

<b>EMPLOYMENT AND TRAINING ADMINISTRATION</b> <b>ADVISORY SYSTEM</b> <b>U.S. DEPARTMENT OF LABOR</b> <b>Washington, D.C. 20210</b>	<b>CLASSIFICATION</b> WIOA-NFJP
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**ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 18-16  
CHANGE 2**

**TO:** STATE WORKFORCE ADMINISTRATORS  
STATE WORKFORCE AGENCIES  
STATE WORKFORCE LIAISONS  
STATE AND LOCAL WORKFORCE BOARDS AND CHAIRS  
AMERICAN JOB CENTERS  
NATIONAL FARMWORKER JOBS PROGRAM GRANTEES  
STATE MONITOR ADVOCATES

**FROM:** JOSÉ JAVIER RODRÍGUEZ  
Assistant Secretary



**SUBJECT:** Revisions to Training and Employment Guidance Letter 18-16, Change 1  
Program Eligibility and Enrollment Guidance for the National Farmworker Jobs  
Program

1. **Purpose.** To clarify program eligibility for the National Farmworker Jobs Program (NFJP) authorized under Section 167 of the Workforce Innovation and Opportunity Act (WIOA).
2. **Action Requested.** All NFJP programs funded by the U.S. Department of Labor must follow these eligibility requirements. Additionally, grantees must have policies and procedures in place to connect individuals who are determined ineligible for NFJP services to American Job Center (AJC) services or alternative programs for which they may qualify. Similar to other programs, NFJP grantees must ensure their policies and procedures for program eligibility and other key requirements are aligned with all ETA advisories, which includes accounting for advisories that have been superseded by successive guidance. See [WorkforceGPS - National Farmworker Jobs Program Related Advisories](#).
3. **Summary and Background.**
  - a. Summary – This Training and Employment Guidance Letter (TEGL) No. 18-16, Change 2 is an update to the previously released TEGL 18-16 Change 1 dated July 12, 2021. This Change 2 allows grantees to consider the nature of the agriculture industry, including the nature of farmworkers’ employment patterns and irregular income, when determining program eligibility. Changes in this TEGL include:
    - i. Guidance on how to apply the eligibility requirement that participants must be “primarily employed in farmwork” to receive NFJP services,
    - ii. Revisions to align with TEGL 23-19 Change 1 and TEGL 23-19 Change 2,

<b>RESCISSIONS</b> TEGL 18-16 Change 1	<b>EXPIRATION DATE</b> Continuing
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- iii. Updates to Section 4.d, Definitions to clarify the terms Seasonal Farmworker, Low-income Individual, and Other Individuals,
  - iv. Updates to Section 4.e, Eligibility Determination Procedures to remove the application validity period of 60-days from the date of the initial application, and
  - v. Updates to Attachment I, which contains income information.
- b. Background – NFJP provides career services, training services, housing assistance services, youth services, and related assistance services to low-income migrant and seasonal farmworkers (MSFWs) and their dependents including MSFW youth, and dependents. NFJP grantees partner with AJCs and State Monitor Advocates to support a comprehensive system that seamlessly provides integrated services that are accessible to farmworkers and their families.

#### **4. Program Details.**

The purpose of NFJP services and activities established under WIOA Section 167 is to strengthen the ability of agricultural workers, including eligible MSFWs and their dependents, to obtain, stabilize, or advance in agricultural jobs or obtain employment in other industries. To support better economic outcomes for farmworkers and their dependents, housing grant recipients work to meet a critical need for safe and sanitary permanent and temporary housing.

- a. Eligibility requirements for eligible seasonal farmworker adult, eligible migrant farmworker adult, and eligible MSFW youth under WIOA Section 167:
  - *Migrant Farmworker or Seasonal Farmworker Status.* An individual must be or have been primarily employed in agricultural or fish farming labor as described under the definition of: 1) Farmwork and 2) Seasonal Farmworker or Migrant Farmworker.
  - *Low-income Status.* An individual must be a low-income individual as described under the definition of Low-income. Also, see the definition of family income and consider when to use an individual's income or family income.
- b. Eligibility requirements for a dependent adult or a dependent youth of an eligible MSFW under WIOA Section 167:
  - *Dependent Status.* To receive any services as a dependent of an eligible MSFW, an individual must meet the definition of Dependent (see Section 4.d).
  - *Migrant Farmworker or Seasonal Farmworker Status.* To receive any services as a dependent of an eligible MSFW, an individual's farmworker family member must be or have been primarily employed in agricultural or fish farming labor as described under the definition of: 1) Farmwork and 2) Seasonal Farmworker or Migrant Farmworker. That is, a dependent's farmworker family member must meet the farmworker status requirement described above. The dependent individual who will receive services does not need to meet the farmworker status requirement themselves.
  - *Low-income Status.* To receive any services as a dependent of eligible MSFW, an individual's farmworker family member must be a low-income individual as

described in the definition of Low-income. That is, a dependent's farmworker family member must meet the low-income status requirement. The individual who is a dependent and who will receive services does not need to meet the low-income status requirement themselves.

Note: See TEGL 23-19 Change 2 or successive guidance for information on validating required performance data. TEGL 23-19 Change 2 Attachment I provides program specific instructions and Attachment II identifies source documentation, including using self-attestation for certain data elements such as for the Participant Individual Record Layout (PIRL) data element #808 Migrant and Seasonal Farmworker Status and #802 Low-income Status at Program Entry.

- c. Other Key Requirements. In addition to the requirements explained above, grantees must incorporate the additional criteria below when they develop their policies and procedures for program eligibility.

i. Age:

- An individual ages 14-24 may receive services that are designed for youth.
- An individual ages 18 and older may receive services that are designed for adults.
- Individuals ages 18-24 may receive services as either an adult or a youth, but not in both categories. Grantees should assess an individual's needs, aspirations, and preferences as well as their approved program plans to determine if an individual will receive services through the grantee's adult program or youth program.
- Additionally, Career Services and Training grantees must follow their established performance targets. For example, grantees who establish targets for adult performance indicators are approved to serve adults only. Grantees who establish targets for youth performance indicators and adult performance indicators are approved to serve both youth and adults.
- These age requirements apply both to individuals who receive services that trigger inclusion as participants and services that do not (*i.e.* reportable individuals).

ii. Selective Service Registration:

- In order to participate in a program established by or receiving assistance under Title I of WIOA, all males born on or after January 1, 1960 must present documentation showing compliance with the Selective Service registration requirement as required by Section 3 of the Military Selective Service Act (50 U.S.C. App. 453) (see WIOA Section 189(h)).
- TEGL 11-11, Change 1 and Change 2 describe Selective Service registration requirements for ETA programs authorized by WIOA (TEGL 11-11 Change 1 and Change 2 implemented the requirements of WIA Section 189(h), and WIOA retains the same requirements). They explain that male individuals who failed to register for the Selective Service may still be eligible for enrollment as a participant in NFJP services if they are able to provide, and the grantee determines, that there was not a knowing and willful failure to register. Additionally, they clarify that grantees must, at minimum, document that they

have verified Selective Service registration with male individuals who are enrolled as participants.

iii. Veterans' Priority of Service:

Veterans and eligible spouses receive priority of services for all DOL-funded job training programs, including NFJP programs. In circumstances where a grantee must choose between two qualified candidates for a service, one of whom is a veteran or eligible spouse, the veterans' priority of service provisions require that the grantee give priority of serve by first providing the veteran or eligible spouse that service. To obtain priority of service, a veteran or spouse must meet NFJP eligibility requirements. Grantees must comply with DOL guidance on veterans' priority. ETA's TEGL No. 10-09 (issued November 10, 2009) provides guidance on implementing priority of service for veterans and eligible spouses in all qualified job training programs funded in whole or in part by DOL. For additional information on veteran's priority of service and WIOA, please see TEGL No. 19-16.

- d. Definitions. Agricultural work varies widely depending on a state service area, type of farm and farmer, and commodity specialization. The NFJP definition of farmwork is extremely broad and is meant to encompass all agricultural work performed on a farm.<sup>1</sup> To effectively implement NFJP and meet the needs of MSFWs and their dependents, grant recipients must have familiarity with agricultural industries and the labor market needs of the service area. To enhance their understanding of farmwork in their state service area, the Department encourages grantees to draw upon multiple sources of information, including consultation with the State Monitor Advocate and other subject matter experts such as Farm Labor Specialists and employers who are familiar with the agriculture industry in their state service area.

To help determine participant eligibility, see the definitions below:

- i. Eligible seasonal farmworker. Eligible seasonal farmworker, as defined in WIOA Section 167(i)(3)(A), means a low-income individual who: i.) for 12 consecutive months out of the 24 months prior to application for the program involved, has been primarily employed in agricultural or fish farming labor that is characterized by chronic unemployment or underemployment, and ii.) faces multiple barriers to

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<sup>1</sup> The definition of "farmwork" applicable to NFJP is "work while employed in the occupations described in § 651.10." 20 CFR 685.110. 20 CFR 651.10 states:

*Farmwork* means the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities. This includes the raising of livestock, bees, fur-bearing animals, or poultry, the farming of fish, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market. It also includes the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state. For the purposes of this definition, agricultural commodities means all commodities produced on a farm including crude gum (oleoresin) from a living tree products processed by the original producer of the crude gum (oleoresin) from which they are derived, including gum spirits of turpentine and gum rosin. Farmwork also means any service or activity covered under § 655.103(c) of this chapter and/or 29 CFR 500.20(e) and any service or activity so identified through official Department guidance such as a Training and Employment Guidance Letter.

economic self-sufficiency. Dependents of an eligible seasonal farmworker may receive NFJP services.

The definition for eligible seasonal farmworkers includes the following key terms:

- The term “seasonal farmworker” is specifically defined for purposes of the NFJP program. This definition is different from the definitions of temporary and seasonal farmworker that apply to other programs.
- The NFJP definition of seasonal farmworker includes:
  - individuals who are or were employed on a seasonal basis and move from one seasonal activity to another;
  - individuals who are or were employed year-round with variable schedules or activities depending on the type of farming and the time of year, such as work on dairy farms or farms that raise livestock or poultry, etc;
  - individuals who are or were employed during peak or off season and either work in another type of employment during the year or have periods of unemployment; or
  - any other individuals whose work history the grantee determines fits the definition.
- The phrase “primarily employed in agricultural or fish farming labor” refers to an individual who during any 12 consecutive months out of the 24 months prior to application either:
  - 1) spent at least half of their working hours employed in farmwork, OR
  - 2) earned at least half of their total income from farmwork.

Demonstration of both 1 and 2 is not required.

- Additionally, the term “employed” includes three groups of workers: (1) individuals who are self-employed farmworkers, (2) individuals who work as unpaid farmworkers, and (3) individuals who are hired farmworkers, including direct hires and workers employed by farm labor contractors.
- The terms “chronic unemployment or underemployment” refer to the nature of the agriculture or fish farming labor force as a whole and not whether an individual applicant is chronically unemployed or underemployed. For purposes of determining eligibility, grantees do not need to demonstrate that an individual is either chronically unemployed or underemployed. Similarly, grantees are not required to separately document that an individual faces multiple barriers to economic self-sufficiency in determining eligibility, since farmworker status and low-income status are both barriers to employment as defined in WIOA Section 3(24) (and thus, individuals who meet the farmworker and low-income criteria have multiple barriers by definition). Additionally, although grantees are not

required to separately document multiple barriers to determine eligibility, grantees should document any information about an applicant's barriers to economic self-sufficiency and use it to inform the development of a career plan for all participants as well as to improve the program's effectiveness.

- ii. Eligible migrant farmworker. Eligible migrant farmworker, as defined in WIOA Section 167(i)(2), means an eligible seasonal farmworker as defined in WIOA Section 167(i)(3) whose agricultural labor requires travel to a job site such that the farmworker is unable to return to a permanent place of residence within the same day. Dependents of eligible migrant farmworkers may receive NFJP services.
- iii. Eligible MSFW youth. Eligible MSFW youth, as defined in 20 C.F.R. 685.110, means an eligible MSFW aged 14-24 who is individually eligible or is a dependent of an eligible MSFW. When an MSFW youth is individually eligible this means their own income and farmwork status meets the low-income and farmwork requirements. When enrolling an individual aged 14-24 who is individually eligible as an MSFW youth, grantees are not required to determine if that individual is a dependent. When enrolling an individual aged 14-24 as a dependent, grantees are required to determine if an individual is a dependent.
- iv. Dependent. The definition of an individual who qualifies as a dependent of a of an eligible MSFW for purposes of the NFJP program is at 20 CFR 685.110. A dependent is an individual who:
  - (1) Was claimed as a dependent on the eligible MSFW's Federal income tax return for the previous year; or
  - (2) Is the spouse of the eligible MSFW; or
  - (3) If not claimed as a dependent for Federal income tax purposes, is able to establish:
    - (i) A relationship as the eligible MSFW's:
      - (A) Child, grandchild, great grandchild, including legally adopted children;
      - (B) Stepchild;
      - (C) Brother, sister, half-brother, half-sister, stepbrother, or stepsister;
      - (D) Parent, grandparent, or other direct ancestor but not foster parent;
      - (E) Foster child;
      - (F) Stepfather or stepmother;
      - (G) Uncle or aunt;
      - (H) Niece or nephew;
      - (I) Father-in-law, mother-in-law, son-in-law; or
      - (J) Daughter-in-law, brother-in-law, or sister-in-law; and
    - (ii) The receipt of over half of his/her total support from the eligible MSFW's family during the eligibility determination period.
- v. Farmwork. Pursuant to 20 CFR 685.110 and 20 CFR 651.10, farmwork means cultivation and tillage of the soil, dairying, production, cultivation, growing, and harvesting of any agricultural or horticultural commodities. Farmwork includes:

- The raising of livestock, bees, fur-bearing animals, or poultry;
- The farming of fish;
- Any practices (including any forestry or lumbering operations) performed by a farmer, or on a farm, as an incident to or in conjunction with such farming operation, including preparation for market, delivery to storage or to market, or to carriers for transportation to market; or
- The handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state.

For the purposes of this definition, agricultural commodities means all commodities produced on a farm including crude gum (oleoresin) from a living tree products processed by the original producer of the crude gum (oleoresin) from which they are derived, including gum spirits of turpentine and gum rosin. *Farmwork* also means any service or activity covered under [20 CFR 655.103\(c\) of this chapter](#) and/or [29 CFR 500.20\(e\)](#) and any service or activity so identified through official Department guidance such as a Training and Employment Guidance Letter.

Although the North American Industry Classification System (NAICS) codes are the primary resource used to help identify work that meets the NFJP definition of farmwork, ETA recommends that NFJP grantees draw upon multiple factors rather than refer only to the NAICS codes. For example, it would be reasonable to rely on grantees' and other subject matter experts' understanding of farmwork in their state service area. Additionally, during the application process, grantees may gather information from an applicant about the duties that the farmworker performs and determine if their work aligns with the definition of farmwork. For information on industry sectors, see <https://www.bls.gov/bls/naics.htm>.

- vi. Low-Income Individual. Low-income individual means an individual as defined in WIOA Section 3(36)(A), and incorporating the low-income provision of the NFJP appropriations language in Public Law 116-260, who:
  1. Receives, or in the past 6 months has received, or is a member of a family that is receiving or in the past 6 months has received, assistance through the supplemental nutrition assistance program (SNAP) established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.); the block grants to states for temporary assistance for needy families (TANF) program under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or the supplemental security income (SSI) program established under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.); or state or local income-based public assistance;

2. Is in a family with total family income<sup>2</sup> that does not exceed the higher of:
  - a. 150 percent<sup>3</sup> of the poverty line<sup>4</sup> (Note: this provision of the low-income definition takes effect July 1, 2021, for determining eligibility of participants to receive services through NFJP grants awarded with Program Year 2021 funds. For determining eligibility of participants to receive services through Program Year 2020 funds or earlier, grantees must use 100 percent of the poverty line for this provision); or
  - b. 70 percent of the Lower Living Standard Income Level (LLSIL);
3. Is a homeless individual (as defined in Section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e–2(6)), or a homeless child or youth (as defined under Section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)));
4. Receives or is eligible to receive a free or reduced price lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);<sup>5</sup>
5. Is a foster child on behalf of whom State or local government payments are made; or
6. Is an individual with a disability whose own income meets the income requirement of clause (ii), but who is a member of a family whose income does not meet this requirement (WIOA Section 3(36)(A)).

Note: Only one of the six provisions above need to be met to be considered a low-income individual.

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<sup>2</sup> If you are using this provision to verify the low-income status of an individual who does not reside with their family in a single residence, you should use the information for the *Household/ Family Size 1*.

<sup>3</sup> The Consolidated Appropriations Act, 2021 (P.L. 116-260) specified that, "...notwithstanding the definition of 'eligible seasonal farmworker' in section 167(i)(3)(A) of the WIOA relating to an individual being 'low-income', an individual is eligible for migrant and seasonal farmworker programs under section 167 of the WIOA under that definition if, in addition to meeting the requirements of clauses (i) and (ii) of section 167(i)(3)(A), such individual is a member of a family with a total family income equal to or less than 150 percent of the poverty line." Accordingly, ETA has revised the definition of "low-income individual" above to incorporate this provision. However, as noted above, this provision is tied to the appropriations language, and ETA will notify grantees, as needed, if the same provision is not included in subsequent appropriations.

<sup>4</sup> Pursuant to WIOA Section 3(49), the term "poverty line" as defined by the Office of Management and Budget is revised annually in accordance with Section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)). The poverty line is updated annually based on most recent data available from the U.S. Census Bureau. The U.S. Department of Labor, Employment and Training Administration posts the poverty guidelines and the LLSIL online at <https://www.dol.gov/agencies/eta/llsil>. The U.S. Department of Health and Human Services also posts the poverty guidelines online at <https://aspe.hhs.gov/poverty-guidelines>.

<sup>5</sup> An individual who Receives or is Eligible to receive free or reduced price lunch. To qualify for free meals through the National School Lunch Program, the income of the child's family must not exceed 130 percent of the poverty level. To qualify for reduced-price meals, the income of the child's family must not exceed 185 percent of the poverty line. The eligibility guidelines are available at <https://www.fns.usda.gov/cn/income-eligibility-guidelines>.



vii. Family Income. For the purposes of calculating family income to determine low-income status as defined under WIOA Section 3(36)(A) for an individual who resides with their family in a single residence, grantees must use “family” as defined in 20 CFR 675.300, which means two or more persons related by blood, marriage, or decree of a court, who are living in a single residence, and are included in one or more of the following categories:

- (1) A married couple and dependent children;
- (2) A parent or guardian and dependent children; or
- (3) A married couple.

When calculating the family income, grantees may use the income of the married couple, single parent, or guardian as well as other regular contributions for support, if appropriate. To determine the family size, grantees may use the total number of individuals who fall under the definition of family as defined above. Additionally, if an individual is not living in a single residence with other family members, that individual is not a member of a family for the purpose of income calculations to determine eligibility under NFJP.

Note: When determining family income, NFJP grantees have the discretion to develop policies, outline methodologies, and select a method to calculate family income. All methods must be aligned with the grantee organization’s policies and procedures. The Department encourages grantees to consult with their Federal Project Officers when examining or changing their income determination methodologies. See Attachment I of this TEGL for additional information.

viii. Other Individual. Housing grantees must provide housing services to eligible MSFWs, as specified in 20 CFR 685.360(a). Permanent housing developed with NFJP funds must be promoted and made widely available to eligible migrant and seasonal farmworkers. When grantees develop permanent housing with NFJP funds and are not able to identify eligible migrant and seasonal farmworkers to fill the available housing, the grantee must demonstrate that it promoted and made every effort to make the permanent housing available to eligible migrant and seasonal farmworkers. If the grantee is unsuccessful with its efforts, they must request approval from the Department to make unoccupied permanent housing available to other individuals and other families who do not meet the program eligibility requirements as described in this guidance or in successive guidance. This does not apply to temporary housing, which grantees must only provide services to eligible migrant and seasonal farmworkers.

e. Eligibility Determination Procedures.

- i. Application Validity Period. This Change 2 removes the application validity period of 60-days from the date of the initial application. Eligibility determination must be done as efficiently as possible to administer important services timely.

ii. Eligibility Determination Period.

- Farmworker Status: To determine farmworker status for seasonal farmworker or migrant farmworker, grantees must use any 12 consecutive months out of the 24 months immediately preceding the date of application for NFJP by the applicant. When an applicant was unavailable for work in the period immediately preceding the date of application because they had been in the armed forces, institutionally confined by incarceration or other legal detainment, hospitalized, or otherwise unavailable due to a documented disability, grantees may establish an eligibility determination period during the 24 months immediately preceding the date of such unavailability, provided, however, that such period may not begin more than 48 months prior to the date of application.

When an applicant was unavailable for work in the period immediately preceding the date of application because they had been in the armed forces, institutionally confined by incarceration or other legal detainment, hospitalized, or otherwise unavailable due to a documented disability, grantees may establish an eligibility determination period during the 24 months immediately preceding the date of such unavailability, provided, however, that such period may not begin more than 48 months prior to the date of application.

- Low-income Status: To determine low-income status, grantees must calculate annualized income in a way that reflects the financial circumstances of an individual at the time of application. See Attachment I.

- f. NFJP Enrollment. To receive services through NFJP, an individual must meet eligibility requirements. To be a program participant, an individual must complete the following requirements: eligibility determination, assessment, and receipt of an additional service, including basic career service, individualized career service, training, and housing. Note: Starting in program year 2025, NFJP Housing grantees will use two categories of individuals who receive services - reportable individual and participant.

Individuals who are enrolled in certain related assistance activities that require significant involvement of grantee staff are also considered participants (see 20 CFR 685.400(b)). Specifically, “certain related assistance” activities are those that require an eligibility determination and an assessment, as described above, and are directly related to education, training, career, and/or employment outcomes. These activities may include, but are not limited to:

- Solutions to increase graduation rates;
- Remedial and adult-basic education;
- Self-employment and related business or micro-enterprise development or education; and
- Occupational career and technical education.

An individual who receives only related assistance services, including emergency assistance, that 1) do not require significant involvement of grantee staff time; and 2) do not require an assessment by grantee staff of an individual's skills, education, career objectives, or housing needs will be considered a "reportable individual," as defined in 20 CFR 677.150(b).<sup>6</sup> Such individuals are not included in performance calculations as program participants.

Outreach. Although this guidance focuses on program eligibility, continuous outreach and recruitment are key parts of this work. NFJP grant recipients play a critical role in reaching farmworker communities, who experience multiple barriers to accessing community resources. Therefore, grant recipients must conduct outreach where farmworkers work, live, and gather to earn the trust of farmworkers and their communities. Doing so, will enhance grant recipients' ability to recruit potential applicants as well as help farmworkers who are not eligible for the program connect to other workforce development services and community resources. Most importantly, outreach enhances grant recipients' ability to establish trust with the people the program is statutorily required to serve. In order for NFJP grantees to be able to carry out their responsibilities to deliver services, it is important for grantees to let the local farmworker community know about the grantees' services. Outreach is a vital function to carry out services.

Additionally, NFJP grantees must follow guidance on performance reporting requirements in TEGL 14-18 or in successive guidance.

Note: Although redetermination is not required under NFJP, participants may experience an unexpected interruption that leads to disenrollment. In such circumstances, grantees may use PIRL data element #923, Other Reasons for Exit, to exclude a participant from performance calculations. Note that Code 6 may be used when an individual who was determined to be eligible, is later determined not to have met eligibility criteria. Similar to other performance reporting data elements, grantees are required to maintain documentation when using PIRL data element #923. Additional ETA performance reporting updates are available at <https://www.dol.gov/agencies/eta/performance/updates>.

5. **Inquiries.** NFJP Grantees must submit any inquiries to their respective Federal Project Officer and copy NFJP@dol.gov.

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<sup>6</sup> Emergency assistance, a form of short-term related assistance, may be provided to eligible MSFWs and their dependents as defined in 20 CFR 685.110 to address these farmworker's immediate needs. Emergency assistance may include but is not limited to, the provision of necessary items like garments of clothing, food, and transportation vouchers. When an individual receives emergency assistance only, an applicant's self-attestation is acceptable as sufficient documentation of eligibility. See TEGL 23-19 Change 2 for guidance on data validation policies and procedures, including type of supporting documentation requirements for NFJP.

## 6. References.

- WIOA (Pub. L. 113-128, 29 U.S.C. 3101 et seq.), Title I;
- WIOA DOL-Only Final Rule (20 CFR parts 603, 651 to 658, 675, and 679 to 688);
- Wagner-Peyser Act (W-P Act), 29 U.S.C. 49 et seq.;
- TEGL NO. 23-19 Change 2 *Revisions to Training and Employment Guidance Letter (TEGL) 23-19, Change 1, Guidance for Validating Required Performance Data Submitted by Grant Recipients of U.S. Department of Labor (DOL) Workforce Programs* available at: <https://www.dol.gov/agencies/eta/advisories/tegl-23-19-change-2>;
- TEGL NO. 23-19 Change 1 *Guidance for Validating Required Performance Data Submitted by Grant Recipients of U.S. Department of Labor (DOL) Workforce Programs* available at: <https://www.dol.gov/agencies/eta/advisories/tegl-23-19-change-1>;
- TEGL NO. 14-18 *Aligning Performance Accountability Reporting, Definitions, and Policies Across Workforce Employment and Training Programs Administered by the U.S. Department of Labor (DOL)* available at: <https://www.dol.gov/agencies/eta/advisories/training-and-employment-guidance-letter-no-14-18>;
- TEGL NO. 8-17 *Guidance on the Requirement for a Memorandum of Understanding (MOU) Between State Monitor Advocates (SMA) and National Farmworker Jobs Program (NFJP) Grantees* available at: <https://www.dol.gov/agencies/eta/advisories/training-and-employment-guidance-letter-no-08-17>;
- TEGL NO. 19-16 *Guidance on Services provided through the Adult and Dislocated Worker Programs under the Workforce Innovation and Opportunity Act (WIOA) and the Wagner-Peyser Act Employment Service (ES), as amended by title III of WIOA, and for Implementation of the WIOA Final Rules* available at: <https://www.dol.gov/agencies/eta/advisories/training-and-employment-guidance-letter-no-19-16>;
- TEGL NO. 11-11 Change 1 and Change 2 *Selective Service Registration Requirements for Employment and Training Administration Funded Programs* available at: <https://www.dol.gov/agencies/eta/advisories/training-and-employment-guidance-letter-no-11-11-change-2>; and
- TEGL NO. 10-09 *Implementing Priority of Service for Veterans and Eligible Spouses in all Qualified Job Training Programs Funded in whole or in part by the U.S. Department of Labor (DOL)* available at: <https://www.dol.gov/agencies/eta/advisories/training-and-employment-guidance-letter-no-10-09>.

## 7. Attachment(s).

- Attachment I: Included Income, Excluded Income, and Examples of Methods to Calculate Income Tool

### Included Income, Excluded Income, and Examples of Methods to Calculate Income Tool

Use this attachment in conjunction with TEGL 18-16, Change 2. The definition of a low-income individual under the Workforce Innovation and Opportunity Act (WIOA) Section 3(36) does not exclude unemployment compensation (this includes Pandemic Emergency Unemployment Compensation, Pandemic Unemployment Assistance, and Extended Benefits), old-age survivors insurance benefits, or child support payments from income calculations as they were previously excluded under the Workforce Investment Act (WIA) Section 101(25). ETA used the U.S. Department of Labor’s Bureau of Labor Statistics definition of income to develop this tool.<sup>1</sup> This tool aims to increase NFJP grantees’ understanding of what types of income would count towards the income requirement to qualify for NFJP and provide examples of methods to calculate income.

- A. Examples of the types of income that could be included when making eligibility determination based on income are outlined in the table below.

Included Income	
<b>Income: Earnings before Taxes</b>	<ul style="list-style-type: none"> <li>• Wages and salaries;<sup>2</sup></li> <li>• Self-employment income;</li> <li>• Social Security (Old-Age Survivors and Disability Insurance), private and government retirement;</li> <li>• Interest, dividends, rental income, and other property income;</li> <li>• Unemployment and workers’ compensation; and</li> <li>• Regular contributions for support (alimony and child support) – Please note, the term <i>regular</i> for this source of income. If an individual is a parent and cannot rely on receiving contributions such as child support, grantees may consider this when calculating income.</li> </ul> <p>Important to Know: When gathering information about an individual’s income, please note that some types of Federal, State, or local income-based public assistance may automatically qualify someone as low-income.</p> <ul style="list-style-type: none"> <li>• For example, under WIOA Section 3(36)(A)(i), an individual meets the low-income eligibility when they receive, or in the past 6 months has received, or is a member of a family that is receiving or in the past 6 months has received, assistance through the supplemental nutrition assistance program (SNAP) established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.); the program of block grants to States for temporary assistance for needy families program (TANF) under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or the supplemental security income (SSI) program established under</li> </ul>

<sup>1</sup> <https://www.bls.gov/cex/csxgloss.htm>

<sup>2</sup> <https://www.bls.gov/bls/glossary.htm>

	<p>title XVI of the Social Security Act (42 U.S.C. 1381 <i>et seq.</i>); or State or local income-based public assistance;</p> <ul style="list-style-type: none"> <li>• Additionally, per WIOA Section 3(50), the term "public assistance" means Federal, State, or local government cash payments for which eligibility is determined by a needs or income test. State or local income-based public assistance payments, which includes but is not limited to the following type of assistance: <ul style="list-style-type: none"> <li>• Utility</li> <li>• Child care</li> <li>• Nutrition</li> <li>• Housing</li> </ul> </li> </ul>
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- B. Examples of types of income that could be excluded when making eligibility determination based on income are outlined in the table below. When calculating income, do not include any allowance, earnings, or payments stemming from participation in WIOA Title I programs. Per 20 CFR 683.275 (d), allowances, earnings, and payments to individuals participating in programs under title I of WIOA are not considered as income for purposes of determining eligibility for and the amount of income transfer and in-kind aid furnished under any Federal or Federally-assisted program based on need, other than as provided under the Social Security Act (42 U.S.C. 301 *et seq.*).

<b>Excluded Income</b>	
<b>Volunteer/Job Training Payments</b>	<ul style="list-style-type: none"> <li>• Allowances, earnings, and payments to individuals participating in programs under title I of WIOA;</li> <li>• Any payment to volunteers under Title I (VISTA and others) and Title II (RSVP, foster grandparents, and others) of the Domestic Volunteer Service Act of 1973;</li> <li>• Payments to volunteers under Section 8(b)(1)(B) of the Small Business Act (SCORE and ACE); and</li> <li>• Payments and allowances to individuals participating in AmeriCorps to the extent excluded by the National and Community Service Act of 1990.</li> </ul>
<b>Student Financial Aid</b>	<ul style="list-style-type: none"> <li>• Student financial assistance received under Title IV of the Higher Education Act of 1965, including the Pell Grant, Supplemental Education Opportunity Grant, State Student Incentive Grants, National Direct Student Loan, PLUS, College Work Study, and</li> </ul>

	<p>Byrd Honor Scholarship Programs, to the extent excluded by the Act; and</p> <ul style="list-style-type: none"> <li>• Payments received under the Carl D. Perkins Vocational Education Act, as amended by the Carl D. Perkins Vocational and Applied Technology Act Amendments of 1990, P.L. 101-392.</li> </ul>
<b>Military Service-related Income</b>	<ul style="list-style-type: none"> <li>• Any amounts received as military pay or allowances by any person who served on active duty, and certain other specified benefits paid while on active duty or paid by the Department of Veterans Affairs (VA) for vocational rehabilitation, disability payments, or related VA-funded programs are not to be considered as income, in accordance with VA Title 38 U.S.C. 4213 and 20 CFR 683.230. For additional information about assisting Veterans, please see <a href="#">Training and Employment Guidance Letter NO. 10-09</a>.</li> </ul> <p>All pay and/or financial allowances earned while a veteran was on active duty are exempt. Title 38 U.S.C. 4213 also exempts from inclusion in “low income” calculations any financial benefits received by a covered person under the following Chapters of Title 38 of the U.S. Code:</p> <ul style="list-style-type: none"> <li>11. Compensation for service-connected disability or death.</li> <li>13. Dependency and indemnity compensation for service-connected deaths.</li> <li>30. All-volunteer force educational assistance program.</li> <li>31. Training and rehabilitation for veterans with service-connected disabilities.</li> <li>35. Survivors’ and dependents’ educational assistance.</li> <li>36. Administration of educational benefits</li> </ul> <p>Also excluded from “low income” calculations are benefits received under Chapter 106 of Title 10 U.S. Code, Educational assistance for members of the selected reserve.</p> <p><b>Note:</b> Pension payments authorized by Title 10 U.S. Code, such as those received by military retirees whether or not their retirement was based on disability, are not exempt and are to be included in “low income” calculations. Also not exempt are pension benefits paid under Chapter 15 of Title 38 U.S. Code.</p>

<b>Lump sum payments</b>	<ul style="list-style-type: none"> <li>• Lump sum payments or large cash settlements are not counted as income since they are not received on a regular basis. These funds may be provided as compensation for a loss that must be replaced, such as payment from an insurance company for fire damage to a house.</li> </ul> <p><b>Note:</b> When lump sum payments are put into a savings account and the household regularly draws from that account for living expenses, the amount withdrawn is counted as income.</p>
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### C. Examples of Methods for Calculating Income

MSFWs experience earnings fluctuations throughout the year due to the nature of working in the agriculture industry. Determining whether an individual meets the low-income requirement by gathering source documentation for the past 12 months may be challenging and may distort an individual's financial circumstance at the time of application. NFJP grantees have the discretion to develop policies, outline methodologies, and select a method that annualizes an individual's income in a way that reflects the financial circumstances of an individual at the time of application. Grantees must document any changes in wages and salaries, and document the reason they chose a specific method to annualize an individual's income. When calculating an individual's family income under WIOA Section 3(36)(A)(ii), grantees may use one item from the source documentation list for the Participant Individual Record Layout (PIRL) Data element #802 in Attachment II of TEGL 23-19 Change 2.

**Net Income or Gross Income.** Depending on the type of source documentation that an applicant provides, a grantee may have access to an individual's net income or gross income information. To encourage flexibility and allow grantees to use the full list of source documentation while balancing consistency, ETA recommends that grantees use the net income to calculate an individual's family income, if it is available. However, if the net income is not available, grantees may use the gross income when calculating an individual's family income.<sup>1</sup> All methods must be aligned with the grantee organization's policies and procedures.

Note: Gross usually refers to total earnings, before any deductions (such as tax withholding) including, where applicable, overtime payments, shift differentials, production bonuses, cost-of-living allowances, commissions, etc. See definition at <https://www.bls.gov/bls/glossary.htm#earnings>. Net refers to total earnings after any deductions.

NFJP grantees have the flexibility to use different methods for calculating income and should use a method that considers an individual's current income. Methods to annualize income are not limited to but may include the following approaches below. When annualizing an individual's income, grantees must also include other sources of income that are listed above



under section A, of this tool. The examples below demonstrate three different ways to calculate an individual's wages. The methods only reflect income calculations to determine an individual's eligibility for NFJP.

- **Salary Method:** Use this method for individuals who have pay stubs or other source documentation covering the most recent 6 months of their family's wages. Grantees should use this method when there is little or no variation in the wages or salaries for any of the pay stubs submitted for income verification. To calculate an individual's annual income based on wages or salaries, first, multiply the pay listed on the paystub or source documentation by the number of pay periods in the six-month determination period. Next, multiply the result by two to determine the annual wages or salaries. Example: Five pay stubs are provided indicating wages of \$772 each. The pay frequency is biweekly (13 times in six months).  $[(\$772 \times 13 = \$10,036) \times 2] = \$20,072$ .
- **Average Pay Method:** Use this method for individuals who have six monthly bank statements or other source documentation which show variation in the individual's wages. These variations may result for several reasons, including overtime or work for a different employer. In circumstances where variation exists, grantees can determine an individual's average wages by adding the total wages and dividing the result by the number of monthly bank statements. Example: an individual shows bank statements from the most recent 6 months. The bank statements for 6 months show the following monthly income \$770, \$290, \$490, \$490, \$490, and \$490. The total income for the individual for 6 months is \$3,020. To calculate the monthly average, divide the result by 6. Then to calculate the individual's annual income from wages, multiply the month average \$503 by 12 to calculate annual income ( $\$503 \times 12 = \$6,040$ ).
- **Intermittent Work Method:** Use this method for individuals who have irregular income or are self-employed. In circumstances where the individual does not have steady work, the grantee should ask the individual to supply as many pay stubs or other source documentation, as possible. To determine average wages, use the individual's income from the prior month. When using the Intermittent Work Method, the grantee must explain missing pay stubs, non-work periods, etc. and selected method in their case notes. Grantees should use any information that an individual submits to calculate annual income.

NFJP grantees have the discretion to develop policies, outline methodologies, and select a method that gives a result that reflects the financial circumstances of applicants at the time of application. For example, if the Salary Method provides a more accurate reflection of an individual's current income, use the Salary Method to calculate annual income. If using the Intermittent Work Method with source documentation for the prior month's income provides a more accurate reflection of an individual's current income, this method may be used as a basis for calculating annual income. ETA recommends NFJP grantees to work with their AJC and other local or state agencies that provide income-based public assistance to learn about other methods to calculate annual income (for example, energy assistance, medical assistance, child care assistance, or community development block grant assistance).