

**FISCAL YEAR (FY) 2016 ANNUAL PLAN  
 (Please complete all yellow highlighted fields)**

*(Insert Official Name of SWA – not that of an individual)*

has prepared the following plan and statement of assurances for delivering services during FY 2016 (October 1, 2015 through September 30, 2016) to support the administration of foreign labor certification (FLC) programs in accordance with all applicable regulations, policies, procedures, handbooks, manuals, and other directives.

**A. Foreign Labor Certification Workload**

<b>Category of OFLC Program Services/Activities</b>	<b>FY 2015 Workload Completed per ETA 9127 Report</b>	<b>FY 2016 Workload Completed</b>	<b>FY 2016 Workload To be Processed</b>	<b>TOTAL FY 2016 Workload<sup>(1)</sup> add previous 2 columns</b>
A. Number of job orders related to H-2A temporary labor certification applications processed and expected to be processed.				
B. Number of prevailing wage surveys conducted and expected to be conducted in agricultural activities.				
C. Number of prevailing practice surveys conducted and expected to be conducted in agricultural activities.				
D. Number of housing inspections conducted and expected to be conducted in anticipation of H-2A job orders.				
E. Number of job orders related to H-2B temporary labor certification applications processed and expected to be processed.				
F. Number of Full Time Equivalent (FTE) staff funded by this grant.				

(1) Workload includes actual OFLC program services/activities provided or services/activities planned for the period between October 1, 2015 and September 30, 2016.

## B. H-2B Temporary Nonagricultural Program Activities

The SWA agrees to carry out all State activities in support of the Secretary's responsibilities under 8 U.S.C. 1101(a)(15)(H)(ii)(b) and 20 CFR 655 Subpart A to certify, upon application by a U.S. employer intending to petition the Department of Homeland Security (DHS) to admit H-2B workers, that 1) there are not enough able and qualified U.S. workers available for the position(s) to be filled and 2) the employment of the foreign worker(s) will not adversely affect the wages and working conditions of similarly employed U.S. workers. This section of the plan describes how the SWA will receive job orders to be placed in connection with future H-2B applications, process job orders in compliance with all applicable regulatory requirements, and manage referrals of qualified U.S. workers to the job opportunity.

1. Description of the process by which employers, desiring to hire foreign workers in temporary nonagricultural employment, can submit a job order to the SWA (i.e., self-service or staff-assisted) and how the employer identifies it as a job order placed in connection with a future application for H-2B workers. Where employers use self-services to submit job orders, a description of how the SWA identifies H-2B related job orders through a labor exchange system management report or other automated mechanism(s).

*[SWA narrative inserted here]*

2. A detailed step-by-step explanation of the process by which the SWA reviews job orders placed in connection with a future application for H-2B workers. Such a description should include the standard of review or criteria used to evaluate job order language, process for communicating deficiencies and/or notifying employers that the job order is acceptable, and the expected timeframes for conducting reviews of employer job orders. Include any relevant documentation (e.g. job order review worksheet, standard operating procedure, process flow map) on the SWA job order review process. Where employers use self-service to submit job orders, provide an explanation of the post-submission automated process used by the labor exchange system to review and post job orders.

Important Note: In circumstances where the SWA has determined that a job order filed in connection with a future application for H-2B workers must be open for longer than 10 calendar days, a description of the SWA's policies or procedures for handling such job orders must be included.

*[SWA narrative inserted here]*

3. Description of the process by which the SWA, upon receipt of a nonagricultural job order covering multiple states (e.g., multiple states within the same area of intended employment, itinerant jobs in tree planting, reforestation, utility right-of-way spraying,

outdoor entertainment), promptly transmits, on behalf of the employer, a copy of the job order to interstate clearance.

*[SWA narrative inserted here]*

4. Description of how the SWA will refer qualified U.S. workers to the job opportunity, particularly those requiring interstate referral, and maintain records of referrals in the event that such records are requested by the OFLC Certifying Officer in support of a final determination on a pending H-2B application or audit examination of a certified H-2B application. Please note: The response to this question should include 1) the process by which the SWA will refer workers in its state to jobs they would like to apply for in other states and 2) the process by which applicants in other states may be referred to Job Orders within your state.

*[SWA narrative inserted here]*

### **C. H-2A Temporary Agricultural Program Activities**

The SWA agrees to carry out all activities in support of the Secretary's responsibilities under 8 U.S.C. 1101(a)(15)(H)(ii)(a) and 1188 and 20 CFR Part 655, subpart B, to certify, upon application by a U.S. employer intending to petition the Department of Homeland Security to admit H-2A workers, that 1) there are not enough able and qualified U.S. workers available for the position(s) to be filled, and 2) the employment of the foreign worker(s) will not adversely affect the wages and working conditions of similarly-employed U.S. workers.

This section of the plan describes how the SWA will conduct agricultural surveys of prevailing wages, prevailing practices, and normal and accepted requirements. It also includes standards applicable to SWA-conducted housing inspections.

- a. Schedule of the agricultural **prevailing wage** surveys (including logging activities) the SWA plans to conduct during the performance period of the grant in accordance with ETA Handbook No. 385, including anticipated survey timeframes by area (e.g., statewide, regional), crops or other agricultural activities/commodities, and approximately when wage results are expected to be transmitted to the OFLC National Office (via the Forms ETA-232 and ETA-232A for review. The SWA's schedule of surveys may be based upon current and historical agricultural job order activities or other information about major crops/commodities within the state's agricultural sector.

Important Note: Consistent with the ETA Handbook No. 385, the SWA should prioritize its limited resources on conducting wage surveys in the major crops or other agricultural activities/commodities where seasonal H-2A workers are regularly employed and, where

practicable, at a broader wage reporting area (e.g., statewide) that will yield statistically valid wage findings from year to year, particularly those agricultural activities paying workers on a piece rate basis. Sub-State reporting areas are acceptable as long as substantial dissimilarities in crop or related conditions within parts of the State exist.

*[SWA schedule of wage surveys inserted here and, if necessary, include attachments]*



- b. Schedule of the agricultural **prevailing practice** and **normal and accepted requirement** surveys (including logging activities) the SWA plans to conduct during the performance period of the grant in accordance with ETA Handbook No. 398, including anticipated survey timeframes by area (e.g., statewide, regional) and crops or other agricultural activities/commodities, and approximately when employment practice results are expected to be transmitted to the OFLC Chicago National Processing Center (NPC) for review.

*[SWA schedule of employment practice surveys inserted here and, if necessary, include attachments]*



The SWA agrees to submit all completed prevailing practice and normal and accepted requirement surveys promptly to the OFLC Chicago NPC either electronically at [H2ASWA.Chicago@dol.gov](mailto:H2ASWA.Chicago@dol.gov) or by mail to the following address:

U.S. Department of Labor  
Employment and Training Administration  
Office of Foreign Labor Certification  
Chicago National Processing Center  
11 West Quincy Court  
Chicago, IL 60604-2105  
Attn: H-2A Prevailing Practice Surveys

- c. In accordance with 20 CFR 655.122(d) and as a condition of issuing a temporary labor certification, SWAs must schedule and conduct **pre-occupancy inspections of housing** to be furnished to U.S. and H-2A workers who are not reasonably able to return to their place of residence the same day. Except in circumstances where the Department of Labor has promulgated special procedures, all employer-provided housing must, at a minimum, meet the full set of U.S. Department of Labor Occupational Safety and Health Administration standards at 29 CFR 1910.142 or the full set of standards at 20 CFR 654.404-654.417, whichever are applicable under 20 CFR 654.401. To the extent

practicable, the SWA will plan to schedule housing inspections before the filing of the agricultural clearance order for those employers who regularly use the H-2A Program.

In order to ensure compliance with the Migrant Seasonal Worker Protection Act, the SWA must also provide a copy of the approved housing inspection to the employer or its authorized representative.

To the extent the SWA will use alternative methods for conducting pre-occupancy housing inspections, such as through contracts, memoranda of understanding, or other cooperative agreements with State or local organizations, please include a short description of these arrangements. Additionally, where the employer is offering rental (e.g., hotels or motels) or other public accommodations to workers and the SWA requires from the employer proof that such housing is in compliance with State or local law or regulation, the SWA must provide a copy of this State or local law or regulation. Lastly, SWAs involved in the mobile housing inspections associated with open range production of livestock applications processed under special procedures must maintain and make available to the Chicago NPC the three (3) year housing inspection schedules which allow employers to self-certify their mobile and fixed-site housing.

In accordance with instructions contained in the Notice of Acceptance issued by the NPC Certifying Officer, you must provide results of housing inspections so that a final temporary labor certification determination can be issued to the employer. The preferred method for supplying this information is by e-mail to [h2a.application@dol.gov](mailto:h2a.application@dol.gov). If it is not possible to transmit this information by e-mail, the SWA may send it by fax to (312) 353-3352 or by U.S. Mail to:

U.S. Department of Labor  
Employment and Training Administration  
Office of Foreign Labor Certification  
Chicago National Processing Center  
11 West Quincy Court  
Chicago, IL 60604-2105

*[SWA narrative inserted here for alternative housing inspection methods and, if necessary, including attachments of the most current 3-year inspection schedule for mobile housing and State or local law or regulation governing the inspection of rental or other public accommodation housing]*



**D. Cost of H-2A and H-2B Temporary Labor Certification Activities**

Please base the information supplied in the table below on available prior fiscal year expenditure data to estimate the cost of conducting State activities under the H-2A and H-2B temporary labor certification programs. Please complete all yellow highlighted areas.

**Costing Sheet (Including Logging)**

<b>Activity</b>	<b>Total Number</b>	<b>Total Cost</b>	<b>Average Cost<sup>(5)</sup></b>
H-2A Housing Inspections <sup>(1)</sup>			
H-2A Prevailing Wage Surveys <sup>(2)</sup>			
H-2A Prevailing Practice and Normal and Accepted Requirement Surveys <sup>(2)</sup>			
H-2A Job Orders Processed <sup>(3)</sup>			
Total Cost of H-2A Activities <sup>(4)</sup>			
Staff Assisted H-2B Job Orders <sup>(6)</sup>			
Total Cost of H-2A and H-2B Activities <sup>(7)</sup>			

(1) H-2A Housing Inspections:

Include in the total cost estimate: travel time, inspection time, travel mileage, and completion of paperwork. Include all housing inspections started during the prior fiscal year regardless of the final completion date.

- If housing inspections are done by another organization, estimate the cost that the H-2A portion adds to their total cost and include this amount in the table.

(2) H-2A Prevailing Wage/Practice and Normal and Accepted Requirement Surveys:

- Include in the total cost estimate the development of the survey instrument, postage, collection of responses, collation of information, and publication of results.
- Include all surveys started during the prior fiscal year regardless of the final completion date.

(3) H-2A Job Orders Processed:

- Include in the total cost estimate the creation and maintenance of files, taking into account the cost associated with receiving and reviewing applications, referring applicants, and releasing orders into inter/intra-state job system.

(4) Total Cost of H-2A Activities:

- Total Cost of Housing Inspections plus Total Cost of Prevailing Wage/Practice Surveys plus Total Cost of Job Orders Processed.

(5) Average Cost:

- Total Cost of activity/Total Number of activity.

(6) Staff Assisted H-2B Job Orders:

- Total number of job orders.

(7) Total Cost of H-2A and H-2B Activities

- Add cost of all activities

### E. Permanent Labor Certification Activities

The SWAs are expected to perform labor exchange activities necessary to support the recruitment of U.S. workers under the permanent labor certification program. Such labor exchange activities include placing job orders serving the area of intended employment and receiving referrals of qualified applicants for consideration. Please note that these activities are covered by existing Wagner-Peyser formula grants and not by the FLC grants that are the subject of this Training and Employment Guidance Letter.

### F. Grantee Contact Information

#### H-2A Program Point-of-Contact

Last name		First name	
Job title			
Address			
City		State	Postal code
Telephone number (including extension)		Fax number	
E-mail address			

**H-2B Program Point-of-Contact (if different than the contact listed above)**

Last name		First name	
Job title			
Address			
City		State	Postal code
Telephone number (including extension)		Fax number	
E-mail address			

**Fiscal Grant Point-of-Contact (if different than the contact listed above)**

Last name		First name	
Job title			
Address			
City		State	Postal code
Telephone number (including extension)		Fax number	
E-mail address			

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**OMB Paperwork Reduction Act (OMB Control Number 1225-0086)**

Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. Respondent's reply to these reporting requirements is required to obtain the benefits. Public reporting burden for this collection of information is estimated to average 4 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate to the Office of Foreign Labor Certification • U.S. Department of Labor • Box 12-200 • 200 Constitution Ave., NW, • Washington, DC 20210.

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