred to as the One-Stop Career Center system).

RESCISSIONS None	EXPIRATION DATE June 30, 2015
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The AOP is required annually; therefore, SWAs must submit the AOP to the Employment and Training Administration (ETA) each year as a modification to their WIA Title I and W-P Integrated or Unified Workforce Plan (State Plan). This TEGL provides guidance to SWAs to develop and submit a new AOP as a modification to the State Plan.

Federal regulations at 20 CFR 651.10 require ETA to annually designate “significant” MSFW states, which are the 20 states with the highest number of MSFW applicants. Attachment B of this TEGL provides the list of the 20 significant MSFW states for PY 2014.

In addition, Federal regulations at 20 CFR 651.10 require ETA to annually designate “significant” MSFW local offices, which are those MSFW local offices that account for 10 percent or more of annual MSFW participants in the W-P program. These regulations also require ETA to designate annually as “significant bilingual” those MSFW local offices where an estimated 10 percent or more of MSFW participants require service provision in Spanish (or other languages). SWAs or the Administrator of ETA’s Office of Workforce Investment (OWI Administrator) may designate additional local offices as significant MSFW local/bilingual local offices due to special circumstances, such as an estimated large number of MSFWs in the local office service area. Attachment C of this TEGL provides the list of bilingual and significant local offices for PY 2014.

4. **State Plan 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>.

Once submitted as a separate plan, the AOP is now an integral component of the State Plan.

5. **Agricultural Outreach Plans.** SWAs are required to develop an annual AOP that sets numerical goals, policies, and objectives. Federal regulations at 20 CFR 653.107 require that the outreach plan include the following elements:
 - Assessment of need
 - 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 required in the AOP.

- 6. Significant MSFW State Designation.** Significant MSFW states are the 20 states with the highest number of MSFW applicants. ETA bases the designation of the significant states 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 must assign outreach staff to work full-time during the period of the highest MSFW activity. These outreach staff must 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 five states with the highest estimated year-round MSFW activity. The factors used to establish these top five 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. In accordance with state merit staff requirements in W-P regulations at 20 CFR 653.107(i), these five states must assign full-time, year-round staff to outreach duties.

Attachment B provides the updated list of the significant MSFW states and the list of the five states with the highest estimated year-round MSFW activity for PY 2014. The five states with the highest estimated year-round activity (California, Florida, Texas, Washington, and Michigan) correspond with the top five significant MSFW states.

7. Significant MSFW and Bilingual Local Office Designation.

Significant MSFW local offices are those local offices where MSFWs account for 10 percent or more of annual applicants and any additional local offices that the OWI Administrator or SWA determines should be included due to special circumstances, such as an estimated large number of MSFWs in the local office service area.

Significant bilingual MSFW local offices are those significant MSFW offices where an estimated 10 percent or more of MSFW applicants require service provisions in Spanish and any additional local offices that the OWI Administrator or SWA determines should be included due to special circumstances.

The following is a list of responsibilities associated with AJCs designated as significant MSFW/bilingual local offices:

- Each significant MSFW local office must provide adequate staff assistance to each MSFW participant in order for MSFWs to effectively obtain specific and general information on where and how to find employment.
- Those offices designated as significant MSFW bilingual offices must explain the services available through the local office to the MSFW in Spanish (or other language). SWAs or the OWI Administrator may designate local offices as significant MSFW bilingual offices due to special circumstances, such as an increase in MSFW applications or an increase in agricultural job order activity.

- Significant MSFW local offices must conduct especially vigorous outreach in their service areas, which may include thorough and extensive outreach efforts so that a large number of MSFWs in the area are aware of the full range of the employment and training services offered through the AJCs .
- SWAs must ensure that, once a year, state staff visit those significant MSFW local offices that have not received an onsite review by Federal staff, to the extent possible. Also, if necessary, state staff should review those local offices in which significant problems are revealed by required reports, management information, the Job Service complaint system or otherwise as soon as possible
- When SWAs conduct reviews of significant local offices, SWAs must submit to the appropriate ETA regional office a copy of the local office formal monitoring review report and any corrective action plans requested of local offices as a result of these reviews.

Attachment C of this TEGL contains the list of AJCs designated by ETA as significant MSFW/bilingual local offices. Designations for PY 2014 remain the same as for PY 2013. ETA is continuing these designations because there were minimal changes in the data from PY 2013 to PY 2014, and in recognition of the time it takes to implement the requirements associated with significant MSFW/bilingual local office designation.

8. Performance Indicators. ETA has established program performance indicators for SWAs that measure minimum W-P service levels to MSFWs and the equity of services provided to MSFWs in comparison to participants that are not MSFWs.

The five equity indicators 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 four of the five equity 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.**

Table 1 illustrates the seven minimum service level indicators and their corresponding compliance levels that address other W-P services to MSFWs.

1) MSFWs placed in a job	42.5%
2) MSFWs placed in a job with a wage exceeding the Federal minimum wage by at least 50 cents/hour	14%
3) MSFWs placed long-term (150 days or more) in a non-agricultural job	3%
4) Reviews of significant MSFW local offices	100%
5) Field checks conducted on agricultural clearance orders	25%
6) Outreach contacts per staff day	5 contacts per staff day
7) Timely processing of complaints	90%

All significant MSFW states are required to meet at least four of the seven minimum service level indicators, while the other (non-significant) states should make maximum efforts to meet these same levels.

9. **Action – Submission of the AOP.** SWAs must develop the annual AOPs for PY 2014 as a modification to their approved State Plan and submit the AOPs to the appropriate ETA Regional Administrator by May 15, 2014, preferably in an electronic format for approval. Please send a copy to the National Monitor Advocate, at nma@dol.gov.

As mentioned in Section 3 of this TEGL, the submission of the AOP is a modification to the State Plan, and therefore states must follow the provisions for modifications established at 20 CFR 661.230. Further, SWAs should handle the AOP consistent with the state's procedures for State Plan modifications, and may include the involvement by the State Workforce Investment Board.

10. **Importance of Participation and Public Comment.** In developing the AOP, the SWAs must solicit information and suggestions from WIA Section 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 ETA 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 plan must include a list of the organizations that the state solicited for information and suggestions on the AOP, any comments received, and the state's responses to those comments. The SWAs must also provide the State Monitor Advocates an opportunity to review and comment on the AOP.

11. **Inquiries.** Please direct questions regarding this notice and instructions to the appropriate Regional Monitor Advocate (RMAs). The list of RMAs can be located in the National MSFW Monitor Advocate Directory located at <http://www.doleta.gov/programs/msfw.cfm>.

12. **Attachments.**

- Attachment A: Summary of Annual Agricultural Outreach Plan Requirements
- Attachment B: List of Significant MSFW States and the Five States with the Highest Estimated Year Round MSFW Activity
- Attachment C: Nationwide List of Significant MSFW/Bilingual Local Offices