

New York State Department of Labor
PY 2011 Program Changes: Agriculture Labor Program

The newly revised Agriculture Labor Program (formerly known as the Rural Employment Services Program) was transitioned to the Division of Immigrant Policies and Affairs (“DIPA”) as of April 2012. In transitioning the program from the Division of Employment and Workforce Solutions (“DEWS”), 10 new staff members were hired and joined the 7 current NYS Department of Labor (“DOL”) staff that was transitioned under Vilda Vera Mayuga, Director of DIPA. All staff had two weeks of “in classroom” training and extensive “field training” with experienced New York State Department of Labor (“NYS DOL”) staff.

The Agriculture Labor Program (“AgLP”) Mission is as follows:

DIPA ensures that the NYSDOL provides Migrant and Seasonal Farmworkers (“MSFWs”) access to our full range of employment services and that these services are provided in accordance with federal regulations (20 C.F.R. 651-658) and the Workforce Investment Act (“WIA”); ensuring that all legal protections are afforded to farmworkers; that complaints are promptly resolved; and that their living and working conditions are safe and sanitary. We also serve the Agricultural Employer by providing guidance on compliance with the NYS labor law; assist with the Federal H-2A Guest Worker Program process; and assist with locating and hiring skilled domestic labor for their labor needs.

Current AgLP Staff and Basic Duties

Director of DIPA, Vilda Vera Mayuga

- Directs the program and works with the NYSDOL Division of Employment and Workforce Solutions to create programs that support the Agricultural Employer.
- Oversees NYSDOL Foreign Labor Certification Unit to ensure that the agency is in compliance with Federal H-2A Guest Worker Program regulations.
- Provides support in fostering communication with Supply States.
- Provides support in working with Agricultural Employers.
- Directs partnership with the WIA 167 National Farmworker Jobs Program (“NFJP”) grant recipient (currently PathStone) to provide comprehensive services to the MSFW community.
- Directs partnership with sister agencies and any other organizations that assist in servicing the worker and the Agricultural Employer.

State Monitor Advocate and Acting Assistant Director of DIPA, Jeanette Castagnola Lazelle

As Monitor Advocate:

- Monitors One-Stop Career Centers to ensure equity of services to MSFWs.
- Visits and reviews the eight offices in New York State which were deemed significant for farmworkers by the U.S. Department of Labor (“USDOL”). In addition, the State Monitor Advocate (“SMA”) visits any office where a significant number of MSFWs use the One-Stop Center.
- Monitors outreach activities by staff and makes recommendations to supervisory staff.
- Ensures that complaints submitted through the Employment Service Complaint System are addressed or referred to partners (i.e. Wage & Hour, OSHA, Human Rights) and follows up on the referred complaints.
- Submits quarterly reports (5148 Report) to the USDOL regarding services provided to MSFWs.
- Prepares an Annual Summary of Job Service services to MSFWs for the State Administrator.

- Assists with the preparation of the State Plan as it relates to MSFWs and the services provided to them in NYS (Agricultural Outreach Plan).
- Ensures that those customers who meet the federal definition of MSFW are properly classified in the One-Stop Operating System (“OSOS”) by reviewing customer applications and notifying staff of any found deficiencies.
- Assists in promoting partnership with the WIA 167 NFJP grant recipient and drafts MOU for Director’s recommendation of agency signature.
- Prepares MOUs with sister agencies and any other organizations that would assist in servicing the worker and the Agricultural Employer for the Director’s recommendation of agency signature.

As Acting Assistant Director:

- Supervises the three Community Relations Officers throughout the state and ensures that they are complying with federal regulations and WIA.
- Supervises the Foreign Labor Certification and Agriculture Specialist, who is directly involved in DIPA’s Foreign Labor Certification Unit.
- Supervises the Agriculture Labor Program and Communications Specialist, who supports the FLC Unit and provides support in Communication and staff development matters.
- Provides support in fostering communication with Supply States for guest worker programs.
- Provides training assistance and technical guidance to Agriculture Labor Program staff when needed and requested.
- Conducts regular outreach to Agricultural Employers and to workers, supporting their needs and assisting in compliance.

Community Relations Officers, Carmen Calderon, Estelle Davis and Geovanny Trivino

- Train and supervise staff assigned to their designated region.
- Provide training guidance for staff on outreach activities.
- Provide administrative support for staff.
- Ensure that AgLP staff work with the WIA 167 NFJP grant recipient (PathStone, Inc.).

Foreign Labor Certification and Agriculture Specialist, Elizabeth Jeavons

- Responsible for all aspects of H-2A Program paperwork and deadlines including reviewing applications, issuing deficiencies and contacting Agricultural Employer about both.
- Works with the NYS Department of Health on housing inspections.
- Works with AgLP staff on housing inspections.
- Responds to any inquiries from USDOL regarding Foreign Labor Certification.
- Tracks and reports on referrals.
- Liaisons with Supply States on H-2A referrals.
- Establishes protocol for working on labor market surveys and reporting the appropriate data to the USDOL.
- Acts as a liaison with agricultural organizations and other NYS agencies in all areas related to H-2A program.

Agriculture Labor Program and Communications Specialist, Eric Denk

- Program assistant for administrative duties and other projects, including database maintenance.
- Develops and maintains website and communication materials for AgLP.
- Fields Call Center calls, maintains call logs (Footprints).
- Tracks and follows up on complaints as reported in Complaint Log (AgLog).

- Supports Foreign Labor Certification Unit as deemed necessary by the Assistant Director.
- Coordinates staff development including official training, information sessions, and presentations by partner agencies.

Agriculture Labor Specialists (“AgLS”), 12 Field Positions

Long Island: Jose Vega
 Newburgh: Justin Ferber
 Ithaca: Parker Filer
 Binghamton: Erin Kelly
 Utica: Laura Tramontana
 Plattsburgh: Ami Kadar
 Albany: Danny Mills
 Albany: Christina Marzello
 Fulton: VACANT
 Rochester: Jennifer Karr
 Batavia: Caylin Gwise
 Buffalo: Ruth Gonzalez-Cruz

- Staff is stationed at one of the 88 One-Stops throughout the state and at Central Office. They each have 4-5 counties assigned.
- Each field staff:
 - Provides outreach services to Agriculture Workers and Agriculture Employers, promoting education and compliance for both.
 - Assists in developing workshops with Business Services staff to educate Agricultural Employers about their rights and responsibilities under federal law.
 - Provides guidance to the Agricultural Employer on compliance with NYS and Federal labor laws.
 - Assists Agricultural Employers in filing the proper paperwork to bring five or more MSFWs to NYS for the season.
 - Assists in registering Farm Labor Contractors in NYS.
 - Assists Farm Labor Contractors with the federal registration application.
 - Provides support to the Foreign Labor Certification Unit by assisting in housing inspections.
 - Works with employer advocacy groups to provide support for the Agricultural Employer.
 - Updates information on farms and provides data on the nature of agriculture in their territory.
 - Assists in gathering data for farming surveys, as requested by USDOL.
 - Observes living and working conditions for apparent violations and documents/resolves within the appropriate guidelines (Attempts to resolve all issues/violations within apparent violation guidelines. Where cases cannot be resolved within 5/15 days (depending on MSFW classification), writes up and forwards case to the appropriate law enforcement agency. Follows up on the referral).
 - Takes complaints from MSFWs and, where appropriate, follows up with the employer.
 - Works with WIA 167 NFJP grant recipient to ensure that services are being provided to the MSFWs.
 - Works with worker advocacy groups to provide comprehensive services to MSFWs, regularly attends relevant local meetings and participates in relevant community events.
 - Assists in updating literature and in keeping the list of farmworker resources up-to-date.
 - Assists in coordinating workshops to enhance all workers’ understanding of their rights under state and federal laws.

PY2012 Wagner-Peyser Agricultural Outreach Plan

The NYSDOL's Agricultural Outreach Plan details the activities planned for providing services and outreach to both MSFWs and Agricultural Employers for the period of July 1, 2012 to June 30, 2013, and is prepared in accordance with 20 CFR 653.107, WIA Title I final regulations, WIA/W-P Act Integrated Workforce Planning Guidance, Unified Planning Guidance, and applicable WIA Workforce Development regulations. This plan is part of New York State's Workforce Plan for the period of July 1, 2012 to June 30, 2016.

Submission Requirements:

The goal of NYSDOL's Agricultural Outreach Plan ("AOP") is to describe the strategies used in the coming year to provide services to MSFWs through the One-Stop System which are quantitatively proportional and qualitatively equivalent to those provided to non-MSFWs, and to describe how services will be delivered to Agricultural Employers to ensure the jobs they provide are filled with the available domestic labor supply.

NYSDOL's plan includes the following information:

- A. *Assessment of Need*-Information on PY11 agricultural and MSFW activity, projected levels of agricultural activity in PY12, and projected numbers of MSFWs in NYS in PY12.
- B. *Outreach Activities*-A description of how MSFWs across the state will receive services, as well as background information on the establishment of a new Agriculture Labor Program in NYS.
- C. *Services Provided to MSFWs through the One-Stop System*-A review of the ways AgLP staff will ensure MSFWs receive the same services as non-MSFWs, and how these services will be provided outside of the physical One-Stop location.
- D. *Services Provided to Agricultural Employers through the One-Stop System*-Information on utilizing the New York State Job Bank and Agricultural Recruitment System ("ARS") to ensure Agricultural Employers receive the workforce they need to maintain a vital NYS industry.
- E. *Review and Comments*-State Monitor Advocate, PathStone, agricultural partner agency, and public comments.

A. Assessment of Need

- (i) Agriculture remains a top industry in New York State, providing not only food for the state's consumers, but vital jobs for many people across the state. Agriculture in NYS is very diverse, with several types of crops grown in different areas of the state. In PY2011, Rural Employment Program staff continued to provide data on crops produced by each farm they visited and the time of year in which those crops were produced. Regional crop activity in PY11 was as follows:

- 1. *Long Island*-Flower/Plant Nurseries (operating all year)
- 2. *Hudson Valley*-Onions and Apples (mid April-late November)
- 3. *North Country*-Potatoes, Greens, Apples (mid April-late November)
- 4. *Central New York*-Root Vegetables (operating all year)
- 5. *Finger Lakes*-Apples and Grapes (August-November)
- 6. *Western New York*-Root Vegetables (mid April-late November)

New York's agriculture encountered issues in PY11 due to various nature events. In August 2011, Hurricane Irene and Tropical Storm Lee devastated much of the eastern part of the state, wrecking havoc on crops in the Hudson Valley and Long Island. Unseasonably warm temperatures in early March 2012 caused fruit trees to blossom too early throughout the state. This was followed by plunging night temperatures in April and early May. The resulting frost caused growers across the state to lose as much as 40% to 90% of their apple crop in April and early May. However, many employers salvaged part of their workload and will still have some harvest in the fall.

- (ii) It is often difficult to obtain accurate numbers of MSFWs in the state because the data comes from several different sources. Also, because of the seasonal nature of many of the jobs, workers move from farm to farm throughout the state. Individuals may be counted more than once throughout the year based on their location at a given point in the year. Last year, Rural Employment Program staff reached out to MSFWs at small, medium, and large farming operations. They visited farms that included both MSFWs and H-2A workers, and provided outreach to all that would benefit from the services of NYSDOL's One-Stop System. Data regarding PY11 MSFW activity was obtained from the SMA's Significant Office Reviews for PY11 and from the Federal Report 5148 for PY11.

1. *Long Island*-1,000 workers
2. *Hudson Valley*-2,500 workers
3. *North Country*-2,300 workers
4. *Central New York*-500 workers
5. *Finger Lakes*-7,000 workers
6. *Western New York*-1,000 workers

The estimates of MSFWs in each region of the state total approximately 14,500 MSFWs.

Based upon discussions with former Rural Employment Program staff, an increase in the number of Agricultural Employers using the H-2A Guest Worker Visa program drove down the number of MSFWs in the state. However, data from the past three years indicates that H-2A applications are slightly decreasing year to year. One reason for the decrease in MSFWs is the emergence of agribusiness across the state. Many employers are creating wineries and distilleries on their farms or in their homes which require year round workers, and MSFWs lose their designation as such when they become year round workers. For this reason, as well as the disasters caused by nature this year, total MSFWs across the state has declined.

- (iii) As discussed previously, it is difficult to assess what the level of agricultural activity will be in New York in PY12 due to an early warm weather trend and subsequent successive frost. Although a large amount of crop was damaged, employers stated that they will continue to persevere and maintain their harvest schedule for the fall months.

Based on the PY11 Significant Office Reviews, staff indicated that many small farms are going out of business or were purchased by larger farming operations. Although several small farms were purchased by larger operations, information provided by the

New York Farm Bureau shows that small farms, such as organic farming operations, constitute the largest number of farms in New York State. However, it is true that a large number of growers are moving away from many of the labor intensive crops in favor of more mechanized farming. For this reason, manual labor is not as necessary in the volume that it used to be.

One way the newly established Agriculture Labor Program plans to ensure agricultural activity remains high in PY12 is to include dairy farms in their outreach plans. Dairy farms have never before been included in outreach activities. However, it is felt that this caused NYSDOL to miss out on a significant population of farm workers who could reap the benefits of the One-Stop services.

- (iv) Based on the numbers provided quarterly by NYSDOL's Division of Labor Standards and those supplied by PathStone, the WIA 167 National Farmworker Jobs Program grantee, it is estimated that approximately 10,000 MSFWs will be in New York State during PY12. The larger and more far reaching staff NYSDOL currently has focusing on agricultural labor in New York is necessary to reach the large number of farm workers across the state. The planned outreach activity for the MSFWs in the state is discussed in the next section.

B. Outreach Activities

As previously discussed, the 4th quarter of PY11 brought many changes to NYSDOL's Rural Employment Program. In April 2012, the program moved from the Division of Employment and Workforce Solutions to the Division of Immigrant Policies and Affairs and became known as the Agriculture Labor Program, or Ag Labor Program. The Ag Labor Program currently contains staff who worked within the previous Rural Employment Program or in other NYSDOL Divisions, as well as staff brand new to the NYSDOL.

The Agriculture Labor Specialists are strategically located in One-Stop Centers near high populations of farm workers. There are 12 regions designated across the state with each AgLS covering approximately 5 counties. Each AgLS is bilingual and has previous experience working with immigrant, LEP, or other target populations. Almost immediately, each AgLS began contacting and visiting farms, meeting with employers face to face to discuss the changes to the program and to field any questions the employers had, and providing outreach to farm workers. They will continue these activities throughout PY12.

- (i) Because the AgLS' are placed in areas with a high concentration of MSFWs, the goal for PY12 is to provide outreach to as many of the estimated 14,500 MSFWs as possible. With the increase in the number of DIPA staff, this should not be a difficult task to accomplish. PY11 saw a winter with very mild temperatures and outreach was able to begin much earlier than expected. If the trend continues, Ag Labor Program staff will be able to provide outreach from early March to late November each year.

AgLS' will also visit dairy farms in PY12, which will significantly increase the total number of farm workers receiving outreach. With the establishment of the Ag Labor Program, a greater emphasis was placed on locating and visiting as many farms in New York as

possible. Staff discovered a large number of farms that previous Rural Employment Program staff never visited. Likewise, outreach will be provided to seasonal farm workers and to year round agricultural workers who were missed in previous years.

PathStone contacted approximately 4,000 MSFWs in PY11 and it is expected that they will provide outreach services to a similar number in PY12.

- (ii) Each AgLS provides outreach services to both Agricultural Workers and Employers approximately 3-4 days per week for 9 months of the year. In this estimation, approximately 180 days (8 hour work days) will be used by AgLS' to contact MSFWs, seasonal farm workers, year round agriculture workers, and their employers.
- (iii) During the fiscal year, Wagner-Peyser money will be used to fund outreach provided by all 12 AgLS', the work of the State Monitor Advocate/Acting Assistant Director of DIPA, three Community Relations Officers, the Foreign Labor Certification and Agriculture Specialist, and the Agriculture Labor Program and Communications Specialist. All of these positions are full-time.
- (iv) To reach an estimated 14,500 MSFWs, as well as year round agricultural workers in PY12, Ag Labor Program staff will use several tools. The primary delivery method is personal contact. AgLS' travel to farms several days per 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 One-Stop Centers across the state.

Each AgLS is equipped with a laptop and a Blackberry mobile device, making the AgLS accessible to MSFWs even when they are not visiting the farm. While on the farm, they can also use these devices to provide service to MSFWs.

As stated above, printed material is used for outreach on a daily basis. Prior to visiting farms, AgLS' assemble a packet of material including fact sheets from NYSDOL, information on other agencies serving MSFWs in the community, and contact information for Ag Labor Program staff. The following documents are included in the basic outreach packet for Migrant and Seasonal Farm Workers (non-guest workers):

- DIPA Services (English and Spanish language documents)
- DIPA Ag Labor Program Contact List
- NYS Department of Labor General Services (English and Spanish language documents)
- DEWS One-Stop Center Locations (Contains address, phone number and email)
- DOL Protection for Farmworkers (English and Spanish language documents)
- Farmworker Fact Sheet
- Unemployment Insurance: How to File a UI Claim (English and Spanish language documents)

In addition, if AgLS staff are met with resistance by Agricultural Employers that do not want to facilitate their outreach to MSFWs, the staff also have a document that cites their legal authority to enter the business (please see attached).

When applicable, Ag Labor Specialists will also provide outreach services at various events across the state. Several times per year, there are events held in the agricultural community where outreach can take place:

- Empire Farm Days
- Various County Fairs across the State
- State Fair
- Mexican Consulate events throughout the year
- Guatemalan Consulate events throughout the year

C. Services Provided to MSFWs through the One-Stop Delivery System

The goal of outreach is to contact MSFWs who are not reached by the normal intake activities of the One-Stop Center. The Agriculture Labor Specialists act as a mobile One-Stop for MSFWs, reaching them at their living and gathering locations outside of the physical One-Stop, including farm sites, labor camps, grocery stores, churches, etc. In this way, they are able to register workers for the state's case management system, the One-Stop Operating System ("OSOS"); refer workers to both agricultural and non-agricultural jobs; provide information on supportive services in the community; and supply worker protection and labor standard rights information. AgLS' also encourage MSFWs to visit the nearest One-Stop Center to explore the opportunities available to them through Core, Intensive, and Training services. Ag Labor Specialists provide the following services through outreach:

- Information on services available through PathStone Corporation, New York's WIA 167 grantee;
- Assessment of workers' skills and background to provide them with appropriate agricultural and non-agricultural job orders from OSOS or the New York State Job Bank, and to match and refer them to open jobs for which they qualify;
- Information on training services such as GED, ESL, and basic education available through the One-Stop or other service agencies in the community;
- Details on applying for unemployment insurance, if applicable;
- Health care, transportation, and child care services available in the local area;
- Information about New York State and Federal labor laws and their enforcement; and
- Appropriate channels for filing complaints through the Employment Services Complaint System

Providing these services to MSFWs, and ensuring they utilize them, increases the likelihood of farm workers becoming more competitive in the local, regional, and national economy, and will enable them to use their acquired skills to transition to employment in the non-agricultural sector if they choose to do so.

D. Services Provided to Agricultural Employers through the One-Stop Delivery System

Providing services to Agricultural Employers in New York is extremely important. Without them, MSFWs and other farm workers across the state would not have employment. The Ag Labor Specialists provide many services to employers, especially as it relates to updating them on compliance with state and federal labor laws and ensuring they have the most up to date

posters, forms, and guides. AgLS' also provide the following business services to Agricultural Employers:

- Assistance in recruiting domestic labor
- Matching workers' skills and experience to employer needs and available positions
- Answering questions about recruiting and registering workers
- Referrals for labor laws and compliance issues
- Labor market data
- Providing guidance on completing the ETA 790 for H-2A workers

The Ag Labor Specialists will research available positions on the New York State Job Bank and OSOS to provide appropriate domestic workers for employers' jobs, as well as become familiar with the Agricultural Recruitment System (ARS) to ensure domestic workers are placed in jobs for which they are qualified. They will also continue to meet with employers through direct personal contact to forge a trusting relationship going forward.

The Ag Labor Specialists also prepare employer packets which they share with employers when they visit each farm:

- NYSDOL Services for Businesses Flyer
- DIPA Services Flyer
- DIPA Ag Labor Program Contact List
- NYS Agricultural Minimum Wage Poster
- NYS Federal Bonding Program
- Farm Labor Commissary Registration Form
- NYSDOL Application for Grower/Processor of Migrant Registration
- Pay Notice Agreement for Workers (English and Spanish documents)
- Wage Statement (Sample)
- Unemployment Insurance Employer Registration Information
- Workers Compensation Advocate for Business Booklet
- What Business Owners Must Know about Workers Compensation Flyer
- USDOL H-2A Employer Handbook
- Senator Gillibrand Ag & Rural Development Grant Guide Book

E. Review and Comments

1. State Monitor Advocate

The State Monitor Advocate, Jeanette Castagnola Lazelle, is also currently the Acting Assistant Director of DIPA. She assisted in the preparation of this report. The SMA has been afforded the opportunity to approve and/or comment on the PY2012 AOP and the state considered the SMA's recommendations.

2. Review and Public Comment

The draft Agricultural Plan for PY2012 was forwarded to the following agricultural agencies for comment:

- Agricultural Affiliates

- Association of Farmworker Opportunity Programs (AFOP)
- Cornell Cooperative Extension (CCE)
- Cornell Farmworker Program
- Cornell University Department of Horticulture
- Criminal Defense Immigration Project, New York State Defenders Association
- New York State Agricultural Experiment Station
- New York State Vegetable Growers Association
- New York Apple Association
- New York Farm Bureau
- New York State Department of Agriculture and Markets
- New York State Horticultural Society
- PathStone Corporation
- Worker Justice Center of New York

Response to Public Comment

As of August 24, 2012, comments on the Agricultural Outreach Plan were received from Cornell Cooperative Extension, New York Farm Bureau, and the New York State Department of Agriculture and Markets. DIPA has made adjustments to the plan based on comments regarding the services to employers. DIPA will have pre-harvest and post-harvest meetings with farmers across the state to address their questions regarding H2A, state labor law and compliance issues that have come up during the previous year's outreach. The following comments were reviewed and DIPA has determined that we will not adjust the plan for the following reasons:

Cornell Cooperative Extension (CCE):

Cornell Cooperative Extension stated several incorrect points in regard to contact with employers. The first comment regarding Ag Labor Specialists "dropping in" on employers without advance notice or an appointment is not entirely factual. With the transition of the program from DEWS to DIPA, it was understood that trust in new staff would be difficult to achieve. For this reason, all of the AgLS' reached out to employers via phone to introduce themselves and set up appointments to visit the farm where they could have direct contact with the Agricultural Employer. This practice proved very successful in relieving the employers' concerns over changes to the program. The Ag Labor Specialists have shown the utmost respect to employers throughout the program transition and will continue to do so.

However, there are times when AgLP staff must visit the farm unannounced, as is the case with field checks. Per regulations at 653.503(a), "The State agency, through its local offices or otherwise, shall conduct random, unannounced field checks at a significant number of agricultural worksites to which JS placements have been made through the intrastate or interstate clearance system." When staff "drop in" on employers, it is due to compliance with federal regulations, and NYSDOL collaborates with other state and government agencies prior to conducting field checks to ensure there is no additional time burden placed on the employer.

A comment regarding a lack of explanation for changes to the program is also incorrect. Prior to the transition from DEWS to DIPA, meetings were held in the Hudson Valley, North Country, and Western Region with staff present from both divisions to discuss the updates to the program ,to

ensure employers of the improved services available to them, and to relieve concerns that negative changes would occur. As is evident from the Department of Agriculture and Markets comments, “farmers in the area are enjoying a good relationship with the new DIPA staff,” and “the new Agricultural Specialist staff is also helpful and has a good relationship with the farm workers, which in turn helps the farmer.” Based on these comments made by Agricultural Employers, it is clear that the opinion held by Cornell Cooperative Extension is not held by employers across the state.

Finally, a statement was made expressing the difficulty in building trusting relationships with employers when “ag labor specialists also enforce regulations.” As was stated in the AOP, the duty of the Ag Labor Specialist is not to enforce regulations, but to educate the employer on compliance. Enforcement and compliance are two very different things. Enforcement activities are left to the New York State Department of Labor’s Division of Labor Standards. Violations are only referred to Labor Standards for enforcement if DIPA staff is not able to bring the employer into compliance. A primary goal of the AgLS is to promote resolution of any apparent violation immediately upon discussion with the employer, avoiding referral to Labor Standards’ enforcement staff.

It is important to point out that comments received from CCE also indicated positive suggestions for future discussion. CCE stated that many community colleges are working with employers to train potential workers, as are the Cornell Farmworker Program and the Lake Ontario Fruit Program. Working with additional state organizations to train potential farm workers is a great opportunity to ensure more domestic labor is utilized where it is most needed. Likewise, a suggestion was made to survey employers on the skills and experience they look for in workers. This could be done by the Ag Labor Specialists while already on the farm to provide outreach. This would also guide the AgLS on the skills necessary for the job so that they may use OSOS to appropriately match and refer potential workers to the employer.

New York Farm Bureau (NYFB):

The New York Farm Bureau asked to discuss the AOP with DIPA staff prior to submitting comments. Because of this discussion, DIPA was able to adjust the AOP accordingly and was aware of the opinion of NYFB on a need for increased service to the Agricultural Employer. As mentioned in the comments, NYFB would like DIPA staff to provide greater assistance to employers using the H-2A program. This is in fact already happening. Several of the AgLS’ were contacted by employers in the late spring and early summer for assistance with their applications. The AgLS in each particular area was very willing to visit the farm for a direct conversation with the employer about the application, piece rates, changes to subsistence rates, etc. This proved very successful as issues were detected early and corrected prior to the application reaching the SWA. Likewise, the Foreign Labor and Agriculture Specialists continue to contact employers immediately upon detecting a problem with the application. This is done to ensure time restrictions placed on the employer are reduced. The SWA also works diligently with the Department of Health and the Ag Labor Specialists to ensure housing inspections are completed in a timely manner so that certification of the H-2A order may occur within the required timeframe.

During the discussion with DIPA, NYFB also mentioned they would like to see information in the AOP related to the most common violations detected throughout the year by region, and a list

of laws and regulations Agricultural Employers must follow. Currently, the Ag Labor Specialists carry outreach packets for employers with information on necessary state and federal postings, as well as documents employers must provide to workers. DIPA is willing to create a document which Ag Labor Specialists would include in employer packets detailing specific laws Agricultural Employers must follow. DIPA is also very open to collecting data on the most common violations found on farms, per region, so that the New York Farm Bureau may further educate their members on compliance.

New York State Department of Agriculture and Markets (NYS Ag & Markets):

The comments received from Ag & Markets indicate that employers across the state are happy with the transition of the program and the AgLP staff. As indicated by CCE, Ag & Markets would like NYSDOL to develop and/or collaborate on training programs directed at domestic workers. This would ensure workers have the skills necessary for farm work, and employers concerns over a lack of skill will subside. Ag & Markets also suggests reaching out to National Agricultural Statistical Services (NASS) regarding data on farm work in New York State. This was also a suggestion made by Juan Regalado, National Monitor Advocate, prior to submission of the AOP. The NASS may be a good resource for gathering more precise data related to the number of farm workers in the state. DIPA will reach out to NASS going forward, and establish a working relationship to provide accurate statistics on the state of agriculture in New York.

DIPA and the Ag Labor Program appreciate the comments provided by other state organizations directly involved in agriculture. Although all suggestions are not feasible at this time, consideration will be given to all observations.