

PY2013 Wagner-Peyser Agricultural Outreach Plan

The New York State Department of Labor's ("NYSDOL") Agricultural Outreach Plan ("AOP") details the activities planned for providing services and outreach to both Migrant and Seasonal Farmworkers ("MSFWs") and Agricultural Employers for the period of July 1, 2013 to June 30, 2014, 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 a modification to, and will become part of, New York State's Workforce Plan for the period of July 1, 2012 to June 30, 2016.

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 American Job Center network, or NYS 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 Employers to ensure the jobs they provide are filled with the available domestic labor supply.

NYSDOL's plan includes the following:

- A. *Assessment of Need*-Information on PY12 agricultural and MSFW activity, projected levels of agricultural activity in PY13, and projected numbers of MSFWs in NYS in PY13.
- B. *Outreach Activities*-A description of how MSFWs across the state will receive services in PY13, as well as an assessment on staff and the resources available for outreach.
- C. *Services Provided to MSFWs through the American Job Center Network*-A review of the ways New York's AgLP staff will ensure MSFWs receive the same services as non-MSFWs, and how these services will be provided to MSFWs outside of the physical New York State Career Centers.
- D. *Services Provided to Agricultural Employers through the American Job Center Network*-Information on utilizing the One-Stop Operating System ("OSOS")/New York State Job Bank as well as job bulletins to ensure Agricultural Employers receive the workforce they need to maintain a vital NYS industry.
- E. *Data Analysis*-A review of PY12 activity including agricultural job orders received and filled, and those interstate clearance orders received and initiated, as well as an estimate on the activity for PY13 in the same categories.
- F. *Other Requirements*-Review and comment by the State Monitor Advocate, WIA Section 167 NFJP grantee PathStone Corporation, and other agricultural organizations and the public.

A. Assessment of Need

- (i) *A review of the previous year's agricultural activity in the state:*
Agriculture is one of the most important industries in New York State, 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 PY12, 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. Regional crop activity in PY12 was as follows:

1. *Long Island* - Nursery, Potatoes, Grapes (operating all year)
2. *Hudson Valley* - Apples and Onions (mid April-late November)
3. *North Country* - Corn and Hay (Crops grown on Year Round Dairies), Apples (mid April-late November)
4. *Central New York* - Corn and Hay (Crops grown on Year Round Dairies), Mixed Berries, Apples, Mixed Ground (mid April-late November)
5. *Finger Lakes* - Apples, Grapes, Mixed Ground (mid April-late November)
6. *Western New York* - Cabbage, Apples, Nursery (mid April-late November)

(ii) *A review of the previous year's MSFW activity in the state:*

Last year, AgLP staff visited small, medium, and large farming operations, which included seasonal and year round workforces. It is difficult to obtain accurate data on the number of MSFWs in New York because the information may come from several different sources. In PY12, the AgLP met with NYSDOL's IT staff to ensure the reporting was accurate for the information provided in the Federal Report 5148. Once the system was updated, it became clear that the estimated number of MSFWs would be more accurate going forward. Although these estimates are more precise than in previous years, it is important to note that individuals may be counted more than once throughout the year based on their location at a given point in the year. Data obtained for PY12 MSFW activity was obtained from the 5148 report and is as follows:

1. *Long Island* - 550 workers
2. *Hudson Valley* - 2,250 workers
3. *North Country* - 2,000 workers
4. *Central New York* - 650 workers
5. *Finger Lakes* - 9,800 workers
6. *Western New York* - 900 workers

The estimates of MSFWs in each region of the state total approximately 16,150 MSFWs. These numbers show an approximate 1,500 person increase in MSFWs in the state from PY11 and a far greater number than our estimate of 10,000 MSFWs for PY12 stated in last year's AOP. This may be due to a stable weather situation in the second half of PY12, causing more MSFWs to remain in the state because of the available work.

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

It is believed that the level of agricultural activity will be equal to PY12 or higher in PY13. As opposed to the extremely high temperatures in March and the frost that followed in April of PY12 causing damage to a significant portion of New York's apple crop, the state's current weather patterns appear to be conducive to positive growing activities in PY13. Also, the AgLP has seen an increase in the number of agricultural job orders, both for domestic labor and H-2A workers, submitted since PY12.

In PY13 an increased focus will be placed on assisting Agricultural Employers to submit job orders for domestic labor. As the AgLP was brand new in PY12, the focus was largely on meeting the Agricultural Employers across the state and notifying them of the services the Agriculture Labor Specialists ("AgLS") could provide to them and their workers on the farm. Now that the employers are aware of the AgLS in their area, more focus can be placed on providing them with the labor supply needed to ensure their farms thrive. An increased labor supply will ultimately correlate to a high activity level in the industry overall.

- (iv) *A projected number of MSFWs in the state for the coming year:*
Based on last year's numbers and the data provided by NYSDOL's Division of Labor Standards in the Farm Labor Contractor Registrations and Grower/Processor Registrations for each quarter's 5148 report and that provided by PathStone Corporation, New York's WIA 167 National Farmworker Jobs Program grantee, it is the AgLP's estimate that approximately 15,000 MSFWs will be in New York during PY13.

B. Outreach Activities

- (i) *Numerical goals for the number of MSFWs to be contacted during PY13:*
The 11 bilingual AgLS are located in New York Career Centers close to high populations of agricultural workers. For those staff who are not located in offices deemed significant by USDOL ETA, the AgLP has worked with NYSDOL's Division of Employment and Workforce Solutions ("DEWS") to ensure the AgLS can work in a significant office at least one day per week in PY13 and going forward. This will ensure MSFWs can reach an AgLS from almost anywhere in the state on any given day. Because the staff are strategically located in close proximity to MSFW populations, the goal is to reach as many of the estimated 15,000 MSFWs in PY13 as possible. Likewise, an objective of the AgLP is to visit farms with an MSFW workforce twice during the season in the chance additional MSFWs work on the farm during the harvest season who may not have been there earlier in the year, during the planting season, to receive services.

Outreach will also continue to be provided to dairy workers, who may be year round workers. This will lead to an overall increase in the number of farm

workers reached by AgLP staff, and may also lead to the discovery of seasonal workers who may work at these dairies and can be provided outreach services.

(ii) *Assessment of available resources:*

1. In PY13 there will be 11 AgLS and 3 Supervisors called Community Relations Officers (“CROs”) conducting outreach to MSFWs. In PY13, there will also be an additional position added to the AgLP called the Agriculture Labor Recruitment Specialist. This position’s primary role will be to assist the AgLP in connecting local domestic labor with available jobs in NYS. All 15 positions are full time.
2. At the beginning of PY12 there were 12 AgLS positions, 3 CROs, and the State Monitor Advocate (“SMA”) available to conduct outreach. By the end of PY12, there were 11 AgLS positions and the SMA position was open. A few of the AgLS left the AgLP for other opportunities and all those positions were filled with new staff, except for one that will instead be filled with an Agriculture Labor Recruitment Specialist who will also conduct field work. The SMA position will be filled at the beginning of PY13 and that person will be conducting outreach as well.

The loss of one AgLS position will not affect outreach activities as the territories have been reassigned, and all of the counties in New York are now covered by the 11 AgLS.

3. In PY13, AgLP staff will be working closely with PathStone Corporation. Many of the staff will continue to participate in PathStone’s Program Area Advisory Committee Meetings throughout the season. In addition, the local AgLS will be working from PathStone’s Williamson office one evening (from 5-8pm) a week to serve farm workers. The AgLS role in the PathStone office will be to provide outreach, information and employment services to the farm workers who visit that location.

Additionally, the AgLP will reestablish a connection to the Pine Island Alamo. Our AgLP staff will begin to provide services and information from the Alamo three days a week during the PY13 harvest season. During PY13, Riverhead’s Spanish Apostolate will also continue to host the local AgLS at their offices. For both of these locations, our staff presence provides much needed outreach and assistance to workers that would not typically visit the nearest NYS Career Center.

(iii) *Tools used to conduct outreach:*

To reach an estimated 15,000 MSFWs as well as year round agricultural workers in PY13, 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 New York Career 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 services to MSFWs.

As stated above, printed material is used for outreach on a daily basis. Prior to visiting farms, staff assemble a packet of materials including fact sheets from NYS DOL, 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-guest workers):

- DIPA services (in English and Spanish)
- DIPA AgLP Contact List
- NYS Department of Labor General Services (in English and Spanish)
- DEWS New York Career Center Locations (Contains address, phone number, and email)
- DOL Protection for Farmworkers (in English and Spanish)
- Farmworker Fact Sheet (in English and Spanish)
- Community Resource Guide
- Unemployment Insurance: How to File a UI Claim (in English and Spanish)

In addition, if staff is met with resistance by Agricultural Employers that do not want to facilitate outreach to MSFWs, the staff also have a document that cites their legal authority to enter the business.

When applicable, staff also provides 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
- New York State Fair
- Mexican Consulate events throughout the year
- Guatemalan Consulate events throughout the year

C. 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 act as a mobile Career Center for MSFWs; reaching them at their living and gathering locations outside of the physical Career Center, including farm sites, labor camps, grocery stores, and churches. In this way,

they are able to register workers for the state's case management system, OSOS; refer workers to both agricultural and non-agricultural jobs; provide information on supportive services in the community with Community Resource Guides; and supply worker protection and labor standards rights information. Staff also encourages MSFWs to visit the nearest NYS Career Center to explore the opportunities available to them through Core, Intensive, and Training services. AgLS 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 Career Center or other services provided 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 so choose.

In addition, in PY12, the AgLP staff visited the New York Career Centers in their territories to provide training to Career Center staff on serving MSFWs who visit the centers. In the past, Career Center staff typically referred MSFWs to the appropriate Rural Employment Services Program staff. The AgLP wanted to ensure this would no longer happen and that all Career Center staff are equipped to provide necessary services to any MSFW that walks into the Center. The AgLP staff will continue this practice in PY13.

D. Services Provided to Agricultural Employers through the American Job Center Network

Providing services to Agricultural Employers in New York is extremely important, especially as it becomes evident that they are in great need of a reliable workforce to ensure the products they grow and sell reach consumers. Without employers, MSFWs and other farm workers in New York State would not have employment. The AgLS 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. AgLP staff also provides 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 to request H-2A workers

In the second half of PY12 and especially looking toward PY13, the AgLP will focus heavily on providing Agricultural Employers the domestic labor they need to succeed in this important industry. The AgLP began contacting employers and filling out Labor Needs Forms to determine exactly what the employers in the state are looking for in their workforce and the time of year they will most likely need workers. The Labor Needs Form also provides an opportunity for the Agricultural Employer to place a job order with the AgLS. When this takes place, the AgLS enters the information into OSOS, and the job order becomes active on the New York State Job Bank, becoming visible to potential workers across the Internet. For those workers without computer access, these jobs are also posted in the NYS Career Centers, as well as the Farm Jobs Bulletin the AgLP implemented in April 2013. This bulletin is sent out to staff approximately every two weeks and can be posted to grocery stores, churches, and other MSFW gathering locations so that they may become aware of available positions across the state. The hope is that these initiatives will be successful for both workers and employers to obtain jobs and the needed labor supply at farms across the state, respectively.

While conducting field visits and outreach to MSFWs, the AgLP staff also speak with Agricultural Employers and provide information on services available to them. Just as the workers have a packet, the staff also prepares an employer packet prior to visiting the farm which includes the following:

- NYSDOL Services for Business Flyer
- DIPA Services Flyer
- DIPA AgLP 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 (in English and Spanish)
- 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

To maintain contact with employers and to ensure their concerns are heard, the AgLP began holding Post Harvest Meetings in December 2012 and January 2013 at various locations across the state. There were seven meetings held in which the AgLS and CRO for that location, and the Foreign Labor Certification Unit met with employers and employer advocacy groups to discuss the work done in 2012, common issues and apparent violations that arose during field visits, and to determine what could be improved going forward. The meetings were very successful and many employers participated. The AgLP received positive feedback on the work the staff did with the Agricultural Employers in New York and the hope is that this sentiment will continue going forward.

E. Data Analysis

- (i) *Previous year's Non H-2A history:* The following information represents a small part of the non H-2A job orders that are received by the NYSDOL because NYS agricultural employers rely heavily on the H-2A Guest Worker Program for their labor. Supportive H-2A data for PY12 is provided below as well.
- a. Number of agricultural job orders and openings received: 119 Non-H2A job orders created, containing 428 openings; 262 H-2A job orders created, containing 3,923 openings.
 - b. Number of agricultural job orders filled: 2 Non-H2A job orders were filled
 - c. Percent to be filled: 99%
 - d. Number of Non H-2A interstate clearance orders received: None
 - e. Number of Non H-2A interstate clearance orders initiated: None
- (ii) *Plan for upcoming year (estimates):*
- a. Number of agricultural job orders expected to be received: Similar to PY12, the NYSDOL expects to receive approximately 125 Non-H2A job orders in PY13. It also expects that approximately 250 H-2A job orders will be received in PY13.
 - b. Number of non-H2A agricultural job orders projected to be filled: Similar to PY12, the NYSDOL expects to refer few workers through OSOS to these job

orders. The AgLP expects that the job orders will be filled and closed through our efforts promoting these jobs with a direct application process (worker applies directly with the employer) found in the NYS Agricultural Job Bulletin.

- c. Percent to be filled: Again, the percentage in OSOS will be low.
- d. Estimated number of interstate clearance orders the state will receive: None
- e. Estimated number of interstate clearance orders the state will initiate: None

F. Other Requirements

- (i) *State Monitor Advocate:* The Acting State Monitor Advocate, Jeanette Castagnola Lazelle, was afforded the opportunity to review and comment on the PY 2013 Agricultural Outreach Plan.
- (ii) *Review and Public Comment:* The draft of this AOP will be made available through the NYSDOL's Division of Immigrant Policies and Affairs webpage for comment. The AgLP will notify the following employer and worker based groups for their input and comments:
 - Agricultural Affiliates
 - Association of Farmworker Opportunity Programs
 - Cornell Cooperative Extension
 - Cornell Farmworker Program
 - Cornell University Department of Horticulture
 - Criminal Defense Immigration Project, New York Defenders Association
 - Hispanics United of Buffalo
 - Interfaith Works
 - International Institute of Buffalo
 - New York Farm Bureau
 - New York State Agricultural Experiment Station
 - New York State Vegetable Growers Association
 - New York Apple Association
 - New York State Department of Agriculture and Markets
 - New York State Horticulture Society
 - PathStone Corp.
 - Worker Justice Center of New York