

# Migrant and Seasonal Farmworker Services Handbook

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# MSFW Services Handbook purpose

The Washington Employment Security Department (ESD) strives to assure that migrant and seasonal farmworkers (MSFWs) have equitable access to training and services to acquire new job skills in occupations that offer higher wages and more stable employment.

The purpose of this handbook is to communicate MSFW service requirements, so that MSFW staff can provide service consistently statewide. This handbook will be updated as additional processes become standardized and improved.

Guidance in this handbook complies with federal regulations and state laws.

# Background

The employment and training services offered through the WorkSource system are just as crucial today as they were nearly 40 years ago, when Judge Charles R. Richey established requirements to ensure migrant and seasonal farmworkers receive the full range of services through the public workforce system.

The Washington state monitor advocate; ESD staff, including MSFW outreach workers, local office managers and front-line staff; and partner staff, such as the National Farmworker Jobs Program (NFJP) grantees, all perform crucially important work to support opportunities and protections for MSFWs.

When farmworkers went into a local employment office prior to 1971, they might have encountered:

- Separate offices or separate applications;
- A separate line for farmworker services;
- Limited exposure to non-agricultural job referrals;
- Problems with substandard wages;
- Possible civil rights violations; and
- No support services, such as counseling, assessment and testing.

In 1971, 16 organizations and 398 individuals petitioned U.S. Secretary of Labor Peter J. Brennan with accusations of exploitation of farmworkers by state employment offices across the U.S. After the U.S. Department of Labor (DOL) investigated and unsuccessfully attempted to correct the alleged abuses through internal changes to service delivery, the National Association for the Advancement of Colored People filed a formal complaint in U.S. District Court in Washington, D.C., in October 1972. The suit alleged various discriminatory actions, including inequitable treatment and services to farmworkers.

Charles R. Richey granted an injunction and appointed special review staff to handle the investigation. When he presented the information one year later, Secretary of Labor Peter J. Brennan conceded that a number of the allegations were true.

In 1974, Judge Richey signed a consent order that required the DOL to make changes in the way services were delivered. The DOL responded by implementing new federal regulations:

- 20 CFR 651 – General provision governing the federal-state employment system
- 20 CFR 653 Subpart B – Services of the employment-service system, services for MSFWs
- 20 CFR 653 Subpart F – Agricultural clearance order activity
- 20 CFR 658 – Administrative provision governing the job-service system

For additional information on the above regulations, see [References](#).

In 1985, Judge Richey dismissed the lawsuit, provided the regulations the DOL had written remained in effect. Judge Richey required that services to MSFWs be:

- Equivalent in quality and kind to services given to non-MSFWs; and
- Proportionate in quality and amount to services given to non-MSFWs.

The settlement agreement established criteria for serving farmworkers the same as non-farmworkers. One of the criteria was to establish full-time MSFW staff in those “One-Stop” centers where large numbers of MSFWs were known to be available.

In 1998, the Workforce Investment Act (WIA) was passed. Section 167 of the WIA provides funds for the National Farmworker Jobs Program (NFJP) (see, [References](#)). This program provides services to assist MSFWs and their families to achieve economic self-sufficiency through job training. These services are supplementary to those provided by the Employment Security Department. NFJP grantees are some of our prime partners in providing services to MSFWs. WorkSource partners should coordinate with these grantees to facilitate MSFWs’ access to services available through the workforce system.

# MSFW significant states and offices

## Designating MSFW significant states

Significant states are states with the highest number of MSFWs the DOL's Employment and Training Administration (ETA) annually designates the top 20 states with the highest MSFW activity, based on data received from state and local offices. On Feb. 24, 2014, The DOL's Training and Employment Guidance Letter (TEGL) 13-13 (see, [References](#)) said that Washington State ranked third in the nation. The rank is based on Wagner-Peyser services, such as applicant registrations, referrals to employment, referrals to supportive services, career guidance, job search activities and referrals to WIA services, as reported on the LERS 9002A report.

## Designation of MSFW significant offices

**Significant local offices** are designated annually by the ETA and include local offices where MSFWs account for 10 percent or more of annual applicants. In addition, DOL can choose to designate as significant those local offices located in an area with a large number of MSFWs, even if MSFWs do not account for 10 percent of applications.

**Significant bilingual local offices** also are designated annually by the ETA and include those significant MSFW offices where 10 percent or more of MSFW applicants require service provisions in Spanish (or another language).

As of program year 2015, Washington state has nine MSFW significant offices:

- WorkSource Skagit in Mount Vernon
- WorkSource Central Basin in Moses Lake
- WorkSource Okanogan in Omak
- WorkSource Wenatchee Affiliate
- WorkSource Yakima
- WorkSource Sunnyside
- WorkSource Columbia Gorge in White Salmon
- WorkSource Columbia Basin in Kennewick
- WorkSource Walla Walla

**MSFW outreach staff** – In order to ensure MSFWs are provided the full range of services provided under the Wagner-Peyser program, DOL requires that each MSFW significant office has at least one full-time bilingual MSFW outreach employee. As of program year 2015, Washington State has continued to meet DOL’s expectation by designating 9 full-time MSFW outreach staff located in the nine MSFW significant offices.

- WorkSource Skagit in Mount Vernon: 1 position
- WorkSource Central Basin in Moses Lake: 1 position
- WorkSource Okanogan in Omak: 1 position
- WorkSource Wenatchee Affiliate: 1 position
- WorkSource Yakima: 1 position
- WorkSource Sunnyside: 1 position
- WorkSource Columbia Gorge in White Salmon: 1 position
- WorkSource Columbia Basin in Kennewick: 1 position
- WorkSource Walla Walla: 1 position

This handbook will discuss later the roles and responsibilities of MSFW outreach staff, but the key element of the MSFW outreach program is to provide services to farmworkers who do not visit our offices through “especially vigorous” outreach efforts.

# Serving farmworkers: roles and responsibilities

The following sections discuss responsibilities of state workforce agencies (SWAs) and local offices, with specific requirements for MSFW significant states, significant MSFW offices, and significant MSFW bilingual offices in alignment with 20 CFR 653 Subpart B and TEGL 17-12 (see, [References](#)).

## State workforce agency: Washington State ESD

The DOL regulations refer to a “state workforce administrator,” who is responsible for ensuring the state has programs in place to provide employment and training services in a non-discriminatory way and to monitor at state and local levels. The administrator ensures the agency is in compliance with federal regulations.

The role of SWA administrators of the Wagner-Peyser program is to establish a comprehensive program designed to assure compliance with regulatory requirements. They also are responsible for operating an outreach program to locate and contact MSFWs who are not being reached by normal intake.

TEGL 17-12 provides a partial list of state-level responsibilities. The state must:

- Assure that the SWA continually monitors its own compliance with Wagner-Peyser regulations;
- Appoint a state MSFW monitor advocate (SMA);
- Inform farmworker organizations and other organizations with expertise concerning MSFWs whenever there is an opening for a SMA, and encourage these organizations to refer qualified applicants to apply through the state merit system.
- Seek persons for SMA who: (1) are from MSFW backgrounds; or (2) speak Spanish or other languages spoken by a significant proportion of the state’s MSFW population; or (3) are racially or ethnically similar to the MSFWs in the state; or (4) have substantial work experience in farmworker activities.
- Ensure the SMA has status and compensation as approved by the state’s civil-service classification system, and ensure the position is comparable to other state positions assigned similar levels of tasks, complexity and responsibility.

- As one of the top five states serving MSFWs, Washington State's ESD must assign at least one full-time, year-round employee for each MSFW significant office. This employee will conduct outreach duties as noted in 20 CFR 653.107(i) (see, [References](#)).

## MSFW federal performance

TEGL 13-13 (see, [References](#)) explains the SWA's responsibility for meeting performance outcomes set by DOL's Employment and Training Administration. The ETA measures the SWA's equity and minimum levels of service to MSFWs.

ESD is required to provide MSFWs with services that are qualitatively equivalent and quantitatively proportionate to the services provided to non-MSFWs. Those requirements are described in 20 CFR 653.112 (see, [References](#)).

In the [Program Year 2010 National Monitor Advocate Annual Report](#), the national monitor advocate recommended that states align equity and minimum-service indicators noted in 20 CFR 653.112 with elements required by the Wagner-Peyser program ([ETA 9002A Quarterly Report](#)). In an effort to reduce duplication in reporting data and to raise visibility of performance tied to MSFW services, Washington state has agreed to adopt the national monitor advocate's recommendation. Table X provides a breakdown of equity indicators that align with the ETA 9002A Quarterly Report and the national monitor advocate's recommendations. Table Y provides a breakdown of minimum-service indicators.

Table 1: MSFW equity indicators\*

	Non-MSFWs	% served non-MSFWs	Total MSFWs	% served MSFWs
Total participants	19,781,538		172,133	
Received workforce information services	8,164,084	41%	67,966	39%
Received staff-assisted services	11,872,611	60%	122,641	71%
Career guidance	3,396,427	17%	39,341	23%
Job-search activities	6,194,907	31%	61,934	36%
Referred to jobs	5,165,111	26%	65,393	38%
Referred to WIA services	1,556,111	8%	13,103	8%

\*The data in this table is an example of how Washington state data would be tabulated. Percentages for non-MSFWs and MSFWs are determined by using "total participants" as the denominator.

Table 2: MSFW minimum-service indicators

	Compliance level	Actual level*
Placed in jobs	42.5%	24.25%
Placed 50 cents above federal minimum wage**	14%	24.25%
Placed in long-term non-ag jobs	3%	5.09%
Reviews of significant offices	100%	100%
Field checks conducted	25%	0%
Outreach contacts per staff day worked	5%	15
Timely process of ESD complaints	90%	95%

\*The data in this column is an example.

\*\*Washington state's minimum wage is greater than 50 cents above the federal minimum wage, making this indicator obsolete.

ESD submits state-level aggregate data to report equity and minimum-service level indicators on DOL's 5148 Reporting Form via the Web-based Labor Exchange Agricultural Reporting System (LEARS). The Agricultural Services Unit submits the data quarterly, no later than 45 days after each quarter concludes. Subsequently, DOL's regional and national offices review the LEARS to evaluate the state's compliance with regulations at 20 CFR 653.100. All states are required to meet no less than four of the five equity-ratio indicators shown in Table X and no less than four of the seven minimum-service level indicators shown in Table Y.

The state monitor advocate, in collaboration with local administrators, is responsible for monitoring equity and service-level indicators at the local level, with a focus on designated MSFW significant offices.

## ESD central office Agricultural Services unit

The Agricultural Services Unit is responsible for providing statewide coordination of the MSFW program. The unit must:

- Coordinate the development and implementation of the Wagner-Peyser Agricultural Outreach Plan in order to assist MSFW significant offices in setting annual targets for outreach and other MSFW service-related goals;
- Assist with preparing presentations, reports, issue papers, etc., that summarize MSFW services at the state level;
- Respond to technical-assistance requests from partners, employers, stakeholders and farmworkers;
- Facilitate Workforce & Career Development Division agricultural-services conference calls with ESD staff;
- Keep the Farmworker Services website up to date; and
- Submit the DOL's 5148 Report via LEARS no later than 45 days after each quarter concludes.

## State monitor advocate

Judge Richey's created monitor advocates at the national, regional and state levels. These positions must continually monitor and review state agencies' compliance with Wagner-Peyser regulations affecting MSFWs. State monitor advocates (SMAs) also advocate on behalf of MSFWs to assure that MSFWs can access and use training programs and services offered by WorkSource partners and other service providers. This handbook will cover more about the monitor advocates' roles and responsibilities later.

On March 11, 2013, the DOL released TEGL 17-12 to explain the SWAs' responsibilities to serve MSFWs through the One-Stop centers and the responsibilities of the SMAs. The TEGL emphasizes the importance of SMA positions by directing SMAs to devote full time to the monitor-advocate functions, except in states with low MSFW activity. As one of the top five MSFW states, Washington is required to have a full-time monitor-advocate position.

The following sections provide further guidance on the responsibilities of the state monitor advocate.

## Monitoring activities

- Devote full time to monitor-advocate functions.
- Regularly participate in on-site local office MSFW formal monitoring reviews which shall include a review of outreach efforts in all significant MSFW local offices are reviewed at least annually, to assure continuing compliance with the state's agricultural-outreach plan.
- Review the state agency's agricultural plan.
- Participate in federal reviews of the state's Wagner-Peyser program.
- Participate in, and monitor the performance of, the job-service (Wagner-Peyser) complaint system, ensuring it complies with [WorkSource System Policy 1012 Rev 1](#) and minimum requirements noted in the [WorkSource Complaint Handbook](#).
- Ensure that outreach efforts in all significant MSFW local offices are reviewed at least annually, to assure continuing compliance with the state's agricultural-outreach plan.
- At least quarterly, review all statistical and other MSFW-related data reported by significant MSFW local offices in order to: (1) determine the extent to which the state agency has complied in providing the full range of employment services to MSFWs, and (2) identify the areas of inadequate compliance.
- Review and comment on proposed state Wagner-Peyser directives, manuals, and operating instructions relating to MSFWs and ensure that they (1) accurately reflect the requirements of the regulations, and (2) are clear and workable.
- In Washington state, the SMA serves as the complaint specialist.

## Advocacy activities

- Advise the state agency and local offices of: (1) problems, deficiencies or improper practices in the service delivery and protections afforded by MSFW regulations, and (2) ways to improve service delivery.
- Serve as an advocate to improve services for MSFWs within Wagner-Peyser.
- Prepare for the SWA administrator an annual summary of Wagner-Peyser services to MSFWs within his or her state, based on statistical data and his or her reviews and activities explained in 20 CFR Parts 653 and 658.
- Be an ongoing liaison with WIA section 167 NFJP and other organizations serving farmworkers, and employers and employer organizations in the state.

## Field-visit activities

- Meet frequently with representatives of farmworker-advocacy organizations to receive complaints, assist in referrals of alleged violations and receive input on improving coordination within the WorkSource system or improving services to MSFWs through WorkSource centers and affiliates.
- Conduct frequent field visits to the working and living areas of MSFWs, and discuss WorkSource services and other employment-related programs with MSFWs, crew leaders and employers.
- Collaborate with state and federal enforcement agencies in the conduct of field checks.

## Administrators

ESD administrators are responsible for implementing employment and training programs at the local-office level. Administrators must be knowledgeable about the requirements of a variety of programs, including those funded by Wagner-Peyser funds. Specifically related to serving MSFWs, local managers are responsible for ensuring all employees in their offices serve farmworkers equitably and in a non-discriminatory manner. Furthermore, administrators in MSFW significant offices must ensure they have sufficient non-MSFW staff available who are bilingual in English and Spanish, so that they are properly using their MSFW outreach staff to conduct especially vigorous outreach to MSFWs not accessing WorkSource services in the WorkSource office.

Administrators also are responsible for monitoring performance of MSFW employees, who should be conducting outreach, maintaining a log of their outreach contacts, completing monthly summary reports on their activities, handling farmworker complaints and maintaining a complaint log. Administrators are responsible for ensuring their staff receive training about effective outreach. MSFW workers also need to be trained in local-office procedures and in the services, benefits and protections afforded MSFWs by WorkSource partners. MSFW outreach staff must be trained in how to resolve complaints informally.

TEGL 3-13 (see, [References](#)) provides guidance from DOL on the responsibilities for significant MSFW and bilingual offices. Administrators are responsible for meeting these responsibilities:

- Each significant MSFW office must provide staff assistance to each MSFW participant in order for MSFWs to obtain specific and general information on where and how to find employment.

- Offices designated as significant MSFW bilingual offices must explain available services to MSFWs in Spanish (or other languages), if necessary or requested during any period of substantial MSFW activity, such as when there is an increase in MSFW applications or agricultural job orders.
- Significant MSFW offices must dedicate at least one staff person (MSFW outreach specialist) to conduct vigorous outreach a majority of their time to inform a large number of MSFWs in the office's service area of the full range of employment and training services offered through WorkSource centers and affiliates.

Administrators are responsible not only for following DOL guidelines to ensure their offices are compliant with relevant regulations, but also for being knowledgeable about, and in compliance with, ESD policies and guidance. All local offices are required to determine whether an applicant is a MSFW at the time services are delivered, as defined by 20 CFR 651.10\_(see, [References](#)). WorkSource administrators must ensure their employees are properly coding MSFWs in SKIES in order to document that MSFWs are receiving appropriate services and ESD is complying with DOL requirements to fully account for services provided. Details on responsibilities of MSFW staff are included in the *MSFW outreach staff* section of this handbook (below).

## MSFW outreach staff

### General expectations

20 CFR 653.107 (see, [References](#)) mandates that each state agency will operate an outreach program to locate and contact MSFWs who are not being reached by normal intake activities in local offices. Each year, Washington state develops an annual outreach plan and submits it to DOL. This plan lists local-office outreach goals for MSFW contacts and drives outreach activities throughout the year. MSFW outreach workers are expected to conduct vigorous outreach for the expressed purpose of contacting MSFWs – employed and unemployed – who are not visiting WorkSource offices. Employment Security Department has determined that in order to comply with the requirement to perform vigorous outreach to MSFWs, each MSFW outreach staff will conduct outreach a minimum of **106 days per year** (one outreach day is defined as 8 hours). For the purpose of counting outreach days, "outreach" is defined as a time spent performing MSFW outreach worker duties outside of the office. Work performed in the office is not considered "outreach", and will not be counted for meeting outreach expectations.

When contacting MSFWs in the field, MSFW outreach workers shall explain the following program components to MSFWs where they work, live or gather. The explanations can be written or oral, spontaneous or recorded, but in a language they understand. Presentations must include:

- Services available from the One-Stop center, including availability of referrals to agricultural and non-agricultural jobs, training, supportive services, testing, counseling and other job-development services;
- Types of specific job opportunities currently available in the One-Stop system;
- Information on the One-Stop complaint system;
- Information on other organizations serving MSFWs; and
- A basic summary of farmworkers' rights with respect to the terms and conditions of employment.

MSFW outreach workers must record all outreach activities and contacts on the [daily outreach log](#). Each office must submit a quarterly summary report of outreach activities for review by the state monitor advocate. The report must include:

1. [The Planned vs Actual Matrix](#), which summarizes outreach performance.
2. [Quarterly Narrative Report](#)
3. The Local Complaint Log

## Record keeping

20 CFR 653.107 requires that outreach workers must maintain complete records of their contacts with MSFWs and the services they provide. These records shall include a [daily outreach log](#), a copy of which must be sent monthly to local managers and kept on file for at least two years after the last recorded activity. The log must include number of contacts, names of contacts (where applicable), services provided (e.g., complaints, applications or referrals).

DOL requires names of MSFWs to be recorded on the daily logs when an outreach worker:

- Takes an application for work (ESD registration);
- Makes a referral to a job; or
- Takes a complaint.

Other than noted above, the outreach log does not require a name or Social Security number in order to count as a contact. Contacts must be performed during outreach, and are not limited to particular services. Contacts can be provided one-on-one, or in small or large groups, such as ESL classes, worksites, etc.

Since not all contacts require a name and Social Security number, not all contacts can be entered into SKIES. For this reason, any numerical goals or expectations for outreach contacts should use the contact log – not SKIES records – to measure performance.

Outreach workers also must maintain records of each possible violation or complaint, as well as how they ascertained the facts and referred the information to the appropriate agency. These records shall include a description of the circumstances and names of any employers who have refused outreach workers access to MSFWs. MSFW outreach workers may not enter work areas to perform outreach on an employer's property without the employer's permission, unless authorized to enter by law. Outreach workers must not enter a worker's living area without the worker's permission.

## **Conducting outreach to agricultural employers**

In order to help locate and contact MSFWs who are not being reached by normal WorkSource intake activities, MSFW outreach workers should strive to increase the number of agricultural employers using labor-exchange services. Outreach staff should develop relationships with these employers, which will help them locate, contact and provide more job opportunities for MSFWs.

It is important for administrators, supervisors, MSFW outreach workers and WorkSource staff to remember that the priority of MSFW outreach workers is to serve MSFWs. The main responsibility of other staff is to serve all employers, including agricultural employers.

As long as the focus remains on serving farmworkers, it is appropriate for MSFW outreach staff to work alongside other staff to serve employers\_by:

- Obtaining job orders;
- Referring MSFWs to open jobs;
- Leading MSFWs to worksites
- Developing job opportunities for MSFWs in both agricultural and non-agricultural workplaces;

- Verifying placements of MSFWs referred to jobs;
- Resolving MSFW or employer concerns or complaints;
- Providing wage- and hour-related information or referrals to other agencies; and
- Providing information on the Agricultural Recruitment System (ARS) and the H-2A program.

## Conducting H-2A field visits

MSFW outreach workers conduct outreach where MSFWs work, live and congregate. Under the H-2A Program, employers are required to submit form ETA 790, which includes assurances according to 20 CFR 653.501. When submitting the ETA 790, the employer is assuring that, “outreach workers shall have reasonable access to the workers in the conduct of outreach activities.”

In addition to DOL guidance on conducting field visits, ESD expects MSFW outreach workers to conduct field visits to H-2A worksites after the contract has begun and foreign workers are present. During field visits, MSFW outreach workers are expected to talk with farmworkers and employers in order to support administration of the H-2A program and serve as a resource for all involved parties.

MSFW outreach or other ESD staff should attempt to make arrangements with employers prior to a visit, although impromptu visits may occur in the course of normal outreach activities, depending on the relationship established with the employer. Workers must check in with employers before entering the field or other worksites, in order to maintain good working relationships, respect for food-safety rules and other relevant laws. If an employer denies access to outreach workers, they should report this to their supervisor and the ASU.

## Identifying MSFWs

Local office staff are required to determine whether an applicant is a MSFW at the time of service, as defined by 20 CFR 651.10 (MSFW SKIES Desk Aid, [English](#) or [Spanish](#) versions). As subject matter experts, MSFW outreach workers are best equipped to train other front-line staff on the proper coding of MSFWs.

An MSFW is a migrant farmworker, a seasonal farmworker, or a migrant food-processing worker. The definition of each term is shown below:

**Seasonal farmworker** – A person who, during the preceding 12 months:

- Worked at least an aggregate of 25 or more days or parts of days, in which some work was performed in farmwork;
- Earned at least half of his or her earned income from farm work; and
- Was not employed in farmwork year round by the same employer.

**Migrant farmworker** –A seasonal farmworker who had to travel to do the farmwork, so that he or she was unable to return to his or her permanent residence on the same date.

**Migrant food-processing worker** –A person who, during the preceding 12 months:

- Worked at least an aggregate of 25 or more days or parts of days, in which some work was performed in food processing (as classified in the North American Industry Classification System (NAICS) 311411, 311611, 311421 for food processing establishments);
- Earned at least half of his or her earned income from processing work; and
- Was not employed in food processing year round by the same employer, and the work-required travel that did not allow the worker to return to his or her permanent residence the same day. Workers who are full-time students, but who travel in organized groups rather than with their families, are not considered migrant food-processing workers.

ESD requires random sampling of selected MSFW and non-MSFW registrations in SKIES. ESD uses reports generated at the local-office level as indicators that a customer may be miscoded regarding their MSFW status. These reports can be generated by an office supervisor or administrator and provided to MSFW or other staff to help determine if the customer is properly coded. ESD also requires local offices to document what actions they took to resolve discrepancies identified through random sample reviews.

As subject matter experts, local MSFW staff or other locally designated staff must provide training at least once a year to office staff on MSFW identification procedures. Staff must save documented information, such as email announcements, training materials, attendance rosters and agendas, and make them available upon request.

It is worth noting that MSFW status is based on information obtained from the customer for the previous 12 months at the time of service. MSFW status is subject to change over time, and must be re-determined on an ongoing basis for each customer each time the customer receives desk side assistance.

## Referring MSFW complaints

The WorkSource [Customer Concern and Complaint Resolution Policy](#) and the WorkSource [Complaint Handbook](#) provide detailed information on how to process different types of complaints and concerns. However, 20 CFR 653.107 discusses the MSFW outreach worker's role in the complaint process.

MSFW outreach workers must:

- Provide, as part of their outreach activities, MSFWs with information about complaint systems in ESD and other organizations serving MSFWs. Outreach workers must provide this information in a language the MSFWs understand.
- Attempt to resolve all concerns at the lowest level, which is consistent with WorkSource policy.
- Provide assistance in preparing either an employment service (ES) related complaint or a non-ES related complaint.
- Refer complaints to the local-office complaint specialist or local-office manager. In many cases, MSFW outreach workers take on or share the role of the local-office complaint specialist.
- Record all complaints on the [Daily Outreach Log](#) if the complaint was taken during and/or the local complaint logging system, in alignment with local policies and procedures. MSFW outreach staff must maintain records of each apparent violation or complaint, how they ascertained the facts and referred the matter, if appropriate.

## Coordinating with other community organizations serving MSFWs

MSFW outreach workers coordinate with other community organizations that serve farmworkers, building and increasing long lasting partnerships to provide jobs and resources to MSFWs. These partnerships increase workers' knowledge of programs, resources and opportunities available to farmworkers, and also increase our partners' knowledge of the services ESD provides.

- **[Opportunities Industrialization Center \(OIC\)](#)**: OIC of Washington is the WIA 167 grantee, administering the [National Farmworker Jobs Program \(NFJP\)](#). OIC assists qualified farmworkers and their families with training and support services. OIC is located in most MSFW significant areas throughout the state, and has many employees placed in WorkSource offices. OIC is one of our best resources for helping MSFWs to train for and obtain stable, year-round employment.
- **[Washington State Labor & Industries \(L&I\)](#)**: L&I serves both employers and workers. Their services include:
  - Helping employers meet safety and health standards through education programs and workplace inspections;
  - Administering the state's workers' compensation system, providing medical and limited wage-replacement coverage to workers who suffer job-related injuries and illness;
  - Managing rules and enforcement programs to help ensure workers are paid what they are owed, that children's and teens' work hours are limited, and consumers are protected from unsound building practices.

ESD and L&I work together to refer unresolved wage and hour complaints. MSFW outreach and business services staff also can work with L&I to present informational sessions to employers and workers. L&I maintains a section of its website dedicated to [agriculture](#), which provides great resource information for MSFW outreach staff.

- **[Washington State Department of Health \(DOH\)](#)**: DOH is charged with licensing and inspecting [temporary-worker housing](#), which is housing provided for migrant farmworkers to stay and sleep in while they are in the area to work in agriculture-related jobs.
- **[Washington State Department of Agriculture \(WSDA\)](#)**: WSDA serves the people of Washington by supporting the agricultural community and promoting consumer and environmental protection. Among its key resources, WSDA offers a farmworker education program that provides trainings in Spanish aimed at providing general pesticide safety information to farmworkers and their families.
- **[Washington State Division of Vocational Rehabilitation \(DVR\)](#)**: DVR helps individuals with disabilities participate fully in their communities and become employed. WorkSource staff can refer MSFWs to DVR for assessment and determination of eligibility for training, job placement assistance and accommodations in the workplace.

- **[Northwest Justice Project \(NJP\)](#)**: NJP’s mission is to secure justice through high-quality legal advocacy that promotes the long-term well-being of low-income individuals, families and communities. NJP operates a toll-free intake and referral hotline called **[CLEAR](#)** (Coordinated Legal Education Advice and Referral). CLEAR serves as the statewide, centralized point of access for clients seeking free legal help, including advice, education, limited legal services, self-help materials and, where available, referrals for further representation.
- **[Inspire Development Centers](#)**: “Inspire” services are a network of inter-related programs, which have been identified over the years as needed services for seasonal, migrant, rural and economically disadvantaged clients. Its program provides services in a holistic approach for the entire family. These services complement and enhance the array of options for families and clients.
- **[Columbia Legal Services \(CLS\)](#)**: CLS advocates for people living in poverty. It works directly, and in coordination with, the Alliance for Equal Justice to provide legal assistance in all civil justice forums to enable its clients to assert their rights. CLS helps farmworkers and those with issues related to workplace rights, homelessness and housing, limited English proficiency and civil rights.
- **[High School Equivalency Program and College Assistance Migrant Program \(HEP/CAMP\)](#)**: HEP and CAMP are educational programs which serve students from migrant or seasonal farmworker families. HEP helps students who have dropped out of high school get their GED, and CAMP helps students in their first year of college with academic, personal and financial support. HEP and CAMP serve more than 7,000 students annually.
- **[National Center for Farmworker Health \(NCFH\)](#)**: The NCFH, established in 1975, is dedicated to improving the health of farmworker families by providing information, services and products to a network of more than 500 migrant health centers in the U.S., as well as organizations, universities, researchers, and individuals involved in farmworker health.
- **[Community Action Councils](#)**: Non-profit organizations operating throughout Washington state. They administer a variety of programs funded by grants, including food banks, weatherization and energy assistance. The **[National Community Action Partnership](#)** website has links to local Community Action Councils.

- **Migrant and Bilingual Education:** The programs through the Office of the Superintendent of Public Instruction help migrant students and other youths meet academic challenges by overcoming obstacles created by frequent moves, educational disruption, cultural and language differences, and health-related problems.
- **Literacy Councils:** These organizations are in most communities and provide assistance to individuals needing one-on-one tutoring to learn English or obtain their GED. MSFW outreach workers should locate and obtain contact information for Literacy Councils in their service-delivery area in order to appropriately refer farmworkers.
- **Support Centers:** These partners are in most communities. Support Centers provide help to individuals and families who are victims of abuse or other crimes. Many centers offer victims a safe place to live temporarily, connect with organizations offering legal support and, in some areas, help clients apply for and obtain special Visas. MSFW outreach workers should know how to contact support centers in their area and how to make appropriate referrals.
- **Washington Information Network 211 (WIN211):** This is an easy-to-remember phone number for people to call for health and human-service information and referrals, and other assistance to meet their needs. WIN211 maintains a statewide database of community resources.
- **Washington Growers League:** Washington Growers League (WGL) is an organization that helps its membership manage complicated labor and employment issues facing all agricultural employers. WGL offers resources to employers and farmworkers including recommended best practices, policies, trainings and farmworker housing.
- **Washington Farm Bureau:** Farm Bureau is an independent, non-governmental, voluntary organization governed by and representing farm and ranch families united for the purpose of analyzing their problems and formulating action to achieve educational improvement, economic opportunity and social advancement and, thereby, to promote the national well-being. Among many other resources, Farm Bureau offers trainings aimed at supporting growers and farm workers maintain a safe and healthy work environment.
- **WAFLA:** WAFLA's mission is to facilitate a legal and stable workforce for seasonal employers in the Pacific Northwest. In this respect, WAFLA partners with local and statewide agricultural associations, migrant health clinics, community colleges, and others to serve farmers and farm workers.

- **Catholic Charities:** Catholic Charities of the Diocese of Yakima provides help and creates hope for thousands of people each year regardless of religious, social or economic backgrounds. Catholic Charities provides a myriad of vital services in communities through its network of agencies: Catholic Family & Child Service, Catholic Charities Housing Services and the St. Vincent Centers.

## Suggested best practices

In addition to federal and state regulations and policies, ESD has developed useful suggestions for MSFW outreach workers. These suggestions are particularly helpful for new staff.

- Familiarize yourself with all local community resources that will assist you in providing information and services to MSFWs. Your own colleagues or One-Stop partners should be your main contacts for information regarding other WorkSource or agency services, and other services in the workforce system.

For example:

- Reception and intake points in your office;
  - Placement staff (CPP or business services staff);
  - Case managers;
  - Regional labor economists;
  - Unemployment-insurance liaison;
  - Veterans-employment representatives;
  - Supervisors, operations manager, administrator;
  - Central office Agricultural Services Unit;
  - State monitor advocate; and
  - MSFW complaint specialist.
- As soon as you become aware of available services and have identified liaisons, determine where MSFWs live, shop, eat or meet to socialize.
    - Local shopping areas;
    - Labor camps;
    - Churches;
    - Housing Authority;
    - Flea market;
    - Restaurants that cater to farmworkers; and
    - Laundromats

- After you have located community resources, liaisons, and have determined where MSFWs congregate, begin to develop an outreach strategy tailored to your service-delivery area.
- Distributing written material is an outreach method used often. Prior to distributing, review all materials to make sure they are:
  - Current;
  - Understandable (both clearly stated and in a language the MSFW can understand); and
  - Pertinent to the needs of MSFWs.
- 
- Basic documents you might distribute include:
  - Any information pamphlets on WorkSource services and unemployment- insurance;
  - Local community service directory;
  - Department of Social and Health Services information;
  - Any agricultural information guides for farmworkers;
  - Your business card;
  - Current WorkSource job listings;
  - Information on the national 211 (WIN211) directory; and
  - Daily work-hour booklet (L&I)
- Additional documents you might distribute to MSFWs and employers include:
  - Generic employment applications;
  - SKIES registration forms;
  - Job-order forms;
  - H-2A program information;
  - Agricultural Recruitment System (ARS) information;
  - WorkSource or Employment Service Complaint Form; and
  - Referral cards to other agencies that serve MSFWs.
- Besides distributing written materials, it is important to use other mediums to disseminate information to MSFWs. Local-office administrators or supervisors should coordinate efforts with the ESD Communications Office whenever possible. The most useful mediums are:
  - Spanish-speaking (or other appropriate language) radio stations;
  - Local newspapers;
  - TV stations and cable companies;
  - Movie theaters; and
  - PowerPoint presentations.

- Finally, you should schedule:
  - Visits to community organizations and points where MSFWs congregate;
  - Outreach presentations to groups, farmworker seminars, open houses, etc.; and
  - Joint ventures with workers from other agencies and partners.

## Non-MSFW staff

20 CFR 653 Subpart B states that each state agency and each local office shall offer to MSFWs the full range of employment services, benefits and protections, including the full range of counseling, testing, and job- and training-referral services as are provided to non-MSFWs. Furthermore, each state agency shall assure that, in a local area, the same local offices offer services to both non-MSFWs and MSFWs.

It is the responsibility of all front-line staff to provide all Wagner-Peyser funded services to customers entering the WorkSource office. Serving MSFWs is not the sole job of MSFW outreach workers. In fact, because outreach workers spend a lot of time outside the office conducting outreach, the responsibility to serve MSFWs who come to WorkSource falls primarily to non-MSFW staff in the office.

Services all staff are required to provide to MSFWs include, but are not limited to, general unemployment-benefits assistance, referrals to jobs and training, workshops and orientations to WorkSource services, and taking complaints. It is never appropriate for staff to simply give MSFWs contact information for the MSFW outreach worker, rather than provide services directly.

MSFW significant offices should be adequately staffed with bilingual, Spanish-speaking staff to handle the flow of mono-lingual, Spanish-speaking customers.

# Migrant and Seasonal Agricultural Worker Protection Act (MSPA)

Because the MSPA provides employment-related protections to MSFWs, outreach workers should be aware of key portions of the act.

[The Migrant and Seasonal Agricultural Worker Protection Act \(MSPA\)](#) is administered and enforced by the Wage and Hour Divisions of the U.S. Department of Labor (DOL), and was amended in 1994 and 1997.

The MSPA protects MSFWs by establishing employment standards related to wages, housing, transportation, disclosures and recordkeeping. The MSPA also requires farm-labor contractors to register with the DOL.

Each farm-labor contractor, agricultural employer and agricultural association subject to the MSPA and which employs any MSFWs must post and keep posted in a conspicuous place at the place of employment a poster prepared by the DOL. The poster explains the rights and protections for workers required under the MSPA.

Based on the MSPA, MSFWs have the right to:

- Receive accurate information about wages and working conditions for prospective jobs;
- Receive a written statement of earnings and all deductions from pay;
- Receive this information in writing, in English, Spanish or other languages, as appropriate;
- Have the terms of the working arrangement upheld.
  - Farmworkers must be paid the wages promised, but never less than the federal minimum wage.
  - When state minimum wage is higher than federal minimum wage, state minimum-wage laws apply.

- Have farm-labor contractors show proof of registration at the time of recruitment;
  - Safe housing or transportation, if provided by the employer;
  - Safe and free drinking water, toilets and hand-washing facilities at the job site; and
- A safe workplace.

*Note: Although DOL provides protections for temporary foreign workers employed under the H-2A program, these workers are not covered under the MSPA. (DOL Employment*

# References

- [Agricultural Outreach Workers training module](#)
- [Department of Agriculture \(WSDA\)](#)
- [Department of Health – Migrant Farmworker/Temporary Worker Housing](#)
- [Department of Labor & Industries – Agriculture](#)
- [Division of Vocational Rehabilitation \(DVR\)](#)
- [ESD Agricultural Services SharePoint site](#)
- [ESD Complaint Handbook](#)
- [ESD Complaint Policy](#)
- [ESD H-2A Handbook](#)
- [ETA Programs for Migrant and Seasonal Farmworkers](#)
  - [Monitor Advocate System](#)
  - [National Farmworker Jobs Program](#)
- [Global G.A.P.](#)
- [State Monitor Advocate Responsibilities](#)
- [TEGL 3-13 – Designation of Significant MSFW and Bilingual American Job Centers for PY13](#)
- [TEGL 13-13 – Instructions for Planning Guidance for the AOP](#)
- [TEGL 17-12 – Responsibility of SWA Administrators and State MAs in Providing Services to MSFWs](#)
- [The Migrant and Seasonal Agricultural Worker Protection Act \(MSPA\)](#)
- [WorkSource Washington Farmworker Services website](#)
- [20 CFR 653 Subpart B – Services of the employment-service system, services for MSFWs](#)
- [20 CFR 653 Subpart F – Agricultural clearance order activity](#)
- [20 CFR 658 Subpart E – Administrative provision governing the job-service system](#)
- [20 CFR 651 – General provision governing the federal-state employment system](#)