

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION Foreign Labor Certification
	CORRESPONDENCE SYMBOL OFLC
	DATE March 30, 2017

ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 25-16

TO: STATE WORKFORCE AGENCY ADMINISTRATORS

FROM: BYRON ZUIDEMA /s/
Deputy Assistant Secretary

SUBJECT: Fiscal Year (FY) 2017 Foreign Labor Certification (FLC) Grant Planning Guidance

1. **Purpose.** To provide guidance for the funding and management of FY 2017 annual grant allocations in order to perform FLC program activities.

2. **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;
- 48 U.S.C. 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 and B, and 658;
- 2 CFR 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Final Rule;
- 2 CFR 2900, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Department of Labor; Final Rule
- Guide for Employment Service Reimbursable Grant Activities;
- ET H-2A Program Handbook No. 398, January 1988; and
- 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.*

3. **Background.** The mission of the Office of Foreign Labor Certification (OFLC) of the Employment and Training Administration is to help U.S. employers fill jobs while protecting U.S. and foreign workers. OFLC carries out this mission by determining, on a case-by-case basis, whether there are able, willing, and qualified U.S. workers available for the job and whether there will be any adverse impact on similarly-employed U.S. workers should a labor certification be granted. The Immigration and Nationality Act (INA) assigns certain

RESCISSIONS None	EXPIRATION DATE Continuing
----------------------------	--------------------------------------

responsibilities to the Secretary of Labor (Secretary) for employment-based immigration programs that require a labor certification. 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 all employers seeking to hire either permanent or temporary foreign labor to apply to the Secretary for a labor certification.

Congress appropriates funding for OFLC Federal Administration and related State foreign labor certification activities through the State Unemployment Insurance and Employment Service Operations (SUIESO) account. The Federal Administration activity funds federal program functions, including salaries and expenses, IT development and maintenance, contract services to support case adjudications, rent, and overhead costs. The State Grants activity funds services provided by State Workforce Agencies in support of the foreign labor certification program, including the placement of employer job orders, inspection of housing for agricultural workers, and the administration of prevailing wage and practice surveys. The OFLC distributes this grant funding annually in accordance with approved state plans. This TEGl provides programmatic guidance and financial information to SWAs to support state foreign labor certification activities in FY 2017.

4. **Action Requested.** SWA Administrators are requested to immediately provide copies of this guidance to all staff involved in the preparation and submission of the annual grant plan for FLC program activities for FY 2017. **Within 30 calendar days** from the date of this TEGl's issuance, SWAs must submit their grant applications to OFLC unless they are in receipt of an approved written extension from the OFLC National Office. We request that Administrators receiving this guidance share this information within their respective organizations in order to ensure that fiscal and programmatic public workforce system members are fully aware of the required FY 2017 FLC grant application processes and timelines.
5. **Inquiries.** SWA staff should direct all questions to the OFLC National Office at FLC.Grant@dol.gov.
6. **Attachments.**

Attachment 1 - Program Planning Guidance and Information Package

Attachment 2 - Fiscal Year (FY) 2017 Annual Plan

Attachment 3 - Annual Plan Certification

Attachment 4 - FY 2016 Funding Level (provided as estimates for use in determining FY 2017 final funding levels)