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**Changes to TEGL 12-21 and TEGL 12-21, Change 1**

The mission of the Employment and Training Administration's (ETA) Office of Foreign Labor Certification (OFLC) is to 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 OFLC. Accordingly, statutory and regulatory provisions of foreign labor certification programs administered by OFLC generally require employers seeking to hire foreign labor on a permanent or temporary basis to apply to the Secretary for a labor certification.

The Department provides annual grants to State Workforce Agencies (SWAs) to support required state-level foreign labor certification activities. These activities include, but are not limited to, reviewing and placing job orders to recruit U.S. workers; providing assistance to employers in the effective recruitment of U.S. workers; conducting safety inspections of employer-provided housing for H-2A agricultural workers and U.S. workers in corresponding employment; performing prevailing practice and wage surveys used to set the wages and working standards for occupations within the state; and conducting post-certification site visits to support employer compliance with H-2A and H-2B program requirements. SWAs submit annual plans to the Department to establish continued eligibility for these grants. These annual plans describe the SWA's planned foreign labor certification activities and workload expectations for the upcoming year.

**Although items 1 through 6 remain unchanged in attachment II, Section B of TEGL 12-21, items 7 – 9 is amended as follows:**

7. High-Quality Award Descriptions. High-quality award descriptions include specificity regarding the purpose of the award, activities to be performed, deliverables and expected outcomes, intended beneficiaries, subrecipient activities, plain language, and any other pertinent information needed to ensure stakeholders understand the intended outcomes of the award. For foreign labor program activities, the following award description will be used:
  - **Purpose:** To ensure that U.S. workers are notified of available job opportunities, that U.S. employers can meet their labor needs when qualified U.S. workers are not available, and that foreign workers and U.S. workers in corresponding employment are provided fair wages, working conditions, and adequate and safe housing.
  - **Activities to be performed:** SWAs will review and post job orders to recruit U.S. workers for available positions for which employers intend to file applications for H-2A or H-2B labor certification, ensure that farm workers are provided with safe and adequate housing by conducting pre-occupancy inspections, and protect workers' wages and working conditions by conducting surveys to determine prevailing wages and practice standards.

- **Deliverables and Expected Outcomes:** Adequate and safe housing is provided to all H-2A workers and, as applicable, U.S. workers in corresponding employment as required by 20 CFR 655.122(d)(1)(i) and (ii), and 20 CFR 655.122(d)(2). Timely review and posting of job orders. Referral of qualified and available U.S. workers to job opportunities.
  - **Intended Beneficiaries:** U.S. and foreign workers. U.S. employers.
  - **Subrecipient Activities:** Grantee may or may not have subawards.
8. Grant Monitoring. OFLC reserves the right to conduct onsite and/or remote monitoring visits. The primary objective of a monitoring visit is to evaluate the management and administration of the grant, the quality of the program and/or services, and the performance of the grant to determine if the program is operating in compliance with the grant agreement and in a manner that ensures achievement of its goals and outcomes. If your grant is selected for a monitoring visit, the Federal Project Officer (FPO) will reach out 60 days prior to the anticipated visit for SWA confirmation. The FPO will provide guidance and work closely with SWA staff to help ensure a productive visit.
9. Grant Use. The expenditure period for FY 2024 FLC State Grants is October 1, 2023, to September 30, 2026. The annual plan must reflect foreign labor program activities to be performed over a 12-month period within the expenditure period. While the Department strongly encourages states to spend the entirety of their allocated funds within the fiscal year that the funds are received, the Department understands that unforeseen circumstances may affect fund expenditure and will allow states up to two years to expend all funds allocated for a fiscal year.