

FISCAL YEAR (FY) 2012 ANNUAL PLAN

(Insert SWA Name) has prepared the following plan and statement of assurances for delivering services during FY 2012 (October 1, 2011 through September 30, 2012) to support the Federal administration of foreign labor certification (FLC) programs in accordance with all applicable regulations, policies, procedures, handbooks, manuals, and other directives.

**A. Foreign Labor Certification Workload**

| Category of OFLC Program Services/Activities   | FY 2012 Workload Completed | FY 2012 Workload To be Processed | TOTAL FY 2012 Workload <sup>(1)</sup><br>add previous columns |
|--|----------------------------|----------------------------------|---|
| A. Number of job orders related to H-2A temporary labor certification applications processed and expected to be processed. |                            |                                  |   |
| B. Number of prevailing wage surveys conducted and expected to be conducted in agricultural activities.                    |                            |                                  |   |
| C. Number of prevailing practice surveys conducted and expected to be conducted in agricultural activities.                |                            |                                  |   |
| D. Number of housing inspections conducted and expected to be conducted in anticipation of H-2A orders.                    |                            |                                  |   |
| E. Number of job orders related to H-2B temporary labor certification applications processed and expected to be processed. |                            |                                  |   |
| F. Number of Full Time Equivalent (FTE) staff funded by this grant.  |                            |                                  |   |

(1) Workload includes actual OFLC program services/activities provided or services/activities planned for the period between October 1, 2011 and September 30, 2012.

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

The SWA agrees to carry out all State activities in support of the Secretary of Labor's responsibilities under 8 U.S.C. 1101(a)(15)(H)(ii)(b) and 20 CFR 655, to certify, upon application by a U.S. employer intending to petition Department of Homeland Security (DHS) to admit H-2B workers, that there are not enough able and qualified U.S. workers available for the position sought to be filled and that the employment of the foreign worker(s) will not adversely affect the wages and working conditions of similarly employed U.S. workers. This section of the plan describes how the SWA will receive job orders to be placed in connection with future H-2B applications, process job orders in compliance with all applicable regulatory requirements, and manage referrals of qualified U.S. workers to the job opportunity.

- a. Description of the process by which employers, desiring to hire foreign workers in temporary nonagricultural employment, can submit a job order to the SWA and identify it as a job order to be placed in connection with a future application for H-2B workers.

*[SWA narrative inserted here]*

- b. Description of the process by which the SWA, upon receipt of a nonagricultural job order covering multiple States (e.g., multiple States within the same area of intended employment, itinerant jobs in tree planting and reforestation), will promptly transmit, on behalf of the employer, a copy of the job order to all States listed in the application as anticipated worksites.

*[SWA narrative inserted here]*

- c. Description of how the SWA will refer qualified U.S. workers to the job opportunity, particularly those requiring interstate referral, and maintain records of referrals in the event such records are requested by the Office of Foreign Labor Certification (OFLC) Certifying Officer in support of a final determination on a pending H-2B application or audit examination of a certified H-2B application.

*[SWA narrative inserted here]*

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

The SWA agrees to carry out all activities in support of the Secretary's responsibilities under 8 U.S.C. 1101(a)(15)(H)(ii)(a) and 1188, and 20 CFR 655, to certify, upon application by a U.S. employer intending to petition DHS to admit H-2A workers, that there are not enough able and qualified U.S. workers available for the position sought to be filled and that the employment of the foreign worker(s) will not adversely affect the wages and working conditions of similarly employed U.S. workers.

This section of the plan describes how the SWA will receive job orders to be placed in connection with future H-2A applications, review and process job orders in compliance with all applicable regulatory requirements, conduct agricultural surveys of prevailing wages, prevailing practices, and normal and accepted requirements, perform inspections of employer-provided housing, and manage referrals of qualified U.S. workers to the job opportunity.

- a. Description of the process by which the SWA will review agricultural job orders (ETA Form 790, [http://www.foreignlaborcert.doleta.gov/pdf/Revised\\_ETA\\_Form\\_790.pdf](http://www.foreignlaborcert.doleta.gov/pdf/Revised_ETA_Form_790.pdf)) being placed by employers in connection with a future application for H-2A workers, communicate and resolve any deficiencies with the employer and, where accepted, place a copy in its job bank system for intrastate clearance and commence recruitment of U.S. workers.

*[SWA narrative inserted here]*

- b. Description of how (i.e., what mechanisms or process) the SWA, upon receipt of a Notice of Acceptance from the OFLC Certifying Officer, will promptly transmit, on behalf of the employer, a copy of the job order to other States the OFLC Certifying Officer determines to be potential sources for recruiting U.S. workers, and how such interstate referrals of qualified U.S. workers from other States will be received and processed against the employer's job order.

*[SWA narrative inserted here]*

- c. Schedule of the agricultural prevailing wage surveys (including logging activities) the SWA plans to conduct during the performance period of the grant in accordance with the ETA Handbook No. 385, including anticipated survey timeframes by area (e.g., statewide, regional) and crops or other agricultural activities/commodities, and approximately when wage results are expected to be transmitted to the OFLC National Office (via the ETA Forms 232 and 232A) for review. The SWA's schedule of surveys may be based upon current and historical agricultural job order activities or other information about major crops/commodities within the State's agricultural sector.

*[SWA schedule of wage survey inserted here and, if necessary, include attachments]*

- d. 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 the 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 Chicago National Processing Center (NPC) for review.

*[SWA schedule of wage survey inserted here and, if necessary, include attachments]*

The SWA agrees to promptly submit all completed prevailing practice and normal and accepted requirement surveys to the OFLC Chicago NPC either electronically at [H2ASWA.Chicago@dol.gov](mailto:H2ASWA.Chicago@dol.gov) or mailed to the following address:

U.S. Department of Labor  
Employment and Training Administration  
Office of Foreign Labor Certification  
Chicago National Processing Center  
536 South Clark Street, 9<sup>th</sup> floor  
Chicago, IL 60605  
Attn: H-2A Prevailing Practice Surveys

- e. SWA will schedule and conduct pre-occupancy inspections of housing to be furnished to U.S. and H-2A workers who are not reasonably able to return to their place of residence the same day. Except in circumstances where the Department of Labor has promulgated special procedures, employer housing must meet the applicable local, State, or Federal standards, and be sufficient to house the number of workers requested in order for OFLC to grant a temporary labor certification. To the extent practicable, the SWA will plan to schedule housing inspections before the filing of the agricultural clearance order for those employers who regularly use the H-2A Program.

The SWA (check one)  **IS**  **IS NOT** requesting approval to use an alternative method(s) for conducting pre-occupancy housing inspections. Alternative methods include contracts, memoranda of understandings, or other cooperative agreements with State or local organizations to carry out inspections of housing (e.g., health departments, Occupational Safety and Health Administration).

*[SWA narrative providing a detailed explanation and justification for use of alternative method(s) inserted here]*

**D. Cost of H-2A and H-2B Temporary Labor Certification Activities**

The information contained in the table below is to be taken from available FY 2011 expenditure data to estimate the cost of conducting State activities under the H-2A and H- 2B temporary labor certification programs, including applications for logging.

**Costing Sheet (Including Logging)**

| <b>Activity</b>   | <b>Total Number</b> | <b>Total Cost</b> | <b>Average Cost<sup>(5)</sup></b> |
|---|---------------------|-------------------|-----------------------------------|
| H-2A Housing Inspections <sup>(1)</sup>   |                     |                   |                                   |
| H-2A Prevailing Wage Surveys <sup>(2)</sup>   |                     |                   |                                   |
| H-2A Prevailing Practice and Normal and Accepted Requirement Surveys <sup>(2)</sup> |                     |                   |                                   |
| H-2A Job Orders Processed <sup>(3)</sup>  |                     |                   |                                   |
| <b>Total Cost of H-2A Activities<sup>(4)</sup></b>                                  |                     |                   |                                   |
| Staff Assisted H-2B Job Orders <sup>(6)</sup>                                       |                     |                   |                                   |
| <b>Total Cost of H-2A and H-2B Activities<sup>(7)</sup></b>                         |                     |                   |                                   |

(1) H-2A Housing Inspections:

Include in the total cost estimate: travel time, inspection time, travel mileage, and completion of paperwork. Include in the total, all housing inspections started during the prior FY regardless of the final completion date.

- If housing inspections are done by another organization, estimate the cost that the H-2A portion adds to their total cost and include this amount in the table.

(2) H-2A Prevailing Wage/Practice and Normal and Accepted Requirement Surveys:

- Include in the total cost estimate the development of the survey instrument, postage, collection of responses, collation of information, and publication of results.
- Include in the total, all surveys started during the prior fiscal year regardless of the final completion date.

(3) H-2A Job Orders Processed:

- Include in the total cost estimate the creation and maintenance of files, taking into account the cost associated with receiving and reviewing applications, referring applicants, and releasing orders into inter/intra-state job system.

(4) Total Cost of H-2A Activities:

- Total Cost of Housing Inspections + Total Cost of Prevailing Wage/Practice Surveys + Total Cost of Job Orders Processed.

- (5) Average Cost:
  - Total Cost of activity/ Total Number of activity.
  
- (6) Staff Assisted H-2B Job Orders:
  - Total number of job orders.
  
- (7) Total Cost of H-2A and H-2B Activities
  - Add cost of all activity

### **E. Permanent Labor Certification Activities**

The SWA is expected to perform labor exchange activities necessary to support the recruitment of U.S. workers under the permanent labor certification program. Such labor exchange activities include placing job orders serving the area of intended employment and receiving referrals of qualified applicants for consideration. Please note that these activities are covered by existing Wagner-Peyser formula grants and not by the FLC grants that are the subject of this Training and Employment Guidance Letter.

**F. Grantee Contact Information**  
**H-2A Program Point-of-Contact**

|  |  |                    |             |
|--|--|--------------------|-------------|
| Last (family) name                     |  | First (given) name |             |
| Job title                              |  |                    |             |
| Address                                |  |                    |             |
| City                                   |  | State              | Postal code |
| Telephone number (including extension) |  | Fax number         |             |
| E-mail address                         |  |                    |             |

**H-2B Program Point-of-Contact (if different than the contact listed above)**

|  |  |                    |             |
|--|--|--------------------|-------------|
| Last (family) name                     |  | First (given) name |             |
| Job title                              |  |                    |             |
| Address                                |  |                    |             |
| City                                   |  | State              | Postal code |
| Telephone number (including extension) |  | Fax number         |             |
| E-mail address                         |  |                    |             |

**Fiscal Grant Point-of-Contact (if different than the contact listed above)**

|  |  |                    |             |
|--|--|--------------------|-------------|
| Last (family) name                     |  | First (given) name |             |
| Job title                              |  |                    |             |
| Address                                |  |                    |             |
| City                                   |  | State              | Postal code |
| Telephone number (including extension) |  | Fax number         |             |
| E-mail address                         |  |                    |             |