

<b>EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210</b>	<b>CLASSIFICATION</b> Foreign Labor Certification
	<b>CORRESPONDENCE SYMBOL</b> OFLC
	<b>DATE</b>

**ADVISORY:** TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 12-21, CHANGE 1

**TO:** STATE WORKFORCE AGENCY ADMINISTRATORS

**FROM:** BRENT PARTON  
Acting Assistant Secretary

**SUBJECT:** Foreign Labor Certification Grant Planning Guidance for Fiscal Years (FYs) 2022 through FY 2024, Change 1

- Purpose.** To provide updated guidance to State Workforce Agencies (SWAs) regarding foreign labor certification activities impacted by implementation of new H-2A regulations published by the Department of Labor (Department) on October 12, 2022, and announce the allotments for FY 2023 foreign labor certification grants.
- Action Requested.** The Employment and Training Administration (ETA) requests that SWA Administrators receiving this guidance share the information within their respective organizations to ensure that fiscal and programmatic staff are fully aware of the changes impacting foreign labor certification grant activities and timelines contained in this Training and Employment Guidance Letter (TEGL), Change 1.

SWAs must submit an annual grant application to ETA unless they are in receipt of an approved extension from the ETA Office of Foreign Labor Certification (OFLC). These applications should be submitted **no later than 30 calendar days** after the issuance of this guidance. OFLC will review the grant application package and, generally within 30 calendar days of receipt, inform the SWA in writing of any concerns or deficiencies that may prevent the grant application package from being approved.

- Summary.** This TEGL 12-21, Change 1, provides updated programmatic guidance and announces SWAs' FY 2023 grant allotments for foreign labor certification activities. **Please note** that sections of TEGL 12-21 **NOT** expressly listed in this change remain applicable during the term of TEGL 12-21 (FY 2022 – FY 2024).
- Content.** Please see Attachment I for guidance, Attachment II for FY 2023 grant allotments, and Attachments III, IV, V and VI for SWA Annual Plans.
- Inquiries.** SWA staff should direct all financial questions to the OFLC National Office at [FLC.Grant@dol.gov](mailto:FLC.Grant@dol.gov).

<b>RESCISSIONS:</b> None	<b>EXPIRATION DATE:</b> Continuing
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**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, 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, B and E; 656; and 658;
- 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards;
- 2 CFR Part 2900, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Department of Labor;
- ETA H-2A Program Handbook No. 398, January 1988;
- Training and Employment Guidance Letter 12-21; and
- Consolidated Appropriations Act, 2023 (P.L. 117-328).

**7. Attachment(s).**

- Attachment I: Changes to TEGL 12-21  
Attachment II: FY 2023 Grant Allotments  
Attachment III: FY 2023 Annual Plan  
Attachment IV: Annual Plan Certification  
Attachment V: Instructions for Completing Budget Narrative  
Amendment VI: Commonwealth of the Northern Mariana Islands (CNMI) CW-1 FY 2023 Grant Planning Guidance





































In accordance with DOL regulations at 20 CFR 655 Subpart B, the SWA agrees to carry out all state activities to support DOL's review and processing of job orders and applications seeking temporary labor certification under the H-2A program. The SWA will use the FLAG System to submit clearance orders to OFLC. Specifically, the SWA agrees to carry out the following activities:

- 1. Stakeholder Education and Outreach:** As part of comprehensive education and outreach plan, the SWA will make available in a conspicuous location on the state agency website the following:
  - Information on how employers may attach H-2A applications to Agricultural Clearance Orders through the Agricultural Recruitment System for U.S. workers, such as easy-to-understand instructions on how to prepare and submit the Form ETA-790 *Agricultural and Food Processing Clearance Order*, request a pre-occupancy inspection of housing for farmworkers (*if applicable*), and the current contact information for employers to request technical assistance from the state agency.
  - Worker rights information created by the SWA or as provided below:
    - [Employee Rights Under the H-2A Program \(PDF\)](#);
      - [Employee Rights Under the H-2A Program – Spanish Version \(PDF\)](#)
    - [H-2A Worker Rights Card - English Version \(PDF\)](#);
      - [H-2A Worker Rights Card - Spanish Version \(PDF\)](#);
    - [Farm Worker Rights Flyer - English and Spanish Version \(PDF\)](#);
  - Materials educating employers about the responsibilities associated with the use of foreign labor recruiters and ban on prohibited fees.

No less frequently than once a year, the SWA will electronically disseminate to employers who routinely use the H-2A program helpful tips or best practices on preparing high quality job orders and, if applicable, information on any relevant state-specific requirements (e.g., current prevailing practices or normal and accepted requirements) and local employment-related laws, including health and safety laws impacting the material terms or conditions of employer job orders.

In addition, the SWA will make effort to:

- Remind and educate employers about *Title VII of the Civil Rights Act of 1964*, which makes it illegal to discriminate against someone or harass someone on the basis of race, color, religion, national origin or sex, and makes employers accountable for providing a work environment that is free from harassment and other kinds of discrimination.

- Where requested and funds permitting, the SWA will participate in local or state employer roundtables, conferences or other stakeholder forums to present and/or disseminate information related to the H-2A program.

- 2. Placement of Clearance Orders Attached to H-2A Applications:** In accordance with the Wagner-Peyser Act (29 U.S.C. 49 *et seq.*), the SWA already administers a public labor exchange system that facilitates the placement of employer job orders into clearance and referral of prospective U.S. applicants to current and future job opportunities. This broader labor exchange system is funded through the SWA's separate Employment Service grant. The costs associated with posting job orders connected to H-2A applications may be charged to the FLC grant.

The SWA fully utilizes the Department's FLAG System to process the *Agriculture Clearance Order* (Form ETA-790/790A) filed by employers in connection with a future filed *H-2A Application for Temporary Employment Certification* (Form ETA-9142A) with DOL, pursuant to 20 CFR 655.121.

- 3. Processing of Clearance Orders Attached to H-2A Applications:** Upon receipt of the clearance order, the SWA will review the clearance order submitted by the employer for completeness, obvious errors or inaccuracies, and compliance with the regulatory criteria under 20 CFR 655.122 and 20 CFR 653, subpart F.

In circumstances where a waiver of the required time period for filing an H-2A application is granted under 20 CFR 655.134 for emergency situations, the SWA will make every effort to review the proposed or draft clearance order, upon request by the DOL CO, and made available using the SWA FLAG System account.

- a. Compliance Review of Clearance Orders

- The SWA will notify the employer of any deficiencies within seven calendar days of the date the employer's job order was received;
- In circumstances where deficiencies are identified, the SWA will promptly record the decision using the SWA FLAG System account and provide written notification to the employer stating the reason(s) why the job order fails to meet the regulatory criteria and offering an opportunity to respond to the deficiencies within five calendar days after receipt of the state agency's written notification, and make a copy of this notification available for the DOL CO's review using the SWA FLAG System account;
- The SWA agrees to respond within three calendar days after receipt of the employer's response, and make a copy of this response available for the DOL CO's review using the SWA FLAG System account; and

- In circumstances where a timely review of the job order cannot be performed, the SWA understands that the employer is permitted to use the emergency filing procedures for filing an H-2A application set forth in 20 CFR 655.134.
- b. Processing of Approved Clearance Orders
- Upon determining the clearance order meets the regulatory criteria, whether by the SWA or the DOL CO in the NOA under 20 CFR 655.143, the SWA will promptly record the decision on the job order using the SWA FLAG System account.
  - In accordance with 20 CFR 653.501(a), the SWA, based on its knowledge and experience with the local labor market, may either (1) place the approved job order with the nearest local ES office serving the area of intended employment to initially determine whether qualified local workers are available for the job opportunity, or (2) make a determination anticipating a shortage of qualified local workers for the job opportunity and place the approved job order for intrastate clearance per 20 CFR 655.121(b)(2), and commence recruitment of U.S. workers;
  - The SWA agrees to keep the approved clearance order on its active file until the end of the recruitment period (i.e., 50 percent of the period of employment), as set forth in 20 CFR 655.135(d);
  - Where the approved clearance order includes worksites in an area of intended employment that fall within the jurisdiction of more than one SWA, the order-holding SWA agrees to forward a copy of the approved clearance order to other SWAs serving the area of intended employment with instructions to place a copy of the approved clearance order on its active file until the end of the recruitment period; and
  - Upon receipt of a NOA under 20 CFR 655.143, the SWA will perform the following actions when instructed by the DOL CO:
    - In circumstances where the clearance order remains on the active file of the local ES office serving the area of intended employment, promptly place the approved clearance order into intrastate clearance.
    - In the case of emergency situations, promptly place on its active file the clearance order approved by the DOL CO, as well as clearance orders received from other SWAs, for clearance per 20 CFR 655.121(b)(2) until the end of the recruitment period, as set forth in 20 CFR 655.135(d).

- Where the employer's job order references an area of intended employment that falls within the jurisdiction of more than one SWA, the originating SWA will promptly notify the NPC that a copy of the approved job order must be forwarded to the other SWAs serving the area of intended employment.
- Provide written notice of the job opportunity to organizations that provide employment and training services to workers likely to apply for the job and/or to place written notice of the job opportunity in other physical locations where such workers are likely to gather per 20 CFR 655.143(b)(5).

c. Referral of Qualified and Available U.S. Workers

- The SWA will use its public labor exchange services to refer to the employer all qualified U.S. workers who apply for the job opportunity or on whose behalf a job application is made until 50 percent of the contract period calculated from the first date indicated in Section A.3 of Form ETA-790A. This announcement should apprise prospective U.S. workers of all the material terms and conditions of the employer's job opportunity prior to referral, as required by 20 CFR 655.155. Please note that these activities are covered by existing Wagner-Peyser formula grants and not by the foreign labor certification grants that are the subject of this TEGL; and
- Using the SWA FLAG System account, the SWA will make available records of U.S. workers referred through an approved clearance order to assist the DOL CO in making a final determination on the employer's *Application for Temporary Employment Certification*, as specified in 20 CFR 655.160.

d. Providing Written Notice of Certain Job Opportunities Placed in Connection with H-2A Applications

- The SWA will, if directed by the DOL CO, provide written notice of a job opportunity to organizations that provide employment and training services to workers likely to apply for that job opportunity and/or place written notice of that job opportunity in other physical locations where such workers are likely to gather per 20 CFR 655.143(b)(5).

- To the extent practicable, the SWA will 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, particularly those agricultural activities paying workers on a piece rate basis;
- In circumstances where substantial dissimilarities in crop or related conditions exists in different parts of the state, the SWA or other State agency may use sub-state reporting areas for conducting prevailing wage surveys; and
- The SWA agrees to submit all completed and signed Form ETA-232 prevailing wage survey findings to the DOL OFLC National Office in accordance with instructions contained in this TEGL and the regulations at 20 CFR 655.120(c).
- The SWA must provide an explanation for not scheduling any prevailing wage surveys, or for reducing the number of wage surveys from previous year, here:

***[Insert explanation]***

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

Survey Timeframes	Survey Areas (e.g., statewide, regional)	Crops/Agricultural Activities & District Work Task(s), if applicable	Survey Means (e.g., site survey, telephone)	Survey Transmission Timeframe to OFLC
Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.
Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.
Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.
Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.

- 4. Conducting Prevailing Practice and Normal/Accepted Requirements Surveys:**  
 This section of the grant plan identifies the 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 CNPC for review.

The SWA agrees to submit all completed prevailing practice and normal and accepted requirement surveys promptly to the CNPC in accordance with instructions contained in this TEG. The SWA must provide an explanation for not scheduling any prevailing practice surveys for reducing the number of surveys from previous year, here:

**[Insert explanation]**

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

*If this is the same as provided above, please indicate "Same survey schedule," without completing this table.*

Survey Timeframes	Survey Areas (e.g., statewide, regional)	Crops/Agricultural Commodities	Survey Means (e.g., site survey, telephone)	Survey Transmission Timeframe to OFLC
Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.
Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.
Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.
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## 5. Scheduling and Conducting Housing Inspections:

- *All Housing Inspections.* The SWA agrees to develop and maintain a plan to schedule housing inspections prior to the filing of clearance orders from employers who **regularly use the H-2A program** and, to the extent practicable, actively encourage employers to have housing ready for inspection at the time of filing the clearance order or earlier. The SWA agrees to conduct housing inspections in accordance with applicable local, state or Federal standards and provide notification to the employer of any deficiencies, request correction in five calendar days, and re-inspect to determine compliance. Additionally, the SWA agrees to provide a copy of the approved housing inspection or other official certification document to the employer and, if applicable, to the employer's authorized representative.
- *Employer-Provided Housing.* In accordance with 20 CFR 655.122(d)(1)(i), the SWA agrees to schedule and conduct **pre-occupancy inspections of housing** to be furnished to H-2A workers and non-H-2A workers in corresponding employment who are not reasonably able to return to their place of residence the same day. Employer-provided housing must meet the full set of DOL Occupational Safety and Health Administration standards set forth at 29 CFR 1910.142, or the full set of standards at 20 CFR 654.404 through 654.417, whichever are applicable under 20 CFR 654.401. Special requirements for range housing are provided below.
- *Rental and/or Public Accommodations.*
  - The SWA **DOES NOT** have jurisdiction to inspect rental and/or public accommodation housing.
  - The SWA **DOES** have jurisdiction under a state or local law/regulation to perform an inspection of rental and/or public accommodation housing.

**[Insert citation of state or local law/regulation and the criteria under which the inspections of rental or public accommodation housing will be performed]**
- *Range Housing.* If applicable, the SWA agrees to schedule and conduct inspections of range housing and certify that such housing used on the range is sufficient to accommodate the number of certified workers and meets the requirements under 20 CFR 655.230 and all applicable standards contained in 20 CFR 655.235.

- Except in circumstances where the DOL has a special procedure or as permitted by 20 CFR 655.230, the SWA agrees to schedule and complete the required housing inspection and submit notification (e.g., report, email) **no later than 30 days before the start date of work** to the CNPC regarding whether housing is approved or not approved using the FLAG system or via email at [H2ASWA.Chicago@dol.gov](mailto:H2ASWA.Chicago@dol.gov); and
- The SWA agrees to promptly notify the CNPC using the FLAG system of any changes in employer- provided housing and the results of any inspections conducted on substitute housing.
- *Alternative Housing Inspection Methods or Arrangements.*
  - The SWA **DOES NOT** use alternative methods or arrangements for conducting pre-occupancy housing inspections. The SWA is solely responsible for scheduling and conducting pre-occupancy housing inspections.
  - The SWA **DOES** use alternative methods, memoranda of understanding, or other contractual arrangements with the following agency(ies)/organization(s) to assist in conducting pre-occupancy housing inspections:
 

***[Insert name of state or local housing authority or other entity assisting the SWA in conducting housing inspections.]***
  - The SWA has submitted with this grant plan a current electronic copy of the memorandum of understanding or other contractual arrangement demonstrating that pre-occupancy housing inspections will be scheduled and conducted in a manner that meets applicable regulatory standards and timeframes.

**Alternative Inspection Methods:** Only in emergency situations where physical housing inspections cannot reasonably be performed, such as during FEMA declared emergencies due to Acts of God or other pandemic health emergencies, the SWA may implement the below alternative methods and procedures, on a temporary basis, to verify that housing meets all applicable standards. The SWA will retain all documentation and records demonstrating compliance and make such information available to DOL upon request.

***[Insert a description of the alternative methods and procedures that may be implemented by the SWA, including examples of acceptable documentation or evidence the SWA will rely upon to determine compliance.]***

**6. Post-Determination Services:** The SWA agrees to provide support services to the DOL CO after a final determination in the following circumstances:

- To the extent resources are available, the SWA agrees that staff funded through the FLC grant will cooperate with and assist Wagner-Peyser Employment Service grant activities that support employer compliance with Agricultural Clearance Order requirements at 20 CFR 653 and 655. This means that FLC grant funds may be used to support SWA processing of Complaints and Apparent Violations through the Employment Service and Employment-Related Law Complaint System described at 20 CFR 658 Subpart E and field checks as described at 20 CFR 653 Subpart F or other authorized inspections. All activities funded through the FLC grant for such Employment Service activities will be fully documented, as required by 20 CFR 653 and 20 CFR 658 Subpart E, and all related records and findings will be available to the State Monitor Advocate for monitoring purposes and/or to OFLC for other appropriate action under 20 CFR 655, Subpart B. The SWA may also provide any findings or related records to the Wage and Hour Division, Occupational Safety and Health Administration, or any other appropriate government enforcement agencies.
- In accordance with 20 CFR 655.166 and upon request by the DOL CO, the SWA agrees to promptly provide information concerning the availability of U.S. workers to replace some or all the qualified U.S. workers who were initially deemed available in support of a partial certification or denial determination on the employer's H-2A application;
- The SWA agrees to cooperate and make available all appropriate records and information upon request from any Federal officials assigned to perform an investigation, inspection, or law enforcement function pursuant to 8 U.S.C. 1188 and the H-2A regulations as described in 29 CFR 501.7;
- For complaints and apparent violations arising under the H-2A regulations, the SWA agrees to utilize the existing Employment Service and Employment-Related Law Complaint System, as described in 20 CFR part 658, subpart E, and as required by 20 CFR 655.185. Please note that these activities will be covered by existing Wagner-Peyser formula grants and not by the foreign labor certification grants that are the subject of this TEG;
- SWAs agree to refer complaints and apparent violations arising under the H-2A regulations, which are not informally resolved as described at 20 CFR 658.411, to the following recipients, in addition to other appropriate enforcement agencies (or another public agency, a legal aid organization, or a consumer advocate organization, as appropriate):
  - For complaints and apparent violations involving allegation of fraud or misrepresentation, the SWA agrees to refer all such complaints to the DOL CO at [H2ASWA.Chicago@dol.gov](mailto:H2ASWA.Chicago@dol.gov) for appropriate handling and resolution;

- For complaints and apparent violations involving contracts with workers, the SWA agrees to refer all such complaints to the nearest local or regional office of the Wage Hour Division for appropriate handling and resolution, as described in 29 CFR part 501, and provide a copy of such referral to the DOL CO at [H2ASWA.Chicago@dol.gov](mailto:H2ASWA.Chicago@dol.gov); and
- For complaints and apparent violations alleging that an employer discouraged an eligible U.S. worker from applying, failed to hire, discharged, or otherwise discriminated against an eligible U.S. worker, or discovered violations involving the same, the SWA agrees to refer all such complaints to the U.S. Department of Justice, Civil Rights Division, Immigrant and Employee Rights section in addition to any activity, investigation, and/or enforcement action taken by the state agency, and provide a copy of such referral to the DOL CO at [H2ASWA.Chicago@dol.gov](mailto:H2ASWA.Chicago@dol.gov).

#### D. Permanent Labor Certification Program

- The SWA’s labor exchange system is accessible to employers who are required to place a job order in connection with an *Application for Permanent Employment Certification*, as set forth in 20 CFR part 656, and facilitates the referral of qualified and available U.S. workers for consideration; and
- The SWA understands that these labor exchange services are already covered by existing Wagner-Peyser formula grants; not by the foreign labor certification grants that are the subject of this TEGL.

#### E. Grantee Contact Information

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

<b>Last name</b> Click or tap here to enter text.		<b>First name</b> Click or tap here to enter text.	
<b>Job title</b> Click or tap here to enter text.			
<b>Address</b> Click or tap here to enter text.			
<b>City</b> Click or tap here to enter text.		<b>State</b> Click or tap here to enter text.	<b>Postal code</b> Click or tap here to enter text.
<b>Telephone number (including extension)</b> Click or tap here to enter text.		<b>Fax number</b> Click or tap here to enter text.	
<b>E-mail address</b> Click or tap here to enter text.			

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

<b>Last name</b> Click or tap here to enter text.	<b>First name</b> Click or tap here to enter text.	
<b>Job title</b> Click or tap here to enter text.		
<b>Address</b> Click or tap here to enter text.		
<b>City</b> Click or tap here to enter text.	<b>State</b> Click or tap here to enter text.	<b>Postal code</b> Click or tap here to enter text.
<b>Telephone number (including extension)</b> Click or tap here to enter text.	<b>Fax number</b> Click or tap here to enter text.	
<b>E-mail address</b> Click or tap here to enter text.		

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

<b>Last name</b> Click or tap here to enter text.	<b>First name</b> Click or tap here to enter text.	
<b>Job title</b> Click or tap here to enter text.		
<b>Address</b> Click or tap here to enter text.		
<b>City</b> Click or tap here to enter text.	<b>State</b> Click or tap here to enter text.	<b>Postal code</b> Click or tap here to enter text.
<b>Telephone number (including extension)</b> Click or tap here to enter text.	<b>Fax number</b> Click or tap here to enter text.	
<b>E-mail address</b> Click or tap here to enter text.		

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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. This information is being collected for purposes of awarding a grant. Your response is required to obtain or retain a benefit. (See Wagner-Peyser Act section 9 (29 U.S.C. 49(i)). Public reporting burden for this collection of information is estimated to average approximately 4 (four) hours 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 U.S. Department of Labor-OASAM, • Office of The Chief Information Officer • Room 1N1301 • 200 Constitution Ave., NW, • Washington, DC 20210.

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ANNUAL PLAN CERTIFICATION

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

certifies that it will carry out all activities outlined in the Fiscal Year 2023 Annual Plan to support the Secretary of Labor’s responsibilities under the Immigration and Nationality Act as well as all other standard certifications and assurances as a condition of receiving the Federal grant funds. Per 2 CFR 200.333, file documentation of grant activities and accomplishments will be available for examination by the Employment and Training Administration or other authorized Federal representatives.

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Authorized Representative’s Signature

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Date

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Authorized Representative’s Job Title

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Authorized Representative’s Printed Name

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### Instructions for Completing the Budget Narrative

For all grantees, use the following guidance below when writing the budget narrative:

**IMPORTANT:** If a total amount for each line item listed below is included in the narrative, please be sure the amount in the narrative matches the corresponding line items on the SF-424A, *Application for Federal Assistance*.

**Personnel:** List all staff positions by title (current and proposed). Provide the annual salary of each position, percentage of each position's time devoted to the project, the amount of each position's salary funded by the grant, and the total personnel cost for the program year.

**Fringe Benefits:** Provide a breakdown of the amounts and percentages that comprise fringe benefit costs, such as health insurance, FICA, retirement, etc.

**Travel:** Specify the purpose, mileage, per diem, estimated number of in-state and out-of-state trips, and under costs for each type of travel.

**Equipment:** Identify each item of equipment to be purchased which has an estimated acquisition cost of \$5000 or more per unit and a useful life of more than one year (*see* 2 CFR 200.1 for the definition of equipment). List the quantity and unit cost per item. Items with a unit cost of less than \$5000 are considered supplies.

**Supplies:** Supplies include all tangible personal property other than "equipment" (*see* 2 CFR 200.1 for the definition of supplies). List the quantity and unit cost per item.

**Contractual:** Identify each proposed contract and specific purpose and estimated cost. If applicable, identify any sub-recipient agreements, including purpose and estimated costs.

**Construction:** Construction costs are not allowed, and this line must be zero.

**Other:** List each item in sufficient detail for us to determine whether the costs are reasonable or allowable. List any item, such as stipends or incentives, not covered elsewhere.

**Indirect Charges:** The following link contains specific DOL information regarding indirect charges: <https://www.dol.gov/agencies/oasam/centers-offices/office-of-the-senior-procurement-executive/cost-price-determination-division>.

**Commonwealth of the Northern Mariana Islands (CNMI) CW-1 Program Fiscal Year (FY) 2023 Office of Foreign Labor Certification (OFLC) Grant Planning**

**Guidance CW-1 Temporary Employment Activities**

Title VII of the Consolidated Natural Resources Act of 2008 provided the Secretary of the Department of Homeland Security (DHS) authority to administer and enforce a system of allocating and determining the terms and conditions of visas to be issued to nonimmigrant workers performing services or labor for an employer in the Commonwealth of the Northern Mariana Islands (CNMI or Commonwealth). DHS regulations established the Commonwealth-Only Transitional Worker (CW-1) visa classification to provide for an orderly transition from the CNMI permit system to the U.S. Federal immigration system for certain foreign nationals.

The Northern Mariana Islands U.S. Workforce Act of 2018 (Workforce Act) was passed to increase the percentage of U.S. workers in the total workforce of the Commonwealth while maintaining the minimum number of non-U.S. workers to meet the changing demands of the Commonwealth's economy, to encourage the hiring of U.S. workers, and to ensure U.S. workers are not at a disadvantage for employment or displaced by non-U.S. workers. In accordance with the Workforce Act, DHS promulgated corresponding regulations to provide that a CW-1 petition for temporary employment in the CNMI must be accompanied by an approved temporary labor certification from the Department. A temporary labor certification granted by DOL serves as confirmation to DHS that: (1) there are not sufficient U.S. workers in the CNMI who are able, willing, qualified, and available to fill the petitioning CW-1 employer's job opportunity; and (2) a foreign worker's employment in the job opportunity will not adversely affect the wages or working conditions of similarly employed U.S. workers.

The CNMI Department of Labor is the government agency responsible for providing employment and training services and maintains an electronic system for registered and approved employers to post job vacancy announcements and receive referrals of qualified U.S. workers in the CNMI. Registration for employers to post vacancy announcements on the job listing system is a one-time, free process, and readily accessible through the CNMI Department of Labor's website.

In accordance with regulations at 20 CFR part 655, subpart E, the CNMI Department of Labor agrees to carry out all activities to support DOL's review, and processing of job offers and applications seeking temporary labor certification under the CW-1 program.

Specifically, the CNMI Department of Labor agrees to carry out the following activities:



**A. Stakeholder Education and Outreach:** As part of a comprehensive education and outreach plan, the SWA will make available in a conspicuous location on the CNMI Department of Labor website the following information:

- Worker rights information created by the CNMI Department of Labor, the Occupational Safety and Health Administration, Wage and Hour Division, or similar federal authority; and
- Information on how employers can participate in the CW-1 program, such as easy-to-understand instructions on how to prepare and place a job advertisement with the CNMI Department of Labor that is accessible and can be completed electronically; and current contact information within the CNMI Department of Labor for employers to request technical assistance.
- Educate employers about the responsibilities associated with the use of foreign labor recruiters and ban on prohibited fees.

No less frequently than once a year, the CNMI Department of Labor will electronically disseminate to employers who routinely use the CW-1 program helpful tips or best practices on obtaining a prevailing wage determination from the National Prevailing Wage Center and preparing high-quality job advertisements. Where requested and funds permitting, the CNMI Department of Labor will participate in local employer roundtables, conferences or other stakeholder forums to present and/or disseminate information related to the CW-1 program.

In addition, the SWA will also make effort to:

- Remind and educate employers about *Title VII of the Civil Rights Act of 1964*, which makes it illegal to discriminate against someone or harass someone on the basis of race, color, religion, national origin or sex, and makes employers accountable for providing a work environment that is free from harassment and other kinds of discrimination; and
- Information educating employers about the responsibilities associated with the use of foreign labor recruiters and ban on prohibited fees.

**B. Placement of CW-1 Job Advertisement:** employer must place an advertisement with the CNMI Department of Labor for a period of 21 consecutive calendar days. All advertisements must satisfy the requirements codified in 20 CFR 655.441.

The CNMI Department of Labor's labor exchange system, at [www.marianaslabor.net](http://www.marianaslabor.net) is accessible to employers required to place a job advertisement in connection with a CW-1 *Application for Temporary Employment Certification* with DOL, pursuant to 20 CFR 655.442. The CNMI Department of Labor has capability for employers to place job advertisements for review in the following manner:

Please check all that apply:

- Self-services by accessing the CNMI Department of Labor's labor exchange system: [www.marianaslabor.net](http://www.marianaslabor.net).
- Staff-assisted job offer services by submitting draft job offers at:

**[Insert CNMI contact information including email address where employers can submit CW-1 job offer]**

Please check one of the following:

- The CNMI Department of Labor's job offer form and/or system **DOES** contain an entry field or option permitting employers to identify that the job offer is being placed in connection with a submitted *Application for Temporary Employment Certification* for CW-1 workers;

OR

- The CNMI Department of Labor's job offer form and/or system **DOES NOT** contain an entry field or option permitting employers to identify that the job offer is being placed in connection with a submitted *Application for Temporary Employment Certification* for CW-1 workers. Therefore, employers can provide the regulatory required notification to the CNMI Department of Labor in the following manner:

**[Insert a brief description of how and whom employers can provide]**

Please check all that apply:

- The CNMI Department of Labor has submitted with this grant plan a current electronic copy of the form and general instructions employers are required to use to submit job advertisements.
- The standard job advertisement form and general instructions are easily accessible to employers on a website maintained by the CNMI Department of Labor at: [www.marianaslabor.net](http://www.marianaslabor.net).

Once employers place an advertisement with the CNMI Department of Labor for 21 consecutive calendar days, the CNMI Department of Labor will make available to the employer web pages in which the advertisement appeared on the CNMI Department of Labor job listing system, or other verifiable evidence containing the text of the advertisement and the dates of publication demonstrating compliance with the requirement.

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Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number.

This information is being collected for purposes of awarding a grant. Your response is required to obtain or retain a benefit. *See* 20 CFR 655, Subpart E. Public reporting burden for this collection of information is estimated to average approximately 1 (one) 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 U.S. Department of Labor-OASAM, ● Office of The Chief Information Officer ● Room 1N1301 ● 200 Constitution Ave., NW, ● Washington, DC 20210.

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