

U.S. Department of Labor

Employment and Training Administration
Sam Nunn Atlanta Federal Center
Room 6M12 - 61 Forsyth Street, S.W.
Atlanta, Georgia 30303



August 7, 2020

Dr. Jeff McCord
Commissioner
Tennessee Department of Labor and Workforce Development
220 French Landing Drive
4th Floor, A Side
Nashville, Tennessee 37243-1002

Dear Commissioner McCord:

During the period of July 13-17, 2020, the U.S. Department of Labor, Employment and Training Administration (ETA) conducted an Enhanced Desk Monitoring Review (EDMR) of grants administered by the Tennessee Department of Labor and Workforce Development (TDLWD). The EDMR evaluated career services provided to migrant and seasonal farmworkers (MSFWs) and agricultural employers through the Wagner-Peyser (WP) grant; and business services provided through the Work Opportunity Tax Credit (WOTC) grant. The EDMR consisted of an evaluation of TDLWD service policies and procedures, case file reviews, and interviews with TDLWD staff.

The report is organized according to three categories: findings, areas of concern, and promising practices. The term “finding” identifies areas where compliance requirements have not been met. Each finding is followed by a required action to resolve the cited conditions. Please submit a response to the findings itemized in the report within thirty days of receipt of this letter.

The term “area of concern” identifies a condition that is not a compliance matter but, in the reviewers’ opinion, is an opportunity to improve service or program quality, effectiveness, or outcomes. Additionally, deficiencies related to progress towards longer-term WIOA objectives are categorized as “Areas of Concern.” Areas of Concern are followed by recommendations for improvement.

The term “Promising Practice” identifies strengths in Tennessee’s program administration or operation, which ETA may share with other grantees for replication purposes. The report recognizes two noted practices. These include an H-2A job order log that accounts for all pre-occupancy housing inspections and a WOTC automation process that alleviates the time business customers need to submit applications.

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Federal staff identified six findings, three areas of concern, and two noted practices. While you are not required to respond to areas of concern, the regional office appreciates your comments and description of planned actions to address these concerns. Please submit a response to the Regional Monitor Advocate (RMA) and WOTC Coordinator, Mr. Jeremy Dondlinger, at Dondlinger.jeremy@dol.gov and RO3-RA-ATL@dol.gov.

We hope that our review and this report are helpful to you. Please express our appreciation to your staff for their cooperation and assistance during this review. If you have any questions, please contact Jeremy Dondlinger at (404) 302-5377.

Sincerely,



Lenita Jacobs-Simmons
Regional Administrator

cc: Kenyatta Lovett, Assistant Commissioner for Workforce Services, TDLWD
Valerie Massey, Federal Project Officer, Office of Foreign Labor Certification, ETA

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EXECUTIVE SUMMARY

The U.S. Department of Labor, Employment and Training Administration (ETA) conducted an EDMR of the WP and WOTC grants administered by TDLWD during the period July 13-17, 2020. The purpose of the review was to determine the level of compliance with terms and conditions of the grant awards, Federal regulations, and performance goals. The WP grant review evaluated required services to MSFWs and agricultural employers. The WOTC grant review evaluated the State's effort to promote WOTC, and processes for issuing certifications and denials. The EDMR identified the following findings, areas of concern, and promising practices:

Six Findings:

- ❖ Insufficient MSFW Outreach Efforts
- ❖ Insufficient Tracking of Jobseekers Referred to H-2A Job Orders
- ❖ MSFW Outreach Data Quality Issues
- ❖ Unable to Determine WP Participants MSFW Status
- ❖ Data Quality Issues in MSFW Reporting
- ❖ Lack of Onsite AJC Monitoring of Services Provided to MSFWs

Three areas of concern:

- ❖ Complaint Policy Omissions and Inaccuracies
- ❖ Ineffective Prevailing Wage and Practice Surveys
- ❖ Resumes and Individual Employment Plans are not Created in the MIS

Two promising practices:

- ❖ H-2A Job Order Log
- ❖ WOTC Automation Process to Receive Applications in Bulk

There are no questioned costs as a result of this review.

Please note that the review did not cover any areas outside the defined scope. Although no material issues came to the reviewers' attention other than those contained in this report, there is no assurance that other issues may not exist.

SCOPE OF REVIEW

Dates of Review:

July 13-17, 2020

Monitoring Report: Tennessee Department of Labor and Workforce Development, Grants #: ES-31014-17-55-A-47, ES-31876-18-55-A-47, ES-33456-19-55-A-47, WT-32794-19-55-A-47

Date of Entrance Conference:

July 13, 2020

Date of Exit Conference:

July 17, 2020

Site(s) Visited:

N/A: review conducted remotely by videoconference

ETA Reviewer(s):

Jeremy Dondlinger, RMA and WOTC Coordinator

Attendees at Exit Conference:

Kenyatta Lovett, Assistant Commissioner for Workforce Services

Carla Garrett, Division Director

Lisa J. Smith, Director of Business Services

Nakeisha Ricks, Director Workforce Services Division

Justin Williams, WOTC Program Manager

Dawn Tawater, WOTC Coordinator

Tyler Long, Grants Analyst

Chris Risher, Internal Audit Director

Randy Warren, MSFW Program Specialist

Lance Butler, State Monitor Advocate

Grants/Programs Reviewed:

Wagner-Peyser Program

Work Opportunity Tax Credit Program

Time Period for Data Covered in Review:

April 1, 2017 to June 30, 2020

The purposes of the review were to:

- ❖ Determine if the grants/programs are operating in compliance with all applicable Federal laws, regulations, policies, and other grants management requirements.
- ❖ Evaluate whether the grant program is likely to meet its projections for enrollments, expenditures and performance outcomes;
- ❖ Assess whether the quality of the grant program and/or services is sufficient to meet performance goals; and
- ❖ Identify any technical assistance needs.

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Tools used to Conduct Review:

ETA Core Monitoring Guide

The following areas of the guide were covered in the review:

Core Activity 1 Service Design & Delivery

Objective 1.A: Planning and Program Design

(C/E) Indicator 1.a.1: Strategic Planning

(C/E) Indicator 1.a.2: Service Design

(C/E) Indicator 1.a.3: Coordination and Integration

Objective 1.B: Implementation

(C/E) Indicator 1.b.1: Designating Personnel, Staff, and Hiring

(C/E) Indicator 1.b.2: Participant Recruitment Activities

(C/E) Indicator 1.b.3: Partnerships

(C/E) Indicator 1.b.4: Required One-Stop Partner

(C) Indicator 1.b.5: Establishing Contracts and Sub-awards

(C) Indicator 1.b.6: Timely Equipment Purchases

Objective 1.C: Products and Deliverables

(C/E) Indicator 1.c.1: Sustainability Plan

(C) Indicator 1.c.2: Product Development

Objective 1.D: Business Services and Employer Engagement

(C/E) Indicator 1.d.1: Sector Strategies

(C/E) Indicator 1.d.2: Career Pathways Systems and Programs

(C/E) Indicator 1.d.3: Business Services

Objective 1.E: Participant Services

(C) Indicator 1.e.1: Service Delivery

(C) Indicator 1.e.2: Priority of Service

(C) Indicator 1.e.3: Eligibility/Enrollment

(C/E) Indicator 1.e.4: Assessment

(C/E) Indicator 1.e.5: Participant Service Plan

(C) Indicator 1.e.6: Supportive Services

(C/E) Indicator 1.e.7: Training Services

(C/E) Indicator 1.e.8: Placement

(C/E) Indicator 1.e.9: Follow-Up Services

Core Activity 2 Grant Operations

Objective 2.A: Project Management

(C/E) Indicator 2.a.1: Specific Award Conditions

(C) Indicator 2.a.2: Prior Approval of Project Modifications

(C) Indicator 2.a.3: Closeout Requirements

Objective 2.B: Budget

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(C) Indicator 2.b.1: Budget Controls

(C) Indicator 2.b.2: Budget Modifications

Objective 2.C: Property Management

(C) Indicator 2.c.1: Insurance Coverage

(C) Indicator 2.c.2: Real Property

(C) Indicator 2.c.3: Equipment

(C) Indicator 2.c.4: Rental or Leasing Costs for Property

(C) Indicator 2.c.5: Supplies

(C) Indicator 2.c.6: Intangible Property

Objective 2.D: Procurement and Contract Administration

(C) Indicator 2.d.1: Procurement Standards

(C) Indicator 2.d.2: Competition

(C) Indicator 2.d.3: Methods of Procurement

(C) Indicator 2.d.4: Cost or Price Analysis

(C) Indicator 2.d.5: Contract Administration

Objective 2.E: Performance Management

(C) Indicator 2.e.1: Performance Reporting

(C) Indicator 2.e.2: Progress Monitoring

Objective 2.F: Sub-recipient Management and Oversight

(C) Indicator 2.f.1: Sub-recipient and Contractor Determination

(C) Indicator 2.f.2: Pre-Award Risk Analysis

(C) Indicator 2.f.3: Post Sub-award Responsibilities

(C) Indicator 2.f.4: Sub-recipient Monitoring

Objective 2.G: Records Management

(C) Indicator 2.g.1: Record Retention

(C) Indicator 2.g.2: Accessibility

(C) Indicator 2.g.3: Protected Personally Identifiable Information

(C) Indicator 2.g.4: Custody and Transfer

Objective 2.H: Personnel

(C) Indicator 2.h.1: Personnel Policy and Procedures

(C) Indicator 2.h.2: Staff Positions

(C) Indicator 2.h.3: Salaries

(C) Indicator 2.h.4: Organizational Chart

Objective 2.I: Civil Rights, Complaints, Grievances & Incident Reporting

(C) Indicator 2.i.1: Policies and Procedures

(C/E) Indicator 2.i.2: Notices

(C) Indicator 2.i.3: Facilities

(C) Indicator 2.i.4: Grievance and Complaint System

(C) Indicator 2.i.5: Incident Reporting

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BACKGROUND

Federal regulations codify outreach services and farmworker protections by requiring States to designate WP staff to conduct MSFW outreach, inspecting temporary farmworker housing, providing staff-assisted referral services to interstate agricultural job orders, and by appointing a State Monitor Advocate (SMA) to ensure that the State provides these services and protections. WP regulations also require States to provide career services to MSFWs that are qualitatively equivalent and quantitatively proportionate to all other jobseekers. ETA measures compliance with this requirement by establishing Equity Ratio Indicators (ERIs) listed in the table below. A State meets an ERI when its MSFW percentage is equal to or greater than its non-MSFW percentage. ETA considers a State compliant if it meets four of five ERIs for the Program Year. Tennessee is on track to meet two of five ERIs in PY 2019.

PY 2019 Tennessee ERI Performance	MSFWs		Non - MSFWs		Equity	
	#	%	#	%	Yes	No
A. Total Applications	316		258,984			
1. Referred to Jobs	44	13.9%	18,911	7.3%	X	
2. Received Staff Assisted Services	72	22.8%	29,785	11.5%	X	
3. Referred to Support Service	0	0%	0	0%		X
4. Career Guidance	0	0%	1,210	0.5%		X
5. Job Development Contact	0	0%	207	0.1%		X

*Note that significant data quality issues exist in lines A.2-5 of the LEARS report.

ETA designates twenty States annually as Significant MSFW States. In addition to the ERIs, these twenty States have performance targets called minimum service level indicators (MSLIs) to assess services provided to MSFWs and agricultural employers. Per TEGL 20-16, ETA requires MSFW Significant States to meet at least four of seven MSLIs. All other states are encouraged, but not required to meet MSLIs. ETA did not designate Tennessee as a Significant MSFW State in PY 2019. The State currently meets one of six applicable indicators as shown in the table.

PY 2019 Tennessee Minimum Service Level Indicator Performance			
	Compliance Level	Actual Level	Indicator Met?
Placed in a job	42.5%	0%	No
Placed \$.50 above federal minimum wage	14%	0%	No

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Placed in long term non-ag job	3%	0%	No
Reviews of MSFW significant office	N/A – Tennessee does not have any significant offices		
Field checks conducted	25%	0%	No
Outreach contacts per staff day worked	5	3	No
Timely process of ES complaints	90%	100%	Yes

The FY 2019 WOTC grant agreement requires Tennessee to promote the WOTC program, accurately certify or deny applications, prevent/reduce application backlogs, and increase efficiency through continuous improvements of automated application processing. ETA awarded \$802,646 to Tennessee to administer the WOTC program for FY 2019. During the grant period, Tennessee received 105,959 WOTC applications, issued 72,107 certifications and 92,180 denials, and reduced its backlog from 173,397 to 86,520. Grant funds also supported creating WOTC marketing material for business services representatives at American Job Centers (AJCs).

FINDINGS

Finding #1: Insufficient MSFW Outreach Efforts

Indicator 1.b.1: Designating Personnel, Staff, and Hiring

Federal staff requested an organizational chart of MSFW outreach staff to assess outreach efforts. TDLWD did not provide an organizational chart. TDLWD staff indicated during interviews that the SMA and several other staff occasionally provide MSFW outreach when available. TDLWD’s agricultural outreach plan (AOP) does not have any quantifiable goals (e.g. annual number of field visits, projected number of MSFW and agricultural employer contacts, outreach coordinated with area MSFW service providers).

Citation: 20 CFR 653.107(a)(1) requires each SWA to provide an adequate number of outreach staff to conduct MSFW outreach in their service areas. 20 CFR 653.107(a)(4) requires that all States, at minimum, must have year-round part-time outreach staff, and full-time outreach staff (or one full-time equivalent) during periods of the highest MSFW activity. All outreach staff must be multilingual according to language needs of MSFWs in the State.

Corrective Action: TDLWD must designate or hire sufficient qualified staff to conduct MSFW outreach to meet the minimum requirements described at 20 CFR 653.107(a)(1) and (4). Once outreach staffing is determined, TN must update its AOP prior to the 2021 season. Please provide an updated organizational chart that demonstrates minimum outreach staff to resolve this finding.

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Finding #2: Insufficient Tracking of Jobseekers Referred to H-2A Job Orders

Indicator 1.e.8: Placement

According to the Tennessee AOP, TDLWD assisted agricultural employers with placing 476 H-2A job orders in 2019. H-2A job orders allow an employer to hire temporary foreign workers in agricultural occupations. H-2A job orders are placed in interstate clearance to promote job referrals and placements of willing and able domestic jobseekers to these open positions. Employers are required to hire all qualified domestic jobseekers that AJC staff refer to open H-2A job order positions.

Citation: 20 CFR 653.503(a) requires a State Workforce Agency (SWA) to conduct a field check when a domestic jobseeker is referred and placed to an H-2A job order. TDLWD reported 148 placements on its LEARS reports for PY 2019. Supporting records for these placements contained notes describing how the Tennessee's management information system (MIS) incorrectly counts a placement whenever a jobseeker views an H-2A job order in labor exchange. TDLWD confirmed that the number of jobseekers referred and placed on H-2A job orders is unknown. TDLWD was not able to conduct any field checks during PY 2019 without this placement data.

Corrective Action: TDLWD must record all referrals and placements of qualified, domestic workers to H-2A job orders. Once a process is in place to track these placements on H-2A job orders, TDLWD must demonstrate that field checks will occur at each placed jobseeker worksite to determine whether wages, hours, and working and housing conditions are as stated in the job order. Please provide the regional office with a plan to track jobseeker referrals and placements to H-2A orders, and a field check process to resolve this finding.

Finding #3: MSFW Outreach Data Quality Issues

Indicator 2.e.1: Performance Reporting

In the first three quarters of PY 2019, TDLWD reported 38 MSFW contacts and 14 outreach staff days to ETA through the Labor Exchange Agricultural Reporting System (LEARS) quarterly report. AJC staff provide outreach numbers to populate the LEARS report. On a quarterly basis, TDLWD requires AJC staff to submit a *Service to MSFWs Report Worksheet* to the SMA that details the number of MSFW outreach contacts and the number of days staff conduct outreach. The PY 2019 LEARS reports did not reconcile with the TDLWD worksheets for the same time period.

Citation: 20 CFR 653.109(b) requires SWAs to collect data on the number of MSFWs contacted through outreach activities. 20 CFR 653.107(a)(4) requires MSFW outreach staff to spend a majority of their time in the field. Additionally, 20 CFR 653.107(a)(8) requires outreach staff to complete daily logs that include the number of MSFW contacts, names of contacts (if available), and services

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provided. Daily logs provide data on the number of MSFW outreach contacts and help the State ensure that outreach staff spend the majority of time in the field. The quarterly *Service to MSFWs Report Worksheet* is insufficient to meet these regulatory requirements.

Corrective Action: TDLWD must ensure that MSFW outreach staff record outreach activities in a daily log that captures data required by 20 CFR 653.107(a)(8). Please provide the regional office with the daily log template that W-P staff will use in future outreach efforts to resolve this finding.

Finding #4: Unable to Determine WP Participants MSFW Status

Indicator 2.e.1: Performance Reporting

Federal staff reviewed sixteen WP participant case files during the EDMR. Four case files did not contain any recent employment history. Without employment history recorded in the MIS for the 12 months preceding enrollment as a WP participant, federal staff was not able to determine these four participants' MSFW status.

Citation: Federal regulations define MSFWs in two categories: seasonal farmworker and migrant farmworker. 20 CFR 651.10 defines a seasonal farmworker as “an individual who is employed, or was employed in the past 12 months, in farm work (as defined in this section) of a seasonal or other temporary nature and is not required to be absent overnight from his/her permanent place of residence.” Migrant farmworker is defined as “a seasonal farmworker (as defined in this section) who travels to the job site so that the farmworker is not reasonably able to return to his/her permanent residence within the same day.”

Corrective Action: TDLWD must train or advise front-line staff to verify that the MIS contains each individual's recent work history upon enrollment in the WP program. Please provide proof of this training or notice to staff to verify a record of employment history in the MIS upon enrollment for WP participants to resolve this finding.

Finding #5: Data Quality Issues in MSFW Program Reporting

Indicator 2.e.1: Performance Reporting

States are required to submit quarterly LEARS reports to ETA. LEARS reports contain performance indicators to assess the service equity for MSFW and non-MSFW WP participants. ETA recently updated these indicators with TEN 20-16: https://wdr.doleta.gov/directives/corr_doc.cfm?docn=3427. Beginning in PY 2020, MSFW indicators will calculate automatically in the Workforce Integrated Performance System to generate an MSFW Service Equity report. The report generation occurs by linking each indicator to a data element in the Participant Integrated Reporting Layout (PIRL). Below is a list of the performance indicators and their corresponding PIRL data elements:

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- Career guidance (PIRL 1102);
- Job search activities (PIRL 1104);
- Referred to employment (PIRL 1105);
- Received UI claim assistance (PIRL 1112);
- Referred to federal training (PIRL 1107);
- Referred to other federal or state assistance (PIRL 1113);
- Employed in 2nd quarter after exit;
- Employed in 4th quarter after exit;
- Median earnings

Citation: 20 CFR 653.109(b)(2-10) requires SWAs to collect data on the above indicators. The WP participant case file review found that many staff were not recording all services in the MIS. Most case file records reviewed did not correctly record many basic staff-assisted career services (e.g. job search, job matching, resume assistance, career counseling), referrals to other federal or state assistance, and job placements. Omitting the entry of these services in the State's MIS caused errors in the PY 2019 LEARS reports for Tennessee causing the State to report zeroes for many performance indicators. These omissions will affect data quality in future reports until corrected.

Corrective Action: TDLWD must ensure that all staff-assisted career services, referrals, and job placements are correctly entered in its MIS, and that the performance indicators listed above are mapped to the correct PIRL data element. TDLWD must train appropriate staff to correctly enter these services in the MIS and provide the regional office with proof of this training to resolve this finding.

Finding #6: Lack of Onsite AJC Monitoring of Services Provided to MSFWs

Indicator 2.e.2: Progress Monitoring

Indicator 2.f.4: Sub-recipient Monitoring

TDLWD designates one part-time staff to serve as the SMA. This staff person is also responsible for administering the foreign labor certification grant and the Senior Community Service Employment Program in Tennessee. The SMA indicated that he monitors services to MSFWs remotely by reviewing quarterly Migrant Indicators of Compliance (MIC) reports generated by State's MIS. Tennessee did not conduct any onsite monitoring of services to MSFWs in PY 2019.

Citation: 20 CFR 653.108(g)(2)(i)(iii) requires the SMA to conduct onsite monitoring of services to MSFWs on a regular basis, and report conclusions in writing to the State Administrator and other appropriate State Workforce Agency (SWA) officials. TDLWD staff indicated during interviews that they were not aware of this requirement; believing that onsite MSFW Program monitoring is only required for significant MSFW AJCs. Additionally, TDLWD staff expressed concern that regular onsite monitoring of services to MSFWs will be challenging for the SMA to conduct with many

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functions already assigned to this staff person. 20 CFR 653.108(g)(2)(vii) allow a State to delegate the SMA's responsibility to conduct these onsite monitoring reviews to other WP staff.

Corrective Action: TDLWD must conduct onsite monitoring of services provided to MSFWs on a regular basis. Federal regulations at 20 CFR 653.108(g)(2) allow each State to determine the regularity of these onsite monitoring visits. To resolve this finding, TDLWD must create or modify its monitoring plan to include onsite reviews of services provided to MSFWs at AJCs. Please provide the regional office with this monitoring plan once complete.

AREAS OF CONCERN

Area of Concern #1: Ineffective Prevailing Wage and Practice Surveys

Indicator 1.a.2: Service Design

The USDOL Office of Foreign Labor Certification (OFLC) utilizes prevailing wage and practice surveys to help determine prevailing wages and working conditions in agricultural occupations. The intent of the survey is to produce findings that establish prevailing wages and practices in agricultural occupations, and include these findings as requirements for employers petitioning to hire foreign, temporary agricultural workers through the H-2A visa process.

TDLWD has not completed prevailing wage and practice surveys for any agricultural occupations since 2015. In 2015, TDLWD surveyed only 3-4 employers. These surveys did not result in any prevailing wage or practice findings. The regional office recognizes that prevailing wage and practice surveys are requirements of Foreign Labor Certification grants and monitored by the OFLC. Although these surveys are outside the scope of this EDMR, the regional office is concerned that failure to complete surveys may adversely affect wages and conditions for domestic workers in temporary agricultural employment. The FPO will be sharing the results of this monitoring review with the appropriate FPO in OFLC.

Recommendation: TDLWD should prioritize conducting H-2A prevailing wage and practice surveys. Conducting surveys that result in findings can help ensure that employing H-2A workers do not adversely affect the wages and working conditions of domestic workers. TDLWD may consider different approaches to surveys to increase response rates (e.g. email, telephonic, in-person).

Area of Concern #2: Resumes and Individual Employment Plans are not created in the MIS

Indicator 1.e.1: Service Delivery

Indicator 1.e.5: Participant Service Plan

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Federal staff reviewed WP participant files as part of the EDMR. Individual Employment Plans (IEP) were completed on paper and uploaded to several case files (participant ID #s 2197771 and 2978522). All files either did not have completed resumes on file or the resume was uploaded as a word document for staff to access. Tennessee's case management and labor exchange system, Jobs4TN, is designed by Geographic Solutions (GeoSol). GeoSol provides features that allow staff to create an IEP and resume. The IEP feature in Jobs4TN allows for more customization of participant goals, and for goals to be adapted as needed. The paper version of the IEP only allows participants to update goals once during enrollment.

The resume feature allows customers to generate a resume in Jobs4TN by answering a series of questions about past employment, education, and skills. This resume is provided to employers when a customer is referred to an open position through Jobs4TN, and searchable by employers. Resumes uploaded to Jobs4TN in Word were saved as attachments for AJC staff to access, and did not appear to be accessible to prospective employers.

Recommendation: TDLWD should promote using the IEP and resume builder features of its labor exchange and case management system, Jobs4TN. TDLWD should train case counselors to use these features to create IEPs that can be easily customized and updated; and resumes that are searchable in Jobs4TN and provided to employers with a referred jobseeker.

Area of Concern #3: Complaint Policy Omissions and Inaccuracies

Indicator 2.i.1: Policies and Procedures

Indicator 2.i.4: Grievance and Complaint System

The TDLWD complaint policy provides an overview of many different complaint scenarios and the steps to process. The Federal reviewer did notice the policy is missing procedures for handling (Employment Services) ES and employment-related law complaints, apparent violations, discontinuation of services described at 20 CFR 658. This should include:

- Definitions of ES, employment-related law complaints, and apparent violations;
- Process for an individual to submit a complaint (or AV) at the AJC;
- Process for ES related complaint (non-MSFW);
- Process for employment-related law complaint (non-MSFW);
- Include enforcement agencies (and other appropriate entities) name and contact information in policy whenever possible;
- Process for ES and employment-related law complaints for MSFWs (refer to Attachment III);
- Timeline for resolution (non-MSFW different than Title I complaints) 15 working days for ES complaints involving non-MSFWs (20 CFR 658.411(d)(2)(ii); and
- Appeal process for ES-related complaints including a hearing at the state level.

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A few other inaccuracies were noted including the timeline for accepting complaints (2 years for ES complaints), the option to file complaints alleging discrimination with the State or regional Equal Opportunity Officer, and the correct definitions of seasonal farmworker and migrant farmworker.

Recommendation: TDLWD should revise complaint policy to correct the omissions and inaccuracies described in this area of concern.

PROMISING PRACTICES

Promising Practice #1: H-2A Job Order Log

TDLWD approved 476 H-2A orders in 2019. TDLWD staff created an H-2A Job Order Log to track deadlines for all pre-occupancy housing inspections and job order approvals. The log also indicates the period of time each job order is open, the number of workers requested, and assigns a housing inspector to each temporary housing unit. This tracker helps TDLWD account for each action necessary to approve the H-2A job orders in their State.

Promising Practice #2: WOTC Automation Process to Receive Applications in Bulk

TDLWD processed 68,502 WOTC applications in PY 2019 using its electronic system. This system facilitates the application submission process for employers and consultants by facilitating bulk applications. Many times, one consultant will submit WOTC applications on behalf of hundreds of employers; creating a need to submit many WOTC applications at one time. TDLWD designed an Excel data sheet that consultants can complete with information for all WOTC applicants. The electronic system pulls each applicants' information into the required WOTC forms ETA 8850 and 9061; creating an individual WOTC application for each completed line in the Excel document. This WOTC automation process saves much time and creates a better customer experience.

- END OF REPORT -