

# Attachment No.: 1

---

## Grant Guidance and Information Package

### **Introduction**

This document provides the necessary guidelines to be used by State Workforce Agencies (SWAs) to request funds in order to administer their Alien Labor Certification (ALC) responsibilities.

Wagner-Peyser funding allocations for SWA National Activities in FY 2005 (shown in Attachment 2), are only for agricultural and non-agricultural ALC programs. Planning targets, included in this document, reflect a postage assessment of 2.8 percent.

The available FY 2005 allocation for state ALC activities is \$17,007,998. Of this amount, \$5,665,000 was provided in November during the Continuing Resolution period. This guidance package coincides with the distribution of the remaining \$11,342,998. Each SWA's total FY 2005 funding (see Attachment 2) is identical to their planning figure provided in the September 29, 2004, FY 2005 Transition Guidance.

### **FY 2005 Annual Plan**

The procedures for submission of the twelve (12) month plan (October 1, 2004, through September 30, 2005) are provided in Attachment 6. Upon receipt and approval of the plan at the national office (Division of Foreign Labor Certification), the National Office Grant Officer (Division of Federal Assistance) will issue an additional Notice of Obligation to provide the balance of funds due to each state from its annual allocation.

Each state will be funded for two quarters to process applications for permanent labor certification and to transfer unprocessed cases to the appropriate backlog center. At a minimum, SWAs must fund one full-time position devoted to coordinating the transition from a state-Federal system to primarily a federally administered program. This position is responsible for coordinating, with ETA's backlog center contractor, the shipping of "pending" permanent labor certification cases either currently residing with the SWA or which are filed with the state prior to the full implementation of the PERM program. The FY 2005 funding for permanent, prevailing wage, H-2B, and H-2A activities is based on the cost breakout table that was included in the FY 2004 grant package. The minimum funding level for a state to conduct ALC activities has increased from \$60,000 to \$75,000 in FY 2005. This amount will account for at least one full-time ALC position in each state.

### **Changes in General Administration**

ETA Regional Offices are no longer responsible for the review and approval of ALC annual plans. Also, Certifying Officers are no longer responsible for monitoring of the cost reimbursable grants. Instead, plan approval and monitoring of these cost reimbursable grants will be handled entirely by national office DFLC staff.

### **National Office Responsibilities**

The national office responsibilities include the review and approval of the grant plan applications, analysis of expenditure and performance data, execution of programmatic plan modifications, and on-site reviews. States are advised to administer the plan in accordance with the approved plan and the terms and conditions of the Wagner-Peyser Annual Funding Agreement. The National Office Grant Officer funding authority remains with the national office, Division of Federal Assistance.

Labor certification funds are provided for labor certification activities only and cannot be used for other Wagner-Peyser activities, such as the routine referral of workers on job bank orders, MSFW activities, and processing of complaints under the SWA complaint system.

### **SWA Responsibilities**

SWAs are responsible for administering grant funds for ALC programs within established guidelines. These responsibilities include:

#### **1. Certifications and Assurances.**

Regulations require recipients of SWA grants to submit various standard certifications and assurances. These have already been provided under the FY 2005 Annual Funding Agreement. Current SWA regulations at 20 CFR, Part 658, subpart E (20 CFR 658.400-658-426) cover the complaint and appeals procedures. Regulations at 20 CFR, Part 653, subpart F, and 20 CFR, Part 654, subpart E apply to housing inspection activities under the reimbursable grant. Other applicable regulatory provisions and special assurances are incorporated in the Statements of Work (attached).

**2. Utilize Mandated Forms for Inter-Agency Communications.**

SWAs must utilize the proper formats to ensure uniform communications. These formats include, but may not be limited to, the following:

- **Form ETA-7147**  
Form ETA-7147 is the Alien Certification State Agency Transmittal of Application for an alien employment certification.
- **Form ETA-232**  
Form ETA-232 is the Domestic Agricultural In-Season Wage Report.

**3. Reporting Responsibilities.**

The required reports are listed below:

- **SF-269**  
The SF-269 is the Financial Status Report and must be submitted by the SWA on a quarterly basis for each fiscal year of funds.
- **Form ETA-9037**  
Form ETA-9037 is the Semi-Annual Alien Labor Certification Activity Report.

**4. Fiscal Management Responsibilities.**

The national office will retain flexibility to recommend the modification of the negotiated split of ALC funds between agricultural and non-agricultural ALC activities for a given state. Recommendations must be submitted in writing to the Chief, Division of Foreign Labor Certification for approval.

National office approval must be obtained for all equipment purchases made using ALC funds that are above five thousand dollars (\$5,000) in value. If such requests are included in the work plan and are clearly detailed in a cover memorandum, the national office can pre-approve the purchases. Otherwise, states must provide a written justification and cost estimate for the purchase(s). The national office will not approve capital purchases such as buildings and vehicles.

Although Employment Service (ES) grants are valid for three (3) years, ALC grants are intended to be used during the Fiscal Year that they are issued. Any carry over funds in excess of fifteen (15) percent of the total grant value are subject to recuperation by the national office. See the Employment and Training Order "Closeout Procedures for ETA Expired Grants, Agreements, and National Office Contracts" for information regarding the procedures for closing grants.

**5. Training.**

SWAs are required to send appropriate staff to program training, when such training is offered. The costs of SWA travel to regional and national meetings and training sessions are included in grant funds. Attendance at these sessions is a condition of the grant. If SWAs do not attend mandatory meetings, funds may be recaptured.

***Conclusion***

Grant funding balances will be issued to SWAs as soon as possible. The National Office Grant Officer will issue a Notice of Obligation (NOO) to SWAs upon approval of the SWA Alien Labor Certification Plan. Budgets can only be approved for annual plans after the national office (Division of Foreign Labor Certification) has approved the Statement of Work and Work Plans for the Agricultural/Non-Agricultural programs.