

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION Foreign Labor Certification
	CORRESPONDENCE SYMBOL OFLC
	DATE May 29, 2019

ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 21-18

TO: STATE WORKFORCE AGENCY ADMINISTRATORS

FROM: MOLLY E. CONWAY /s/
Acting Assistant Secretary

SUBJECT: Fiscal Year (FY) 2019 Foreign Labor Certification Grant Planning Guidance

1. **Purpose.** To provide guidance to State Workforce Agencies regarding FY 2019 annual grant allocations for foreign labor certification activities.
2. **Action Requested.** SWA Administrators are requested to immediately provide copies of this guidance to all staff involved in the preparation and submission of the annual grant plan for foreign labor certification activities for FY 2019. **Within 30 calendar days** from the date of this TEGL's issuance, SWAs must submit their grant applications to ETA unless they are in receipt of an approved written extension from the OFLC National Office. ETA requests that Administrators receiving this guidance share this information within their respective organizations in order to ensure that fiscal and programmatic public workforce system members are fully aware of the required FY 2019 foreign labor certification grant application processes and timelines.
3. **Summary and Background.**
 - a. This TEGL provides programmatic guidance and financial information to SWAs to support state foreign labor certification activities in FY 2019.
 - b. The mission of the Employment and Training Administration's (ETA) Office of Foreign Labor Certification (OFLC) is to help U.S. employers fill jobs while protecting the rights and interests of U.S. and foreign workers. OFLC carries out this mission by determining, on a case-by-case basis, whether there are able, willing, and qualified U.S. workers available for the job, and whether there will be any adverse impact on similarly employed U.S. workers should a labor certification be granted. The Immigration Nationality Act (INA) assigns certain responsibilities to the Secretary of Labor (Secretary) for employment-based immigration programs. The Secretary has delegated the non-enforcement responsibilities of these labor certification programs to the OFLC. Accordingly, statutory and regulatory provisions of the labor certification programs administered by OFLC require nearly all

RESCISSIONS: None	EXPIRATION DATE: Continuing
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employers seeking to hire either permanent or temporary foreign labor to apply to the Secretary for a labor certification. Congress appropriates funding for state foreign labor certification activities through the State Unemployment Insurance and Employment Service Operations (SUIESO) account. As part of the FY 2019 appropriation bill, Congress appropriated \$14,282,000 for the state grants. These state grants fund services provided by State Workforce Agencies (SWAs) in support of the foreign labor certification program, including the placement of employer job orders, inspection of housing for agricultural workers, and the administration of prevailing wage and practice surveys. OFLC distributes this grant funding annually in accordance with approved state plans.

4. **Content.** Please see attachment II for guidance.

5. **Inquiries.** SWA staff should direct all questions to the OFLC National Office at FLC.Grant@dol.gov

6. **References.**

- Immigration and Nationality Act (INA), as amended, 8 U.S.C. 1101(a), 1182(a)(5)(A), 1184(c), and 1188;
- Approval of Covenant to Establish a Commonwealth of the Northern Mariana Islands, 48 U.S.C. 1801;
- 48 U.S.C. 1806;
- Wagner-Peyser Act, 29 U.S.C. 49f(d);
- U.S. Citizenship and Immigration Services regulations at 8 Code of Federal Regulations(CFR) Part 214;
- 20 CFR Parts 653, subpart F, 654, subpart E, 655, subparts A and B, and 658;
- 2 CFR 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards;
- 2 CFR 2900, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Department of Labor;
- Guide for Employment Service Reimbursable Grant Activities;
- ETA H-2A Program Handbook No. 398, January 1988;
- Training and Employment Guidance Letter (TEGL) No. 04-06, *Plans to Phase out Penalty Mail Costs for “Employment Security” Programs and Availability of Supplemental Budget Funds for Conversion to Commercial Mail Methods*;
- Labor Certification Process for Temporary Employment in the Commonwealth of the Northern Mariana Islands (CW-1 Workers), 84 FR 12380 (Interim Final Rule, April 1, 2019) (Codified at 20 CFR Part 655, Subpart E) (hereafter “CNMI Interim Final Rule”); and
- Department of Defense and Labor, Health and Human Services, and Education Appropriations Act, 2019 and Continuing Appropriations Act, 2019 (P.L. 115-245).

7. Attachment(s).

Attachment I.	Table of Contents
Attachment II.	Program Planning Guidance and Information Package
Attachment III.	Fiscal Year (FY) 2019 Annual Plan
Attachment IV.	Annual Plan Certification
Attachment V.	Procedures for Prior Approval of Equipment Purchase Requests
Attachment VI.	FY 2019 Actual Funding Levels
Attachment VII.	Amendment A: Commonwealth of the Northern Mariana Islands (CNMI) CW-1 Fiscal Year (FY) 2019 Office of Foreign Labor Certification (OFLC) Grant Planning Guidance