

## **AGRICULTURAL OUTREACH PLAN**

NYS DOL's Agricultural Outreach Plan (AOP) details the activities planned for providing services and outreach to both domestic MSFWs, H-2A foreign guest workers and Agricultural businesses for the period of July 1, 2020 to June 30, 2024 and is prepared in accordance with WIOA proposed Section 167 and Unified Planning Guidance.

### ***Submission Requirements***

The goal of the AOP is to describe the strategies the Agriculture Labor Program (AgLP) will use in the coming program year to provide services to MSFWs through the NYS One-Stop Career Center System, which are quantitatively proportional and qualitatively equivalent to those provided to non-MSFWs, and to detail how services will be delivered to agricultural businesses to ensure the jobs they provide are filled with the available, domestic labor supply. The AgLP is committed to ensuring that H-2A foreign guest workers and domestic farmworkers understand their rights and how the labor law in NYS protects them.

### **NYS DOL's plan includes the following:**

- (1) *Assessment of Need* – Information on PY21 agricultural and MSFW activity, projected levels of agricultural activity in PY22, and projected numbers of MSFWs in NYS in PY22;
- (2) *Outreach Activities* – A description of how MSFWs across the state will receive services in PY22, as well as an assessment on staff and the resources available for outreach;
- (3) *NYS's strategy for:*
  - (A) Coordinating outreach efforts with WIOA Title I section 167 grantees as well as public and private community service agencies and MSFW groups;
  - (B) Explaining to farmworkers the services available at the local Career Centers;
  - (C) Marketing the employment service complaint system to farmworkers and other farmworker advocacy groups;
  - (D) Providing farmworkers with a basic summary of farmworker rights, including their rights with respect to the terms and conditions of employment; and
  - (E) Urging those farmworkers reached through outreach efforts to contact the local Career Center to obtain the full range of employment and training services.
- (4) *Services Provided to MSFWs through the American Job Center Network and Services to Agricultural Businesses through the American Job Center Network* – Review of the ways NYS's AgLP staff will ensure MSFWs receive the same services as non-MSFWs and information on utilizing OSOS/NYS Job Bank, to ensure that Agricultural businesses receive the workforce required to maintain a vital industry in NYS; and
- (5) *Other Requirements* – Opportunity for the State Monitor Advocate (SMA) to review and approve the AOP, and review and public comment by WIOA Section 167 National Farmworker Jobs Program (NFJP) grantee PathStone Corporation, other agricultural organizations, and the public.

## **Assessment of Need**

### **(i) NYS Migrant Seasonal Farmworker Characteristics and MSFW Needs**

- (1) Agriculture is one of the most important industries in NYS, providing food for the state's consumers and employment for many of its residents. Crops grown across the state are very diverse and include a variety of fruits, root vegetables, and plant/nursery stock. New York's top crops are apples, cabbage, sweet corn, potatoes, and grapes.

Throughout PY20 and PY21, the AgLP recorded information on the specific crops grown on farms staff visited and provided vital data demonstrating the best time of year to visit certain farms based on the crops grown at that location.

#### **Apples**

Top 5 apple-growing counties in New York State are Wayne, Ulster, Orleans, Niagara and Clinton. Apples are harvested from late August to October 15, but in colder areas of the state harvesting can be extended through November 15.

#### **Cabbage**

Cabbage is grown everywhere in the state but the most is produced in Western New York and the Finger Lakes regions. Traditionally planted in April, it can be harvested from mid-June through mid-November.

#### **Sweet Corn**

Fresh market sweet corn is grown throughout all agricultural regions of New York, with significant production in Chautauqua, Columbia, Delaware, Erie, Monroe, Niagara, Rockland, Onondaga, Ontario, Orange, Rensselaer, Suffolk, Ulster, and Washington Counties. The harvest season from sweet corn runs from August 1 through September 30, but in colder areas of the state, it can run through October 15.

#### **Potatoes**

Potatoes are grown in most of the vegetable production regions of the state. Areas with significant production include Long Island (Suffolk County), northern NY (Franklin County), central New York (Oswego, Steuben, Wayne, Ontario, Oneida, and Livingston counties), and western NY (Erie, Genesee, Monroe, Orleans, and Wyoming counties). Potato harvesting starts as early as July for some fresh market crops, but most are harvested between late August and October.

#### **Grapes**

Grapes are grown in the Lake Erie regions, Long Island, Finger Lake and the Hudson River regions. Specific counties of note include Chautauqua, Chenango, Suffolk, Seneca, Cayuga, and Orange. Grapes are harvested during a short two-week window in mid/late September, but in colder areas can be harvested until September 30.

- (2) Typical Characteristics of MSFWs in NYS:

- Predominantly Spanish Speaking and/or English Language Learner (ELL).
- Countries of origin include Mexico, Guatemala, Jamaica, Burma, Haiti, and Korea.
- U.S. born domestic workers include workers from New Jersey, Pennsylvania, New York and Puerto Rico.

- Common languages include Spanish, Haitian Creole, and Korean.
- Farmworkers are MSFW, seasonal, and year-round workers depending on the commodity.
- Approximately 9,860 seasonal farm workers are H-2A visa foreign guest workers.

Farmworkers, including MSFWs, have similar needs to other immigrant, refugee, and low wage worker populations, including:

- Flexible hours for accessible services as agricultural work hours do not always coincide with typical business hours;
- Assistance with transportation;
- Assistance with language barriers; and
- Assistance with finding work in agriculture by word-of-mouth and friends/neighbors.

In NYS, domestic farmworkers tend to be workers that work at area farms seasonally. In the off season, domestic workers may find other temporary jobs or will wait to be called back by their previous agricultural employer.

### **(3) Factors Affecting Agriculture in NYS**

NYS Comptroller Thomas DiNapoli, in the September 2018 report entitled “Agriculture in New York State,” summarized the current and projected challenges facing farmers which includes “unpredictable weather and long working hours... Tariffs, including those imposed recently on agricultural products by the nation’s trading partners in response to those imposed by the federal government, have increased financial uncertainty for many farmers in New York and nationwide. Federal policies relating to visas for migrant workers and other immigration programs have increased restrictions on such workers, who play an important role in the State’s agricultural workforce; such steps may add to the challenge of planting and harvesting on a timely basis. In addition, potential changes to federal farm aid policies and other agricultural programs may affect farmers in unpredictable ways.”

The Farm Laborers Fair Labor Practices Act has also recently impacted agriculture in NYS. This Act, which took effect in 2020, now requires farm workers to receive overtime pay for hours over 60 worked in a calendar week and requires 1 day (24 consecutive hours) of rest per calendar week. There are other provisions of the Act, but the main factors directly impacting agriculture labor are noted above.

In addition, the COVID-19 pandemic has impacted agriculture. Worker travel disruption, outbreaks among the workforce, market instability and new safety requirements (such as safety plans, providing Personal Protective Equipment (PPE) and other considerations) have all taken their toll, and continue to do so at this time. Agriculture is specifically impacted by COVID-19 because in many cases the workers both work and live together, in close quarters, where the virus can quickly and easily spread.

#### ***(ii) A review of the previous year’s agricultural activity in the state:***

Agriculture is one of the most important industries in NYS, providing food for the state’s consumers and employment for many of its residents. Crops grown across the state are very diverse and include a variety of fruits, root vegetables, and plant/nursery stock. Throughout

PY20, the AgLP recorded information on the specific crops grown on farms staff visited and provided vital data demonstrating the best time of year to visit certain farms based on the crops grown at that location. Data compiled by NYSDOL includes:

	Ag Businesses	Workforce Estimate (current)	Employed Year-round	Migrant Workers	Seasonal Workers	H-2A Guest Workers	Non-Ag Duties on Farm
Seasonal Operations	1042	18709	3242	1606	3892	7655	2289

**(iii) A review of the previous year’s MSFW activity in the state:**

NYSDOL outreach staff create regional outreach plans (ROPs) which are a 6-month plan for how outreach and compliance will be conducted. Due to the COVID-19 pandemic, staff did not conduct in-person outreach until it was safer to do so, and returned to in-person outreach in late June 2021. In reviewing the 2021 ROPs, the field staff focused on seasonal operations as the priority. In the first half of PY21, AgLP staff visited small, medium, and large farming operations, including seasonal and year-round workforces. The goal was to reach as many of the seasonal Farmworkers and H-2A foreign guest workers in the state as possible. AgLP staff performed outreach education to a total of 1,394 Domestic MSFWs; 4,614 H-2A foreign guest workers; and 404 year-round farmworkers from late June 2021 until the end of the 2021 calendar year.

<b>Report Start Date:</b>	7/1/2021
<b>Report End Date</b>	12/31/2021
<b>II. Number of Outreach Contacts in the Region:</b>	<b>TOT</b>
7. Number of Employer / Manager Staff Contacted this Period:	829
8. Number of Domestic MSFWs Contacted this Period:	1394
9. Number of H-2As Contacted this Period:	4614
10. Number of Year-Round Farmworkers Contacted this Period:	404
11. Number of Non-Ag Workers Contacted this Period:	56
12. Number of NGOs / Service Providers Contacted this Period:	70
13. Total Number of Contacts this Period (Incl. ERs, EEs, NGOs, H-2As...):	7364

The 2021 estimates for NYSDOL field activity are:

<b>County</b>	<b>Seasonal Records</b>	<b>Domestic MSFW Est.</b>	<b>H-2A Est.</b>	<b>Yr-Rnd Est.</b>
Albany	14	14	58	22
Allegany	5	0	0	0
Bronx	0	0	0	0
Broome	7	31	8	0
Cattaraugus	7	64	8	1
Cayuga	9	25	136	24
Chautauqua	26	145	82	35
Chemung	1	0	0	0
Chenango	11	9	66	17
Clinton	11	43	724	40
Columbia	41	158	415	88
Cortland	8	0	8	4
Delaware	10	7	0	7
Dutchess	21	48	54	31
Erie	30	360	188	408
Essex	3	8	49	12
Franklin	2	0	44	3
Fulton	2	0	4	1
Genesee	30	322	462	172
Greene	9	15	26	19
Hamilton	1	1	0	0
Herkimer	2	0	5	0
Jefferson	4	5	14	1
Kings	0	0	0	0
Lewis	2	4	0	0
Livingston	7	123	0	0
Madison	7	12	8	3
Monroe	16	48	206	76
Montgomery	4	0	2	0
Nassau	1	9	0	0
New York	0	0	0	0
Niagara	38	276	199	42
Oneida	8	21	8	5
Onondaga	17	31	195	53
Ontario	24	36	110	30
Orange	81	434	457	321

Orleans	36	249	981	261
Oswego	13	31	110	15
Otsego	4	2	9	5
Putnam	2	2	13	1
Queens	0	0	0	0
Rensselaer	12	19	65	8
Richmond	0	0	0	0
Rockland	2	3	0	0
Saint Lawrence	3	1	13	10
Saratoga	8	9	17	4
Schenectady	5	0	10	1
Schoharie	8	20	14	2
Schuyler	12	31	7	22
Seneca	26	12	23	12
Steuben	21	93	0	66
Suffolk	189	1410	168	615
Sullivan	4	9	9	0
Tioga	5	14	0	2
Tompkins	19	25	8	17
Ulster	58	574	647	101
Warren	2	11	4	0
Washington	12	37	19	12
Wayne	96	541	1973	524
Westchester	6	31	8	3
Wyoming	3	56	9	105
Yates	37	69	12	41
<b>Total</b>	<b>1,042</b>	<b>5,498</b>	<b>7,655</b>	<b>3,242</b>

To capture seasonal workers and farmworkers on the smaller farms, the AgLP used data from the program’s Farm Lists, which is collected for each region by AgLP staff.

**Assessment of AgLP Progress and Assessment of Equity Ratio Indicators:**

The NYS AOP outlines strategies to achieve quality of service to MSFWs and strategies that support DIPA’s compliance education focus to businesses. Outreach approach includes sharing annually updated packets containing relevant information on labor law, know your rights, the ES Complaint system and community resources for workers and labor law, H-2A factsheets, poster material, and more to help agricultural businesses achieve compliance.

Each year, DIPA management develops presentations and factsheets to launch new education initiatives throughout the season. DIPA has built a vault of knowledge on human trafficking, sexual harassment,

updates on NYS Labor Law, identifying and resolving possible violations, conducting housing inspections, and more. This education translates into staff's ability to identify and resolve apparent violations (AVs) timely. DIPA identified 388 AVs in PY19 and resolved 298.

NYS met all five Minimum Service Level Indicators in PY20. The state completed the timely processing of complaints by resolving or referring the complaint to the appropriate enforcement agency—the state resolution of complaints aligned with the timeframe for non-MSFWS of 15-days and 5-days for MSFWS. To ensure compliance of field checks, AgLP initiated a specific timeframe from a domestic worker's hire date to when outreach staff would complete the field check.

AgLP attained the contacts per week indicator by scheduling field visits for three out of the five days. In PY20, on-site significant office reviews were not complete as defined in 20 CFR 653.108. The Career Centers closed in March 2020 due to COVID-19, limiting on-site interviews. However, in PY21, the State Monitor Advocate (SMA) completed in-person office reviews to align with regulations.

Overall, NYSDOL met program goals. Innovative outreach was conducted throughout the state, services were rendered on the farm to businesses and workers, and apparent violations were addressed or referred. But the NYSDOL faced many challenges in meeting goals during PY20. Finding qualified applicants for field staff items has been challenging. Moving forward, NYSDOL will work to recruit field items from within the agency. Candidates from DEWS or Labor Standards may be better qualified for field staff items. NYSDOL will continue to explore turning field items into competitive items, which might help with recruiting other state employees from other agencies in NYS. In 2021, DIPA added three new staff people (field items) and is seeking a fourth. The field items were filled in Rochester, Albany, and Long Island. The fourth will be placed in Syracuse.

***NYSDOL/DIPA training:***

NYSDOL/DIPA provides annual training to staff. Annual training focuses on providing better employment and labor law compliance services in innovative ways. As always, we will also continue to review the quarterly 5148 data to determine if the training has helped with reporting requirements. NYSDOL/DIPA will continue to ensure that field staff are appropriately trained to ensure proper documentation of services provided to all farmworkers.

***(iv) A projected level of agricultural activity in the state for the coming year:***

The AgLP has seen a steady increase in the number of agricultural job orders, both for domestic labor and H-2A workers, submitted each program year, since PY12<sup>1</sup>. Based upon this consistent and steady increase, it is believed that the level of agricultural activity in PY21, PY22 and PY23 will be equal to, or greater than, the level of agricultural activity in PY20.

Based upon the total number of Grower/Processor Registrations submitted to Labor Standards, combined with the AgLP's known number of MSFWS not captured by the registrations and the number of H-2A guest workers, the estimated number of MSFWS in NYS for PY21 totals 21,000 individuals.

Based on staffing, the county assignments will change from PY21-PY23 to ensure that staff are available to cover the required Foreign Labor Certification Unit (FLCU) and outreach activities. In PY21 and beyond, an increased focus will be placed on educating and assisting Agricultural businesses in complying with the new Farm Laborer Fair Labor Practices Act. This new bill took

effect in January 2020. Given the AgLP's lack of in-person outreach from March 2020 until June 2021 due to COVID-19 safety concerns, the new protections for farm workers regarding overtime, day of rest, collective bargaining, and the like will continue to be the primary education focus for employers and workers.

***(v) A projected number of MSFWs in the state for the coming year:***

Based on last year's numbers, and the data provided by Labor Standards in the Farm Labor Contractor Registrations and Grower/Processor Registrations for each quarter's 5148 report and that provided by PathStone Corporation, it is the AgLP's estimate that approximately 21,000 or more farmworkers will be in NYS during PY21.

***Outreach Activities***

Numerical goals for the number of MSFWs to be contacted during PY21:

The seven bilingual AgLS (one of the seven outreach positions is in the process of being filled) are stationed in NYS Career Centers<sup>2</sup> close to high populations of agricultural workers. For those staff members who are not located in offices deemed significant by USDOL ETA, the AgLP worked with NYSDOL's Division of Employment and Workforce Solutions (NYSDOL/DEWS) to ensure the AgLS can have workspace in a "significant office". This will ensure MSFWs can reach an AgLS from almost anywhere in the state on any given day. Because the staff is strategically located close to MSFW populations, the goal is to reach as many of the estimated 21,000 farmworkers in PY21, PY22 and PY23 as possible. Likewise, an objective of the AgLP is to visit farms with an MSFW workforce twice during the season to provide outreach services to MSFWs working on the farm during the harvest season that may not have been there earlier in the year, during the planting season.

Assessment of available resources:

For PY21 there are currently six AgLS (field staff) and two Supervisors who conduct full-time outreach to MSFWs. The AgLP also has three FLCU Specialists that process H-2A and H-2B job orders, and also assist with the domestic recruitment activities. The Division Director and Acting Assistant Director also maintain direct contact with farmworkers and conduct outreach to Farmworkers with a hands-on approach to ensure NYSDOL/DIPA provides information and services relevant to the distinct needs of agricultural workers.

In addition to the 9 full-time AgLP staff, the 3 FLCU Specialists, the Director, and Acting Assistant Director, the NY SMA will conduct outreach throughout PY21-PY23.

During PY20 and PY21, AgLP staff received training on the following:

- Refresher training on AgLogs Database;
- Updates to NYS Labor Law (such as FLFLPA, paid sick leave, COVID paid sick leave and COVID vaccination leave);
- Complaint Referral Process;
- H-2A Updates on Housing Inspection;
- Regional Outreach Plan Refresher;

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<sup>2</sup> One AgLS is in NYSDOL's Central Office located in Albany, NY. All other staff work out of Career Centers.

- Investigative Techniques;
- Training on Food Safety Management Act; and
- Workers Compensation Training by The Advocate for Injured Workers.

TAs are shared with all NYSDOL staff as appropriate. NYSDOL/DIPA will also request training on employment services as needed for outreach staff. Additionally, NYSDOL/DIPA is working on further developing its internal protocols and providing technical training as needed. At minimum, NYSDOL/DIPA will train staff on all program areas on a yearly basis.

Technical Assistance to outreach staff is provided by DEWS, DIPA and other State/Federal worker protection divisions. Technical Advisories are shared with all NYSDOL staff as appropriate. NYSDOL/DIPA will also request training on employment services as needed for outreach staff. Additionally, NYSDOL/DIPA is working on further developing its internal protocols and providing technical training as needed. At minimum, NYSDOL/DIPA will train staff on all program areas on a rolling basis.

Staff capacity building is a NYS priority. Professional development activities for outreach staff are provided through conference calls, training webinars, video conferencing and train the trainer workshops. In addition to live training provided by experts, staff resource guides are available on our NYSDOL internet and intranet site. Training and guides are updated regularly to provide current laws and changes in regulations and implementation procedures. Training has included such topics as *Assisting UI Customers in the Career Center* and *Identifying and Reporting UI Issues*.

From PY21-PY23, AgLP staff will continue to work closely with NYS's NFJP grantee, PathStone Corporation. NYSDOL and PathStone executed a Non-Financial Cooperative Agreement on February 5, 2019. NYSDOL will comply with the cooperative agreement requirements. PathStone and AgLP field staff started joint field outreach visits just prior to the start of the COVID-19 pandemic but were halted when in-person outreach was suspended. Feedback on these visits from both PathStone and AgLP staff was positive. The AgLP looks forward to re-opening this possibility of joint outreach, once COVID-19 safety concerns subside.

Until the beginning of the pandemic, the AgLP continued to develop the relationship with Hudson River Health in Goshen (also known as the Alamo) and in Riverhead (also known as The Spanish Apostolate). During PY18 and into PY19, AgLP staff provided direct services and information to farmworkers and agricultural businesses approximately two days per week at the Alamo. This will continue to expand as we further develop additional services that farmworkers can access there. AgLP staff previously worked daily at the Spanish Apostolate, providing employment services including referral and supportive services. Now that the Long Island staff member has been hired, we can again pursue work at the Spanish Apostolate, as it becomes safe. For both the Alamo and Spanish Apostolate locations, our staff presence provides much needed outreach and assistance to workers who would not typically visit the nearest NYS Career Center.

The AgLP will continue to build and grow connections with farmworker advocates like Worker Justice Center, Alianza Agricola, Rural Migrant Ministries, Cornell Farmworker Program and Migrant Health, Migrant Ed, and ABCD day care centers. Additionally, staff will continue to work with networks of farmworker service providers to ensure that they are aware of NYSDOL services available and how DIPA can assist with labor law concerns.

Agricultural business-based advocates have also been a focus. NYSDOL will continue to nurture our relationships with organizations like NY Farm Bureau, NYS Ag & Markets, NY Apple Association, Agriculture Affiliates, NE Dairy Association, and Cornell Cooperative Extension to ensure businesses are apprised of their rights and responsibilities. DIPA staff regularly present at employer forums, such as The Becker Forum and Cornell Cooperative Extension's Labor Road Show.

#### Tools used to conduct outreach:

To reach MSFWs, as well as year-round agricultural workers in PY21, AgLP staff will use several tools:

- The primary delivery method is personal contact. Staff travel to farms several days each week to meet with MSFWs in person and provide them with packets of information relevant to their rights; supportive services available to them in the community; and employment related services available at the Career Centers across the state. Packets are now available to be sent via US mail as well, to protect staff and farmworkers from having to interact while maintaining social distance.
- Each AgLS is equipped with a mobile technology, making the AgLS accessible to MSFWs even when they are not at the Career Center.
- The packet of materials that can be given to or mailed to farmworkers include fact sheets from NYSDOL, information on other agencies serving MSFWs in the community (Community Resource Guides), and contact information for the AgLP staff. The following documents are included in the basic outreach packet for MSFWs (non-foreign guest workers):
  - NYSDOL/DIPA services (in English and Spanish);
  - NYSDOL/DIPA AgLP Contact List;
  - NYSDOL General Services (in English and Spanish);
  - NYSDOL's NYS Career Center Locations (contains address and phone number);
  - NYSDOL Protection for Farmworkers (in English and Spanish);
  - Farmworker Fact Sheet (in English and Spanish); and
  - Community Resource Guide.

Packets also contain a field registration form for workers seeking services through NYSDOL. In addition, the staff tailors worker packets by adding specific information regarding workshop and training opportunities available at their local Career Centers, as applicable.

When applicable, staff also provides outreach services at various events across the state. Although limited due to the COVID-19 pandemic, there are events held in the agricultural community where outreach can take place and staff can have direct access to farmworkers. These events include:

- Empire Farm Days;
- Mexican Consulate events throughout the year; and
- Guatemalan Consulate events throughout the year.

### ***Services Provided to MSFWs through the American Job Center Network***

The goal of outreach is to contact MSFWs who are not reached by the normal intake activities of the NYS Career Center. The AgLS provide outreach services to farmworkers outside of the physical Career Center, which may include farm field sites, labor camps, grocery stores, and churches. The AgLS explain the services that can be accessed at the local Career Center and educates the farmworkers on their rights and responsibilities under NYS labor law. Regarding employment services, the AgLP staff encourage farmworkers to visit the nearest NYS Career Center to explore the career services available to them. Throughout the pandemic, all Career Centers have been closed to the public. As COVID trends change, vaccinations have become available, and safety measures have been put in place, the Career Center system has been working to re-open to the public. At this time, some Career Centers throughout the state have opened and staff can meet with individuals in-person via appointment. The NYS Career Center system has worked to ensure centers are opening in each geographic region. DIPA will continue to advise farmworkers that not all Centers are open and encourage the worker to reach out to the AgLP directly for specific guidance on Career Center availability in their region. The Career Center system has also endeavored to provide virtual services and courses, which DIPA stays apprised of and advises workers accordingly.

AgLS provide the following services to farmworker through outreach:

- Information on registering for employment services which include access to workshops, employment resources, and training opportunities,
- Information on services available through PathStone Corporation (WIOA 167 grantee),
- Information on training services such as HSE, ESL, and basic education available through the Career Center (virtual) and other services provided in the community,
- Details on applying for UI, if applicable,
- Health care, transportation, and childcare services available in the local area,
- Information about NYS and federal labor laws and their enforcement,
- Appropriate channels for filing complaints through the Employment Services (ES) Complaint System, and
- Resolution of “apparent violations” observed or uncovered by the AgLS during their outreach visit.

Providing these services to farmworkers increases the likelihood of farmworkers becoming more competitive in the local, regional, and national economy, and enables them to use acquired skills to transition to employment in the non-agricultural sector if they so choose.

The ES Complaint System is discussed with farmworkers as part of general outreach and is also discussed in PowerPoint presentations given to all workers. Furthermore, all customers entering any of our Career Centers will find 11x14 posters with the SMA’s contact information for complaints, and ES Complaint System flyers are shared with advocates and other partners.

### ***Services Provided to Agricultural Businesses through the American Job Center Network***

Providing services to Agricultural Businesses in NYS is extremely important because farms require a reliable workforce to ensure the products they grow can be planted, cultivated, and harvested in a time

and manner that guarantees the highest quality product reaches consumers. The AgLS provide many services to employers, including updating them on compliance with state and federal labor laws and ensuring they have the most current posters, forms, and guides. AgLP staff also provides the following business services to Agricultural Employers:

- Assistance in recruiting domestic labor;
- Matching workers' skills and experience to business needs and available positions;
- Answering questions about recruiting and registering workers;
- Referrals for labor laws and compliance issues; and
- Labor market data.

Additionally, NYSDOL is in the process of re-executing an MOU with the NYS Department of Health (NYS DOH). The prior MOU eliminated duplicative migrant labor camp pre-occupancy and occupancy inspections, which would have otherwise been required by both agencies. The updated MOU aligns with FFLPA regulations, which now require NYS DOH to inspect all labor camps with an occupancy of one or more migrant workers. This MOU will continue to allow NYSDOL to accept NYSDOH inspections for H-2A purposes; hence again eliminating the potential for duplicative inspections by both agencies. Eliminating duplicative inspections is both an effective use of staff time and lessens the burden on H-2A employers.

In PY21, the AgLP will continue to focus on providing Agricultural Businesses the domestic labor they need to succeed in this important industry. The AgLP will continue the "Labor Needs" project that began in PY13 to determine exactly what the businesses in the state are looking for in their workforce and the time of year they will most likely need workers. The Labor Needs Form provides an opportunity for the Agricultural Business to place a local job order with the AgLS. The AgLS then enters the information into OSOS, and the job order becomes active on the NYS Job Bank, becoming visible to potential workers on the Internet. The AgLS is also uniquely situated to know of potential workers who might be interested in the employer's job opening.

While conducting field visits and outreach to MSFWs, the AgLP staff also speak with Agricultural Businesses and provide information on services available to them. Just as the workers have a packet, the staff also have employer packets. These employer packets, more recently, have been offered to employers during the Labor Needs calls, so they have them in real time. The AgLS can send them via email, in hard copy via the US mail or offer to drop them off during in-person visits (while still maintaining social distance). Additionally, AgLP staff develops and implements various trainings for farm labor contractors and agricultural employers. The goal of the written materials and information sessions is to promote an understanding of the roles and responsibilities of employers, as well as the rights and services available to farmworkers. Especially during the beginning months of the COVID pandemic, the availability of emailed materials and online presentations was especially important to sharing materials with employers and workers alike. Through online webinars, recorded training sessions posted on our website with direct links to video hosting sites, such as YouTube, in-person workshops, and the distribution of written information along with employer-specific packets, AgLP staff has provided educational material at events such as:

- Know Your Rights presentations at Mexican and Guatemalan Mobile Consulate events around NY State;
- Presentations at Ag & Markets Listening Tour for New and Beginning Farmers around NY State;

- AgLP/PathStone and NYSDOL/DEWS Joint Training ;
- Outreach at Empire Farms Days; and
- Compliance Education at Jumpstarting the Next Generation hosted by Cornell Cooperative Extension.

The ES Complaint system is discussed with workers when they reach out to AgLP staff to discuss possible violations of labor law. Workers seeking to file formal complaints are assisted with completing the complaint form and the AgLP staff forward the form to the appropriate enforcement office. Where workers do not want to file formal complaints, the AgLP staff work with businesses to discuss potential violations and resolve them using a compliance-based model of business cooperation.

The AgLP staff craft their regional outreach plans twice a year: one for the January through June timeframe and then another for July through December. Prior to the harvest season, AgLP staff contact businesses to discuss their anticipated labor needs for the growing and harvesting season. The AgLP staff discuss the Agricultural Recruitment System (ARS) as a possible way to obtain the necessary labor for the business. The AgLP continue to contact businesses throughout the season and will continue to offer ARS as a possible option for their labor needs. The overall trend the past few seasons has shifted interest away from local job orders to the H-2A guest worker program to meet the businesses' labor needs. The AgLP staff continue to discuss local job orders as a possible solution to short term labor needs and businesses will occasionally submit job orders.

### **Other Requirements**

*(i) State Monitor Advocate (SMA):* Belen Ledezma is the NYS Monitor Advocate. She has been given an opportunity to review and comment on this AOP.

*(ii) Review and Public Comment:* The draft of this AOP was made available to the groups listed below and they were given a 30-day window to provide feedback and comments. The following groups and organizations were invited directly to share their input and comments:

- Cornell Cooperative Extension;
- New York Farm Bureau;
- NYS Department of Agriculture and Markets;
- PathStone Corporation;
- Worker Justice Center of New York;
- The International Institute of Buffalo; and
- Cornell Farmworker Program.

No comments were received.

### **MSFW Career Centers**

NYSDOL is complying with the requirements under 20 CFR 653.11. The list of the 10 Significant MSFW centers and the AOP is located on the NYSDOL website at [Immigrant Policies and Affairs | Department of Labor \(ny.gov\)](#).