

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION Foreign Labor Certification
	CORRESPONDENCE SYMBOL OFLC
	DATE June 10, 2022

ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 12-21

TO: STATE WORKFORCE AGENCY ADMINISTRATORS

FROM: BRENT PARTON /s/
Acting Assistant Secretary

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

- 1. Purpose.** To provide guidance to State Workforce Agencies (SWAs) regarding FY 2022 – FY 2024 annual grants for foreign labor certification activities.
- 2. Action Requested.** 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 required FY 2022 – FY 2024 foreign labor certification grant application processes and timelines contained in this Training and Employment Guidance Letter (TEGL).

Grant Approval. SWAs will continue to submit their grant applications to the Employment and Training Administration (ETA), Department of Labor (DOL or Department), annually, **30 calendar days** from the date of issuance of this programmatic TEGL or 30 calendar days from the date of any subsequent guidance. ETA does not intend to issue a new programmatic TEGL through FY 2024; however, it will issue guidance to announce additional funding allotments as necessary.

SWAs must continue to submit their annual grant applications to ETA, unless they are in receipt of an approved written 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 programmatic TEGL or subsequent 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.

RESCISSIONS: None	EXPIRATION DATE: Continuing
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3. Summary and Background.

- a. Summary – This TEGL provides programmatic guidance and financial information to SWA Administrators to support state foreign labor certification activities for FY 2022 – FY 2024. A change to this TEGL will be issued each year to provide financial information pursuant to the funding levels authorized in the appropriations act for the fiscal year, and changes may also be issued, as appropriate, to implement changes in the law or legal obligations applicable to the activities covered under this grant.
- b. Background – ETA’s OFLC must determine, on a case-by-case basis, whether there are able, willing, and qualified U.S. workers available for a job, and whether there will be adverse impact on the wages and working conditions of similarly employed U.S. workers should a labor certification be granted. The Immigration and Nationality Act (INA) assigns certain responsibilities to the Secretary of Labor (Secretary) for employment-based immigration programs. The Secretary has delegated the non-enforcement responsibilities of these labor certification programs to the OFLC. Accordingly, statutory and regulatory provisions of the labor certification programs administered by OFLC require many employers seeking to hire either permanent or temporary foreign labor to apply to the Secretary for a labor certification.

Congress appropriates funding for state foreign labor certification activities through the State Unemployment Insurance and Employment Service Operations (SUIESO) account. The *Consolidated Appropriations Act, 2022* (P.L. 117-103) authorizes \$21,282,000 for foreign labor certification state grants, a \$1,000,000 increase from the previous year’s appropriation. In order to maintain an adequate level of base funding for SWAs while ensuring the resources appropriated by Congress are distributed based on recent foreign labor workloads, the Department is allocating the appropriated funds in two components: a base allocation and a supplemental allocation, as further described in Attachment VII.

4. Content. Please see Attachment II for guidance.

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

6. References.

- Immigration and Nationality Act (INA), as amended, 8 U.S.C. 1101(a), 1182(a)(5)(A), 1184(c), and 1188;
- Approval of Covenant to Establish a Commonwealth of the Northern Mariana Islands, 48 U.S.C. 1801, 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;
- Guide for Employment Service Reimbursable Grant Activities;
- ETA H-2A Program Handbook No. 398, January 1988;
- Training and Employment Guidance Letter (TEGL) No. 04-06, *Plans to Phase out Penalty Mail Costs for “Employment Security” Programs and Availability of Supplemental Budget Funds for Conversion to Commercial Mail Methods*; and
- Consolidated Appropriations Act, 2022 (P.L. 117-103)].

7. Attachment(s).

Attachment I. Table of Contents

Attachment II. Program Planning Guidance and Information Package

Attachment III. Fiscal Year (FY) 2022-2024 Annual Plans

Attachment IV. Annual Plan Certification

Attachment V. Procedures for Prior Approval of Equipment Purchase Requests

Attachment VI. Instructions for Completing Budget Narrative

Attachment VII. FY 2022 Funding Guidance and Funding Levels

Attachment VIII. Amendment A: Commonwealth of the Northern Mariana Islands (CNMI)

CW-1 Fiscal Year (FY) 2022 Grant Planning Guidance