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**Instructions for FY2024 Grant Plan**

The SWA grant application must be developed in accordance with the instructions contained in TEGL 12-21. The grant application package must be submitted via the [www.grants.gov](http://www.grants.gov) portal and include an updated Fiscal Year Annual Plan. When TEGL 12-21 was published, the expiration date of the Fiscal Year Annual Plan form was 07/31/2022. The form's expiration date has since been updated to 07/31/2025.

**Important Reminder:** The SWA must submit a completed grant application package to ETA using the [www.grants.gov](http://www.grants.gov) portal no later than **30 calendar days** from the date of this guidance. The grant application package must consist of the following documents:

- Fiscal Year Annual Plan, Expiration Date 07/31/2025, Office of Management and Budget (OMB) Control No. 1225-0086;
- An annual plan certification in accordance with and provided in Attachment IV of this guidance;
- An SF-424: Application for Federal Assistance, Expiration date 1/31/2025, OMB Control No. 4040-0004
- An SF-424A: Budget Information, Non-Construction Programs, Expiration Date 02/28/2025, OMB Control No. 4040-0006;
- A budget narrative drafted in accordance with the instructions provided in Attachment V of this guidance;
- A justification and supporting documentation for any proposed equipment purchases of \$5,000 or more; and
- A Negotiated Indirect Cost Rate Agreement (if applicable).

**FISCAL YEAR (FY) 2024 ANNUAL PLAN**  
**(Please complete all yellow highlighted fields)**

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

Hereafter referred to as the “state agency,” [FILL IN NAME OF STATE AGENCY] has prepared the following plan and statement of assurances for delivering services during the FY (October 1 through September 30) to support the administration of foreign labor certification programs in accordance with all applicable statutes, regulations, policies, procedures, handbooks, manuals, and other directives.

**A. Foreign Labor Certification Workload**

Category of OFLC Program Services/Activities	Previous Year (FY 2023)  Workload (per ETA 9127 Report)	Current Year (FY 2024)  Workload (Completed)	Current Year (FY 2024)  Workload (Projected)	Total Estimated Workload for Current Year  (FY 2024) <sup>(1)</sup> (Add previous 2 columns)
A. Number of agricultural prevailing wage surveys conducted and projected to be conducted under section C.4.	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.
B. Number of agricultural prevailing practice surveys conducted and projected to be conducted under section C.5.	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.
C. Number of CW-1 job offers maintained on website (only applicable for CNMI).	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.
D. Number of H-2A and H-2B related stakeholder outreach events under sections B.1 and C.1.	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.
E. Number of stakeholders reached by H-2A and H-2B related outreach events conducted under sections B.1 and C.1.	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.
F. Number of Full Time Equivalent (FTE) staff funded by this grant.	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.
G. Number of H-2A and H-2B post-certification site visits.	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.

<sup>(1)</sup> Workload includes **completed** OFLC program services/activities provided, and services/activities planned for the period between October 1<sup>st</sup> and September 30<sup>th</sup> of each fiscal year. For completion of this chart, SWAs should refer to data from SWA job order systems and Form ETA 9127 submissions.

<sup>(2)</sup> Data provided for reporting items should **exclude** range housing units inspected under 20 CFR 655.230, H-2A Herder Rule for the Temporary Employment of H-2A Foreign Workers in the Herding or Production of Livestock on the Range in the United States.

<sup>(3)</sup> Workload includes the tracking of CNMI labor exchange website recruitment reports uploaded by employers in accordance with the governing provision of the CNMI Interim Final Rule, codified at 20 CFR 655.442.

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

Section 214(c)(1) of the Immigration and Nationality Act, 8 U.S.C. 1184(c)(1) requires the Secretary of Homeland Security to make H-2B visa determinations in specific cases “after consultation with appropriate agencies of the Government, upon petition of the importing employer.” Under Department of Homeland Security (DHS) regulations at 8 CFR 214.2(h)(6)(iii)(C), an H-2B petition for temporary employment must be accompanied by an approved temporary labor certification from DOL, which serves as DOL’s advice to DHS regarding whether a qualified U.S. worker is available to fill the petitioning H-2B employer’s job opportunity and whether a foreign worker’s employment in the job opportunity will adversely affect the wages or working conditions of similarly employed U.S. workers. In accordance with regulations at 20 CFR part 655, Subpart A, 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-2B program. Specifically, the SWA agrees to carry out the following state activities:

1. **Stakeholder Education and Outreach:** As part of a comprehensive education and outreach plan, the SWA should make available in a conspicuous location on the state agency website the following resources, such as:
  - Information on how employers can participate in the H-2B program, for example easy-to-understand instructions on how to prepare and submit a job order; a copy of the SWA job order form that is accessible and can be completed electronically; and current contact information within the SWA for employers to request technical assistance.
  - Worker rights information developed by the SWA or as provided below:
    - [Employee Rights Under the H-2B Program Poster \(PDF\)](#);
    - [Spanish Version Poster \(PDF\)](#);
    - [H-2B Worker Rights and COVID-19 \(PDF\)](#);
    - [Spanish Version Poster \(PDF\)](#).
  - Educate employers about the responsibilities associated with the use of foreign labor recruiters and ban on prohibited fees.
  - To the extent practicable, the SWA agrees to maintain an up-to-date listing of contacts associated with the central office of the State Federation of Labor and office(s) of local union(s) representing employees in occupations traditionally or customarily unionized and make the list readily available to employers.

No less frequently than once a year, the SWA will electronically disseminate to employers who routinely use the H-2B program helpful tips or best practices on preparing high quality job orders, information on any relevant state-specific and local employment-related laws, including health and safety laws and requirements impacting the material terms or conditions of employer job orders, and the most current version of the state agency’s job order form and instructions.

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.
  - 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-2B program.
2. **Placement of Clearance Orders Attached to H-2B 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-2B applications may also be charged to the FLC grant.

The SWA’s labor exchange system, which is referred to as **[insert Labor Exchange System name here]**, is accessible to employers required to place a job order in connection with a concurrently filed H-2B *Application for Temporary Employment Certification* with DOL, pursuant to 20 CFR 655.16 and all applicable laws and regulations. The information collected on the job order from employers who seek temporary labor certification to employ H-2B workers is substantially similar to the information collected from all other employers using the SWA labor exchange system. The SWA has capability for employers to place job orders for review in the following manner:

*Please check all that apply:*

- Self-services by accessing the SWA’s labor exchange system:  
**[Insert state labor exchange system website link here]**
- Staff-assisted job order services by submitting a draft job order at:  
**[Insert SWA contact information including email address where employers can submit H-2B job orders]**

*Please check one of the following:*

- The SWA’s job order form and/or system **DOES** contain an entry field or option permitting employers to identify that the job order is being placed in connection with a concurrently submitted *Application for Temporary Employment Certification* for H-2B workers;

**OR**

- The SWA’s job order form and/or system **DOES NOT** contain an entry field or option permitting employers to identify that the job order is being placed in connection with a concurrently submitted *Application for*

*Temporary Employment Certification* for H-2B workers. Therefore, employers can provide the notification required by regulation at 20 CFR 655.16(a)(1) to the SWA in the following manner:

***[Insert a brief description of how and to whom employers can provide the state agency with the required notification]***

*Please check all that apply:*

- The SWA has submitted with this grant plan a current electronic copy of the form and general instructions employers are required to use to submit job orders.
  
- The standard job order form and general instructions are easily accessible to employers on a website maintained by the SWA at:

***[Insert state agency website link here]***

3. **Processing of Clearance Orders Attached to H-2B Applications:** Upon receipt, the SWA will review the job order submitted by the employer for compliance with the regulatory criteria under 20 CFR 655.18,<sup>1</sup> as well as any state-specific requirements. In circumstances where a waiver of the required time period for filing an *Application for Temporary Labor Certification* is granted under 20 CFR 655.17, the DOL Certifying Officer (CO) will forward the Notice of Acceptance (NOA) and the approved job order to the SWA.

a. Compliance Review of Job Orders

- Using an authorized SWA FLAG System account, the SWA will notify the DOL CO of any deficiencies within six business days of the date the employer's job order was received;
- For each deficiency identified, the SWA will state the reason(s) why the job order fails to meet the criteria under 20 CFR 655.18;
- For each deficiency identified related to a state-specific requirement, the SWA will provide the applicable statutory or regulatory citation(s) and state the modification(s) needed for the DOL CO to issue a NOA; and
- In circumstances where a timely review of the job order by the SWA cannot be performed, the state agency understands that the DOL CO has the authority to issue a Notice of Deficiency (20 CFR 655.31) or a Notice of Acceptance (20 CFR 655.33) within seven business days of receipt.

b. Processing of Approved Job Orders

- Upon receipt of a NOA under 20 CFR 655.33, the SWA will perform the following actions when instructed by the DOL CO:
  - Promptly make, on behalf of the employer, any necessary modifications to the job order under 20 CFR 655.32 or amendments granted by the DOL CO under 20 CFR 655.35 and uploads the modified documents through the SWA FLAG System account;
  - Promptly place on its active file the job order approved by the DOL

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<sup>1</sup> *The Further Consolidated Appropriations Act, 2024 prohibits DOL from using FY 202X appropriations to enforce the definition of corresponding employment found in 20 CFR 655.5 or the three-fourths guarantee rule definition found in 20 CFR 655.20, or any reference thereto (P.L. 118.47, Div. H, Tit. I, Sec. 111). To comply with this limitation, the state agency will not use any funds provided under this grant to implement these provisions in any manner. The state agency understands that the appropriation riders did not vacate these regulatory provisions, and they remain in effect, thus imposing a legal duty on H-2B employers, even though the DOL is currently prohibited from using funds to enforce them.*

CO, as well as job orders received from other SWAs pursuant to 20 CFR 655.16(c), for intrastate clearance until the end of the recruitment period, as specified by the DOL CO (i.e., 21 days before the start date of need set forth in 20 CFR 655.40(c));

- 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;
- Based on the SWA's determination that the employer's job opportunity covers an occupation or industry that is traditionally or customarily unionized, promptly transmit a copy of the approved job order to the central office of the State Federation of Labor and any local union office(s) representing employees in the same or substantially equivalent job classification in the area(s) in which work will be performed under the approved job order; and
- To the extent practicable, the SWA agrees to maintain an up-to-date listing of contacts associated with the central office of the State Federation of Labor and office(s) of local union(s) representing employees in occupations traditionally or customarily unionized.

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

- The SWA's public labor exchange services have the capability, whether by self-service or staff-assisted services, to 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 655.47;
- The SWA will use its public labor exchange services (i.e., self-service job bank system and/or one-stop career centers) 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. 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 TEGl;
- Upon request by the DOL CO, the SWA will make available records of U.S. workers referred through an approved job 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 655.50, using the SWA FLAG System account; and

- For complaints against an employer about a specific H-2B job order, the SWA agrees to utilize the existing Employment Service and Employment-Related Law Complaint System described at 20 CFR 658, Subpart E. 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 TEGL.

Complainants may submit a complaint through the Employment Service and Employment-Related Law Complaint System using one or more of the following methods:

Website: **[Insert the website URL where a complaint can be filed online, if applicable]**

Email: **[Insert the email address for the SWA-level complaint system representative]**

Mailing Address: **[Insert the mailing address for the SWA-level complaint system representative]**

Telephone Number for the SWA Complaint System Representative: **[Insert the phone number for the SWA-level complaint system representative]**

American Job Centers (AJCs): **[Insert a website URL where complainants can access a directory of AJCs]**

Other Method(s): **[Insert a brief description of any other methods through which complainants may submit complaints for review and processing by the SWA, if applicable]**

**4. Post-Determination Services:** The SWA agrees to provide support services to the DOL CO after a final determination is issued under 20 CFR 655.50 in the following manner:

- In accordance with 20 CFR 655.57 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 *Application for Temporary Employment Certification* using the SWA FLAG System account;
- For complaints involving allegation of fraud or misrepresentation, the SWA agrees to refer all such complaints to the DOL CO at [H2BSWA.Chicago@dol.gov](mailto:H2BSWA.Chicago@dol.gov) for appropriate handling and resolution, in addition to other appropriate enforcement agencies and organizations, as required by 20 CFR 658.411;



- In accordance with 29 CFR 503.7, the SWA agrees to refer to the appropriate office of the Wage Hour Division any complaint or report of a violation received by any person of the obligations imposed by 8 U.S.C. 1184(c), INA section 214(c), 20 CFR part 655, Subpart A, or 29 CFR part 503 covering the geographic area in which the reported violation is alleged to have occurred, and provide a copy of such referral to the DOL CO at [h2bcomplaints.chicago@dol.gov](mailto:h2bcomplaints.chicago@dol.gov), in addition to other appropriate enforcement agencies and organizations, as required by 20 CFR 658.411; and
- The SWA agrees to cooperate and make available all appropriate records and information upon request from any employee or agent of the DOL who is exercising or attempting to exercise the Department's authority pursuant to 8 U.S.C. 1184(c), including investigations as described in 29 CFR 503.25.
- To the extent resources are available, the SWA agrees that staff funded through the FLC grant will conduct and/or cooperate with and assist Wagner-Peyser Employment Service grant activities that support employer compliance with approved H-2B job orders and certified H-2B applications for temporary labor certification under 20 CFR 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. All activities funded through the FLC grant for such Employment Service activities will be fully documented, as required by 20 CFR 655 and 20 CFR 658 Subpart E, and all related records and findings will be available to the DOL CO for other appropriate action under 20 CFR 655, Subpart A. 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.

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

Section 218(a)(1) of the INA, 8 U.S.C. 1188(a)(1), authorizes the Secretary of Homeland Security to permit employers to employ foreign workers to perform agricultural labor or services of a temporary or seasonal nature where the DOL certifies that there are not sufficient qualified U.S. workers available to fill the petitioning employer's job opportunity and a foreign worker's employment in the job opportunity will not adversely affect the wages or working conditions of workers in the United States similarly employed.

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 its 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 also 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 request, the SWA will review the ETA Form 790 and 790A 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 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)(6).
- 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* under 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)(6).

**4. Conducting Prevailing Wage Surveys:** This section of the grant plan identifies the schedule of the agricultural prevailing wage surveys (including logging activities) the SWA plans to conduct during the performance period of the grant, including anticipated survey timeframes by area (e.g., statewide, regional), crop or agricultural activity and if applicable, distinct work task or tasks performed in that activity, survey means (e.g., field survey, telephone survey) and approximately when wage results are expected to be transmitted to the OFLC National Office (via the Forms ETA-232) for review.

- To the extent practicable, the SWA will prioritize its limited resources, including resources provided under the existing Wagner-Peyser formula grants, on conducting wage surveys in the major crops or other agricultural activities or distinct work task(s) where seasonal H-2A workers are regularly employed, particularly those agricultural activities paying workers on a piece rate basis;
- The SWA or other State agency will consider the available resources to conduct the survey, the size of the agricultural population covered by the survey, and any different wage structures in the crop or agricultural activity within the State in selecting an appropriate geographic area to survey. *See* 20 CFR 655.120(c)(1)(vi); 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 & Distinct 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.

5. **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 TEGL. Resources provided under the existing Wagner-Peyser formula grants may also be used to conduct prevailing practice and normal and accepted requirements surveys. The SWA must provide an explanation for not scheduling any prevailing practice surveys, or 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.
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.

## 6. 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. The SWA agrees to conduct housing inspections in accordance with Federal regulations at 20 CFR Parts 654 and 655 (ETA standards) for housing units that were built prior to April 3rd, 1980, unless the housing has undergone a major renovation. In this circumstance and for all housing built on April 3<sup>rd</sup>, 1980, or later, the Occupational Safety and Health Administration standards set forth at 29 CFR 1910.142 (OSHA standards) must apply. 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.]***

**7. 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 Parts 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 Part 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 TEGL;
- 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 N1301 • 200 Constitution Ave., NW, • Washington, DC 20210.

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