

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR WASHINGTON, D.C. 20210	<b>CLASSIFICATION</b> Foreign Labor Certification
	<b>CORRESPONDENCE SYMBOL</b> ONP/DFLC
	<b>DATE</b> January 23, 2006

**TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 11-05**

**TO: ALL STATE WORKFORCE AGENCIES**

**FROM: EMILY STOVER DeROCCO**   
Assistant Secretary for Employment and Training

**SUBJECT: Fiscal Year (FY) 2006 Foreign Labor Certification  
Grant Planning Figures**

1. **Purpose.** To provide projected funding figures for the management of the FY 2006 Foreign Labor Certification (FLC) program.
2. **References.**
  - The Immigration and Nationality Act, Sections 101(a), 212(n), 214(c), and 218
  - 8 CFR 214
  - The Wagner-Peyser Act, Section 7(d)
  - 29 CFR Part 93
  - OMB Circular A-87
  - Employment and Training Administration (ETA) Handbook No. 385
  - Guide for Employment Service Reimbursable Grant Activities
  - ETA No. 398, H-2A Program Handbook, January 1988
  - Other ETA instructions as noted
3. **Background.** The purpose of this memorandum is to provide State Workforce Agencies (SWAs) with FY 2006 planning figures pertaining to foreign (alien) labor certification activities. It is recommended that states adjust their expenditures and staffing levels, as necessary, in accordance with this guidance.
4. **Action Required.** SWA Administrators are requested to provide the following clarification and guidance to the appropriate staff.

RESCISSIONS	<b>EXPIRATION DATE</b> October 1, 2006
-------------	---

Last year marked a significant shift in the role of the SWAs in processing applications for foreign labor certification. Although the nature of state involvement in the permanent program has changed, SWAs continue to perform a vital and important role in the administration of foreign labor certification programs.

### State Workforce Agency Role

In FY 2006, SWAs are responsible for the following labor certification activities:

- Providing prevailing wage determinations for all non-agricultural labor certification programs in accordance with the Prevailing Wage Determination Policy Guidance for Nonagricultural Immigration Programs;
- Processing H-2B temporary non-agricultural labor certification applications in accordance with existing policy; and
- Receiving new applications for H-2A temporary agricultural labor certification, performing prevailing wage and prevailing practice surveys, ensuring housing inspections are conducted, and processing job orders.

SWAs are to continue issuing prevailing wage determinations to employers to accompany their applications for permanent labor certification. These wage determinations are to be provided in a responsive and timely manner. All other functions of permanent labor certification will be performed by the National Processing Centers in Atlanta and Chicago.

### FY 2006 Grant Planning Figures

The Department of Labor has received an appropriation of approximately \$13 million in FY 2006 to fund SWA-related activities. Of this amount, a postage assessment of approximately three percent will be levied. The amount available for distribution represents roughly a 30 percent decrease in the funding level available for foreign labor certification activities compared to funds distributed in the previous fiscal year (see chart). We ask that states make budget decisions in accordance with this guidance.

Since the Department of Labor began FY 2006 under a Continuing Resolution, partial grant funding was approved and distributed in December. SWAs will receive the remaining balance of their funds upon the issuance of the grant guidance package and acceptance of their work plans.

### Items for Consideration

SWAs are encouraged to consider the following as part of their overall planning process for FY 2006:

The Employment and Training Administration will fund SWAs through FY 2006 to conduct the roles outlined above. States are responsible for operating within their planned allocation. Supplemental funds may not be available as they have been in previous years. Accordingly, we recommend that states adjust their expenditures and staffing levels, as necessary, in accordance with this guidance.

5. **Inquiries**. Funding questions related to the foreign labor certification grant should be directed to Mr. Greg Wilson at (202) 693-2954. All program-related questions should be directed to Ms. Leticia Sierra at (202) 693-3749.
6. **Attachment**. FY 2006 Grant Planning Figures.