

National Monitor Advocate Report

Program Year 2014



U.S. Department of Labor Mission: To foster, promote, and develop the welfare of the wage earners, job seekers, and retirees of the United States; improve working conditions; advance opportunities for profitable employment; and assure work-related benefits and rights.

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Attachments:

I Equity Service Indicators

II Minimum Service Level Indicators

1) Executive Summary

Pursuant to 20 CFR 658.602 (f), this is the National Monitor Advocate's (NMA) Annual Report on services to migrant and seasonal farm workers (MSFWs) covering July 1, 2014 to June 30, 2015 (PY14). This report includes the NMA's quantitative and qualitative analyses of the services provided to MSFWs through the One Stop system. The report also covers the responsibilities and accomplishments of the State Monitor Advocates (SMAs), Regional Monitor Advocates (RMAs), and the National Monitor Advocate (NMA). The PY14 data shows that state workforce agencies (SWAs) provided the full range of employment and training services to MSFWs as those provided to non-MSFWs. The total number of MSFWs participating in the Wagner Peyser program decreased by 50% from the previous two-year average and there was a 9% drop in the total number of outreach contacts from the previous two-years average. There was also a 37% decrease in the total number of complaints from the previous two years average. Despite these decreases, partnerships among SMAs and the National Farmworker Jobs Program (NFJP) grantees were on the rise. Such partnerships were strengthened through coordinating joint regional conferences where SMAs and NFJP grantees came together to further encourage the dialogue between MSFW service providers. Additionally, the NMA and RMAs provided more technical assistance to SMAs in PY2014 than in previous years. Such technical assistance included monthly training sessions, more regional conferences, and more site visits.

2) Introduction

In 1972, the National Association for the Advancement of Colored People (NAACP) sued the U.S. Department of Labor (DOL) in the case NAACP Western Region, et. al. v. Brennan et. al, No. 2010-72, 1974 WL 229 (D.D.C. Aug. 13, 1974) alleging the DOL was discriminating against farmworkers. The case resulted in a detailed court order referred to as the Judge Richey Court Order (Richey Order).¹ The Richey Order required DOL to implement and maintain a federal and State monitoring and advocacy system and set forth requirements to ensure the delivery of employment and training services (ES services), benefits, and protections to migrant and seasonal farmworkers (MSFWs) on a non-discriminatory basis, and to provide such services in a manner that is qualitatively equivalent and quantitatively proportionate to those provided to non-farmworkers. One key component of the Richey Order was the establishment of the

¹ See the Judge Richey Court Order at: <http://www.vec.virginia.gov/vecportal/employer/pdf/richeyorder.pdf>

Monitor Advocate system which works to ensure that MSFWs have equal access to ES services, opportunities, and protections throughout the United States. Monitor Advocates at the State, Regional, and National level facilitate outreach, monitoring, advocacy, and the Complaint System² to help MSFWs gain access to resources, ensure their voices are heard, and that they have a safe place to file complaints alleging any violations of the ES regulations and/or other federal, State, or local employment-related laws.

The DOL drew upon the authority of the Wagner-Peyser Act (WPA) to codify the requirements of the Richey Court. Such requirements can be found at 20 CFR 653, 654, and 658. The definitions pertaining to these requirements are found at 20 CFR 651.

This report satisfies the requirement at 20 CFR 658.602 (f)(3) for the NMA to submit an Annual Report.

The PY14 Annual Report provides a qualitative and quantitative analysis of the services provided to MSFWs pursuant to the Richey Order and the aforementioned regulations, from July 1, 2014 through June 30, 2015.

3) State Workforce Agency (SWA) Responsibilities & Accomplishments

For the purpose of the Monitor Advocate System, SWA Administrators of the Wagner-Peyser program must comply with the regulations at 20 CFR653, 654, and 658.

In accordance with these regulations, Tables 1A through 1C demonstrate the PY12 through PY14 total services provided to all participants and to MSFWs in the Wagner-Peyser program for PY14. By comparing the numbers over a three-year period, the following trends are relevant:

- The total number of MSFW participants (111,347) in PY14 decreased by 50% from the previous two-year average (221,703). This decrease can be attributed to less outreach being conducted by SWAs.
- The equity of services to MSFWs remained constant. This is likely due to training provided by the SMAs to local one-stop staff.

² The Job Service Complaint System was established to ensure farm workers would have a safe place to file complaints alleging employment-related violations. For details on the Complaint System, see 20 CFR 658 Subpart E.

- In PY14, 55 % of MSFWs received Job Search Activities,³ a 23% increase over the previous two years' average (32%). While this increase is significant, the Department cannot explain the cause of the increase but will investigate this trend further.
- In all categories, MSFWs received a higher percentage of services than non-MSFWs. This could be due to local offices being more prepared to offer the full range of services to MSFWs.

TABLE 1A: WAGNER-PEYSER PROGRAM SERVICES PROVIDED to NON-MSFWs and to MSFWs for PY 2012⁴				
	Total Non-MSFWs	% Served Non-MSFWs	Total MSFWs	% Served MSFWs
Total Participants	18,448,541		154,245	
Received Workforce Information Services	9,601,616	52%	90,892	59%
Received Staff Assisted Services	12,662,422	69%	140,248	91%
Career Guidance	2,826,501	15%	35,935	23%
Job Search Activities	5,153,841	28%	60,032	39%
Referred to Employment	4,586,505	25%	51,451	33%
Referred to Workforce Investment Act Services	1,449,881	8%	12,529	8%

TABLE 1B: WAGNER-PEYSER PROGRAM SERVICES PROVIDED TO NON-MSFWs AND TO MSFWs FOR PY 2013				
	Total Non-MSFWs	% Served Non-MSFWs	Total MSFWs	% Served MSFWs

³ Job search activities include: resume preparation assistance, job search workshops, job finding clubs, and development of a job search plan.

⁴ LEARS Cumulative Report (Attached)

Total Participants	16,878,178		289,161	
Received Workforce Information Services	10,230,651	61%	191,000	66%
Received Staff Assisted Services	9,487,287	56%	253,013	87%
Career Guidance	2,500,801	15%	132,154	46%
Job Search Activities	4,982,271	30%	71,032	25%
Referred to Employment	3,706,059	22%	166,259	57%
Referred to Workforce Investment Act Services	1,172,169	7%	7,580	3%

TABLE 1C: WAGNER-PEYSER PROGRAM SERVICES PROVIDED TO NON-MSFWs AND TO MSFWs FOR PY14

	Total Non-MSFWs	% Served Non-MSFWs	Total MSFWs	% Served MSFWs
Total Participants	14,489,556		111,347	
Received Workforce Information Services	8,349,614	58%	73,011	66%
Received Staff Assisted Services	7,825,076	54%	93,312	84%
Career Guidance	2,141,290	15%	36,173	32%
Job Search Activities	4,294,521	30%	61,153	55%
Referred to Employment	2,991,490	21%	42,777	38%
Referred to Workforce Investment Act Services	1,002,114	7%	9,758	9%

4) Outreach

Pursuant to 20 CFR 653.107, SWAs are charged with operating an outreach program dedicated to locating and contacting MSFWs who are not being reached by the normal intake activities conducted by the local offices. The objectives of the outreach program are to: provide basic employment and training services where MSFWs work, live, or gather; inform MSFWs of the full range of services available at the American Job Centers (AJCs); explain to MSFWs the Job Service Complaint System; and provide needed supportive services and referrals to other service providers on an as-needed-basis.

For PY14 outreach workers contacted 9% (24,676) fewer farm workers than in the two previous years (see Table 2 below). This decrease is likely due to the reduced number of outreach workers in many states and the high SMA turnover rate. The consequence of the decrease in outreach contacts is that fewer farm workers are aware of the full range of services offered by the local one-stops, thus fewer farm workers will register for services and/or file complaints. For PY15, the NMA and RMAs will put greater emphasis on each State's Agricultural Outreach Plan (AOP) to determine technical assistance needs and to ensure States have a strong outreach program in place.

While the total number of outreach contacts in PY14 decreased, several states were exemplary in their outreach efforts. Florida, for example, is the second most MSFW significant state in the country. All outreach workers in Florida were employed full-time, year-round, and were bilingual. **All came from an MSFW background and/or represented the makeup of the population of farmworkers in the state.** During the program year, Florida outreach workers made 40,978 contacts with MSFWs, 11,944 of which were quality contacts where reportable staff assisted services were provided. This was an increase from the prior year. Staff averaged 29 contacts per day of outreach.

In New Jersey, the Labor and Workforce Development's outreach team provided information about the services available at the AJC, registered customers, and served thousands of MSFWs annually. The services were helpful in transferring MSFWs out of farm work if they chose. **The outreach team identified transferable skills from their work history and coordinated with local employers and businesses services representatives to refer qualified MSFWs to non-farm job opportunities.** This practice allowed many MSFWs to transfer from temporary farm work to permanent employment.

Table 2: MSFW Outreach Contacts PY 2012 ⁵		
SWA		
Contacts	NFJP Contacts	Total
261,375	51,651	313,723
83%	17%	
MSFW Outreach Contacts PY 13		
SWA	NFJP	
Contacts	Contacts	Total
287,952	58,496	346,448
83%	17%	
MSFW Outreach Contacts PY14		
SWA	NFJP	
Contacts	Contacts	Total
249,988	50,117	300,105
83%	17%	

5) State Monitor Advocate (SMA) Responsibilities & Accomplishments

Pursuant 20 CFR 653.108(b), State Administrators must appoint a SMA. Each State in the United States (including Puerto Rico but excluding Alaska and the District of Columbia) has a SMA. The SMAs are charged with the responsibilities outlined in 20 CFR 653 and 658.

Pursuant to the SMA requirements, the following provide examples of SMA accomplishments:

i. Reviews/Site Visits

During PY14 the Colorado SMA monitored all six of its significant offices and identified four findings, three related to MSFW applications and one regarding job orders. She also conducted an electronic file review during the winter months in addition to on-site reviews. These reviews

⁵ LEARS Cumulative Report (Attached)

helped the SMA identify problems and best practices in order to assist local offices in improving their programs. In total, the SMA conducted 21 office visits where she provided training and technical assistance. The SMA conducted outreach training twice a year, bringing in subject matter experts to address specific topics from the various agencies. The SMA strengthened partnerships to increase inter-agency collaboration and service integration. She was the chair of the State of Colorado Migrant Coalition and was active in the Northern Area Migrant Coalition, the San Luis Valley Migrant Coalition, and the Pueblo Migrant Coalition and the Delta Migrant Coalition.

One SMA monitored its 20 local offices. Through monitoring reviews, the SMA determined that outreach staff were not meeting the goal of contacts made per staff day. The SMA provided guidance on identifying and providing outreach to migrant workers, more so than seasonal workers.

ii. Partnerships.

In PY14, the Connecticut SMA collaborated with the NFJP grantee, the New England Farmworkers Council (NEFWC) to conduct joint outreach. Other collaborative efforts included joint presentations to farmworkers about services available at the AJCs and through the NEFWC. The SMA also partnered with the University of Connecticut by promoting its migrant health center and visiting the center to conduct MSFW outreach. Additionally, the SMA and the Wage and Hour Division (WHD) participated in the Connecticut Nursery & Landscape Association's Winter Symposium and the UCONN's Migrant Farmworker Symposium to provide information about farmworker rights and protections to employers.

In Maine, the SMA collaborated with partner agencies and organizations to serve MSFWs through his participation on the Maine Migrant Health Council (MMHC) and the Raker's Center. The MMHC meets quarterly to discuss farmworker rights and to plan joint activities such as outreach to labor camps and the Raker's Center collaborative. The Raker's Center is a collaborative effort that addresses the needs of MSFWs that arrive for the blueberry harvest. It provides information on the AJCs, childcare and education, medical care, legal aid, and food assistance.

In Vermont, the SMA collaborated with agencies and advocacy groups to serve MSFWs. Collaborative efforts led to the creation of a “Vermont Farmworker Housing, Wage, and Hour Fact Sheet” in English and Spanish. This fact sheet provides important information to growers and farmworkers about agricultural worker rights and protections under state and federal laws. In Alabama, the SMA attended Workforce Development Board meetings, spoke at Alabama Farm Bureau meetings both regional and state, visited U.S. Department of Agricultural substations, and visited NFJP offices for the latest updates on MSFW activities in their areas throughout the state.

In Georgia, the SMA partnered with Telamon, Georgia Department of Education, Georgia Migrant Health Programs, Abraham Baldwin Agricultural College, and Georgia Department of Agriculture in the delivery of services to MSFWs across the state through events held onsite, in career centers, and through other collaborative events. Quarterly meetings were held with these respective agencies to ensure communication about upcoming events and activities, as well as to look at ways to further integrate services wherever possible.

In Mississippi, the SWA has a Memorandum of Understanding (MOU) with the Mississippi Delta Council-Farmworkers, which serves as the state’s NFJP grantee. Throughout the year, the NFJP grantee creates conferences, workshops, and training for MSFWs. Together, the SWA and the NFJP grantee work with a network of community supporters to ensure needs of MSFWs are identified and met. A review of reports submitted by local AJCs revealed no notable findings. Some of Mississippi’s major activities included the following:

- Reached out to the NFJP grantee for comment, review and follow-up conversations regarding MSFWs and the Agricultural Outreach Plan for Mississippi;
- Continued collaborative efforts to build connections with NFJP grantee through periodic contacts;
- Referred to NFJP grantee agricultural employers for possible follow-up contact, referral and placement of MSFWs;
- Ongoing exchange and sharing of information of local AJCs to ensure that MSFWs receive and share like experiences as any other worker;

- Provided and distributed information with NFJP grantee about various funding opportunities; and
- Ongoing efforts to identify and locate MSFW when in the area conducting inspections.

In Colorado, the Department of Labor and Employment (CDLE) collaborated with various agencies to assist MSFW program participants to enhance the quality and availability of services. Colorado's NFJP partner placed several young MSFWs in work experience opportunities through local workforce centers. After the participants completed training, they were enrolled in the WIA program to enhance their training opportunities. Some of the trainees were hired as full-time employees in the offices where they completed their initial work experience. One participant was subsequently promoted to a Lead Worker in the County Employment First Food Stamp Program. This effectively demonstrates how co-enrollment in multiple programs can assist participants attain their career goals.

In Wisconsin, the SMA and the NFJP grantee routinely collaborate on joint outreach, training, information sharing, safety training, as well as many other issues. For example, the NFJP staff participated and presented at the DET/MSFW All Staff Pre-season meeting in Madison to provide updates on their season MSFW services: Training, Housing and Childcare programs. Some of the other agencies that participated were Legal Action, OSHA, Department of Public Instruction, Federal Wage and Hour, County Department of Human Services, Department of Agriculture – Worker Protection Program, Migrant High School Equivalency Program (HEP), Unidos Against Domestic Violence and many others.

6) Complaint System

Pursuant to 658.410(a), whereby “Each State agency shall establish and maintain a Job Service complaint system...,” there were 500 MSFW complaints filed nationally for PY14. The Department does not track the type of complaints filed, however, according to the SMAs, the majority of those complaints were related to the nonpayment of wages. One hundred and eight (108) complaints were referred to the appropriate enforcement agency and the rest were resolved at the local level.⁶

⁶ 36 MSFW complaints referred to WHD, 4 to OSHA, and 68 to other enforcement agencies.

Table 3 below demonstrates the total number of JS complaints by regional office for PY12 through PY14. In PY14, the total number of MSFW complaints (500) decreased 27% from the previous program year (688). Notable drops in MSFW complaints occurred across all regional offices, except in Region 2 where there was a slight increase in MSFW complaints (from 6 to 22).

For PY15 the National Monitor Advocate and Regional Monitor Advocates will focus technical assistance and training on the complaint system and processing apparent violations. ETA's goal is to increase the use of the complaint system and to increase the number of complaints filed by MSFWs. This is important because violations of JS regulations and employment-related laws are prevalent and go drastically unreported. Increasing the use of the complaint system and the number of complaints filed will help ensure that these issues are being addressed and tracked through to resolution as required in the Judge Richey Court Order.

TABLE 3: Total Complaints Received by Job Service Offices for Program Years 2012 to 2014				
Region⁷	PY	Total	MSFW	Non-MSFW
1	2012	73	24	49
	2013	189	85	104
	2014	128	30	98
2	2012	8	0	8
	2013	27	6	21
	2014	51	22	29
3	2012	245	78	167
	2013	178	73	105
	2014	173	49	124
4	2012	1,821	64	1,757
	2013	1915	111	1804
	2014	1704	54	1650
5	2012	388	282	193
	2013	222	78	144
	2014	203	50	153
6	2012	942	454	488
	2013	1022	335	687
	2014	810	295	515
National Totals	2012	3,519	897	2,662
	2013	3553	688	2865
	2014	3069	500	2569

i. Apparent Violations

Pursuant to 653.503(a), if State agency personnel observe or receive information, or otherwise have reason to believe that conditions are not as stated on the job order or that an employer is violating an employment related law, the State agency shall document the finding and attempt

⁷ States: Region 1: CT, MA, ME, NH, NJ, NY, PR, RI, VT --- Region 2: DE, MD, PA, VA, WV
Region 3: AL, GA, FL, KY, MS, NC, SC, TN --- Region 4: AR, CO, LA, MT, ND, OK, SD, WY, NM, TX, UT ---
Region 5: IA, IL, IN, KS, MI, MN, MO, NE, OH, WI --- Region 6: AK, AZ, CA, HI, ID, NV, OR, WA

informal resolution. If the matter has not been resolved within 5 working days, the State agency shall follow the procedures set forth at 20 CFR 658 Subpart F. Violations of employment related laws shall be referred to appropriate enforcement agencies in writing.

One state excelled in this area. In New York, the Agriculture Labor Program (AgLP) staff identified 1,087 apparent violations related to state or federal regulations which involved 458 businesses. Resolution of these apparent violations assisted in the restitution of \$138,126.49 in back wages to 235 workers.

7) Overall Performance Outcomes

Pursuant to 20 CFR 653.112, ETA established program performance indicators reflecting equity indicators and indicators measuring minimum levels of service to MSFWs which the significant MSFW State agencies⁸ are required to meet. Equity indicators address Employment Service (ES) controllable services and include, at a minimum, individuals referred to a job, receiving counselling, receiving job development, receiving some service, and referred to supportive services. All states are required to achieve the equity levels. To meet the equity performance standard, the percentage of services provided to MSFWs must be equal to or greater than the percentage of services offered to non-MSFWs

Minimum level of service indicators address other services to MSFWs and include, at a minimum, individuals placed in a job; placed in a job with a wage exceeding the Federal minimum wage by at least 50 cents/hour; placed long-term (150 days or more) in a non-agricultural job; review of significant MSFW local offices; field checks on agricultural clearance orders; outreach contacts per staff day; and processing of complaints. Only the MSFW Significant States are required to meet four of the seven minimum service level indicators.

i. Equity Ratio Indicators (ATTACHMENT I)

Overall, the equity ratio indicators not met for PY14 are as follows:

- Referred to jobs: 12 out of the 50 States did not meet this indicator.

⁸ For PY14 these were the designated MSFW significant states: California, Florida, Washington, Texas, Michigan, Oregon, North Carolina, Iowa, Arizona, Georgia, South Carolina, Idaho, Ohio, Illinois, Utah, Pennsylvania, New Mexico, Virginia, Colorado, and Nebraska

- Received staff assisted services: 7 out of the 50 states did not meet this indicator.
- Referred to support service: 12 out of the 50 states did not meet this indicator.
- Career guidance: 12 out of the 50 states did not meet this indicator.
- Job Development Contacts: 12 out of the 50 states did not meet this indicator.

The equity of services to MSFWs remained constant across the nation; however, for PY15 the NMA team will provide technical assistance focused on regional offices that show more inequity of services in their states. The NMA team will continue to train the RMAs and SMAs on providing equitable services to MSFWs in all offices.

ii. Minimum Service Level Indicators (ATTACHMENT II)

MSFW significant states are required to meet four of the seven minimum service level indicators (see Attachment II for list of minimum service level indicators). All states except for one met at least all four of the seven indicators. The NMA team will provide technical assistance to all RMAs and SMAs on how to meet the minimum service level indicators.

8) ETA Regional Office Responsibilities

Pursuant to 20 CFR 658.603, the Regional Administrator shall, among many other responsibilities:

- Have responsibility for the regular review and assessment of State agency performance and compliance with JS regulations;
- Assess the overall performance of State agencies on an ongoing basis through desk reviews and the use of required reporting systems and other available information.

a. Regional Monitor Advocate (RMA) Responsibilities & Accomplishments

The Regional Administrator shall appoint a RMA who shall devote full time to the duties set forth 20 CFR 658.603.

i. Reviews

The following provide some examples of RMA activities pursuant 20 CFR 658.603(f)(7):

During a review of a state in her region, the Region 2 RMA found that the state was not monitoring its AJCs. To remedy this, the RMA worked with the state to develop a monitoring schedule to review the Significant MSFW AJCs annually and all other AJCs on a regular basis. The review also found that the SMA was not involved in drafting or reviewing the state's complaint policy and that field checks and local office reviews needed improvement. Given the high level of agricultural work that occurs in this state, the RMA will continue to provide technical assistance to address these concerns.

During a review of a state in his region, the Region 1 RMA identified the following compliance issues: the state was not conducting the required outreach in all of significant local offices; it did not have a system to capture the required data on MSFW applications within each local office. In response, the RMA worked with the state and the state adopted appropriate software to capture data on MSFW applications resolving the finding. However, the state's annual summary report indicated that the data was only accessible through ah-hoc reports generated by the AJCs and was inconsistently provided to the SWA.

During a Region 2 review, the RMA observed that outreach presentations were not fully complying with the 20 CFR 653.107(j) definition of an outreach "contact." The SMA had been distributing pamphlets to farmworkers outlining employment services offered by the state. However, because the materials lacked information on referrals to partner programs, presentations were not adequately educating MSFWs on the full scope of employment services available through the local SWA office. The RMA observed that farmworkers frequently asked about services that were not included in the printed materials, including referrals to supportive services and the National Farmworker Jobs Program (NFJP) grantee. The RMA recommended that the State develop more comprehensive outreach materials that detail supportive service partnerships and community resources available to farmworkers.

The Region 5 RMA discovered seven findings and one area of concern during one of his reviews. The RMA identified 7 issues: 1) Local Areas were not providing the full provision of services to MSFWs. The RMA required that the local office operated by the Full Employment Council rescind any directive that states explicitly or implicitly, that agricultural job orders are

not to be accepted at their local offices; 2) Noncompliant Recruitment and/or Assignment of Outreach Staff. The RMA required the State revise its position descriptions for outreach workers to include language from the regulations, in order to more effectively recruit individuals who contain the attributes listed in the regulations; 3) Noncompliant Hiring and/or Assignment of State Monitor Advocate. The RMA required the state revise its position descriptions for the State Monitor Advocate to include language from the regulations, in order to more effectively recruit individuals who contain the attributes listed in the regulations; 4) Lack of Monitoring. The RMA required that the SMA conduct an ongoing review of the delivery of services and protections afforded by the Job Service regulations to MSFWs by the State agency and local offices; 5) Incomplete Complaint Logs. The RMA required that the State revise its complaint log to include all information required by the regulations; 6) Lack of Outreach to the MSFW Community. The RMA required the State to conduct outreach activities as defined in the regulations to the MSFW population; and 7) Incomplete Proposed Outreach Activities. The RMA required that the thoroughly document its proposed outreach activities and ensure that all required elements are captured.

ii. Technical Assistance

ETA Region 1 hosted an SMA training on March 26-27, 2015. All Region 1 states attended except for Puerto Rico. Training sessions included presentations by Federal partners on applicable labor laws to MSFWs. Presenters from the WHD, OSHA, and the Equal Employment Opportunity Commission trained SMAs on conducting housing inspections, wage laws, and forms of discrimination in the workplace.

Region 1 provided technical assistance to address regional challenges through monthly conference calls with SMAs and the NMA. SMAs requested these calls to take advantage of the experience of their peers. These calls have been extremely helpful to less experienced SMAs. Topics were selected by upcoming MSFW program activities in Region 1 and by WIOA operating guidance that was issued periodically during PY14. Calls also included presentations by partner agencies and organizations that serve the farmworker community.

In Region 1, there was a state that needed significant technical assistance. Through bi-weekly technical assistance calls with the SWA, the RMA provided technical assistance and status updates on the Agricultural Recruitment System, processing MSFW complaints and apparent violations, and establishing an MSFW workshop to better inform customers of the expectations of agricultural work were provided through these calls.

In one state, there was a great deal of turnover for their MSFW program and as a consequence, the state failed to meet many of its equity ratio indicators (ERIs). The RMA provided ongoing technical assistance to the newly appointed SMA to discuss how the state could be more proactive in contacting MSFWs and providing career services to meet the ERIs. These efforts helped the state increase its number of MSFWs contacted through outreach. Outreach contact numbers improved from those reported in PY13.

In the first quarter of PY14, Region 2 held a two-day technical assistance peer-to-peer event at the Philadelphia Regional Office that **joined SMAs and NFJP grantees** in each of the region's states. The conference provided targeted technical assistance to SMAs on housing inspections and the PY13 State Annual Report on Services to MSFWs. The event also jointly educated SMAs and NFJP grantees on WHD and OSHA regulations that apply to farmworkers. In addition to highlighting Federal partnerships, including Job Corps, SMAs focused on how they may work with NFJP grantees to serve farmworkers. The event specifically set aside time during which SMAs planned PY14 collaboration with NFJP grantees.

In Region 6, the Nevada SMA was hired in February 2015, and the RMA performed a review in May 2015. The review gave the RMA the opportunity to provide hands-on technical assistance and training on how the job of the SMA is performed. The RMA also provided technical assistance to Oregon state staff during his review as well. Oregon has become a top five agricultural state, and the RMA explained the extra requirements to Oregon senior staff that come with that designation.

Region 6 stated that peer-to-peer learning is integral to MSFW program support in the region. Region 6 hosted its annual conference for SMAs and NFJP grantees (both job training and

housing grantees) in August 2014. This annual meeting addressed relevant topics, such as agricultural trends, partnerships, and farm worker housing. The meeting's goal was to further encourage the dialogue between MSFW service providers. Region 6 also had Dr. Philip Martin, a professor in migration studies from University of California, Davis, present to the group, as well Dr. Susan Gabbard of JBS, Inc. the contractor who produces the National Agricultural Worker Survey (NAWS) for DOL.

9) ETA National Office Responsibilities

The ETA National Office must abide by the responsibilities at 20 CFR 658.602.

a. National Monitor Advocate (NMA) Responsibilities & Accomplishments

Pursuant to 20 CFR 658.602 (f) ETA shall appoint a National Monitor Advocate (NMA), who shall devote full time to the duties set forth at 20 CFR 658.602. The following provides examples of how the NMA is meeting those responsibilities.

i) Reviews/Site Visits

One NMA team member accompanied the Region 6 RMA on a review of California. She monitored the SMA and the SWA's service delivery and met with California's Agricultural Workforce Unit and its Agri-Business Representatives. She then accompanied the RMA and SMA to Indio, El Centro, and Calexico to monitor service delivery through the One-Stop centers. Last, she conducted site visits with outreach workers to provide technical assistance regarding outreach and to learn how the outreach workers in CA offer services.

One NMA team member also conducted a site visit in Delaware where she provided technical assistance to the SMA and the ES Office Administrator. Technical assistance included outreach, partnerships, data sharing, investigating agricultural issues faced by MSFWs, definitions, data collection, LEARS, navigating the regulations, farmworker housing, and collaborating with agricultural employers.

One NMA team member also conducted a site visit in New York. The NY SMA had numerous useful tactics for conducting reviews and the NMA team member wanted to witness how the

reviews were conducted in order to share best practices with other SMAs. In addition to learning from the SMA's review process, the NMA team member provided technical assistance on the Agricultural Recruitment System, the Complaint System, SMA authority based on the regulations, outreach, field checks, and field visits. She also accompanied the SMA on a field visit with the outreach workers. During this trip, she provided technical assistance to the outreach workers regarding best practices for field checks, field visits, and what is required under the regulations regarding outreach.

ii) Technical Assistance

In addition to the aforementioned technical assistance that was provided during field visits or reviews, the NMA team provided the following:

In June, 2014, the NMA team collected information from the RMAs and SMAs to gauge their technical assistance needs. Based on the information collected, the NMA team arranged a series of monthly RMA and SMA technical assistance training on the various topics requested.

For PY14, the following trainings were provided:

- | | |
|--------------------------------------------------------|--------------------------------------------------|
| 1. SMA 101 | 8. SMA and NFJP Collaboration |
| 2. RMA training on the Agricultural Recruitment System | 9. WHD Presentation |
| 3. The Importance of Reporting | 10. TEGL 15-02 |
| 4. Analyzing Data | 11. Reviews |
| 5. SMA training on the Agricultural Recruitment System | 12. Services for Farmworkers |
| 6. Navigating the Regulations | 13. Creative Tools to Serve MSFWs
– MSFW apps |
| 7. The Complaint System | 14. Hosting an RMA Conference |

Most trainings were offered via Webex and most were recorded. The recordings were uploaded onto a shared site enabling any Monitor Advocates who were not able to attend the training to

access the material and allowing Monitor Advocates to share the material with pertinent stakeholders, such as outreach workers.

The NMA team provided additional technical assistance to the RMAs at various Regional conferences. For example, in Region 1, the NMA team hosted two presentations--one on ARS and the other on Conducting Reviews. In Region 5, the NMA team contributed opening remarks, helped with conference logistics, and presented on the Complaint System, created a learning activity for the participants on the Complaint System, and helped facilitate the Pre-Harvest meeting. In Region 6, the NMA team organized a group exercise on networking and resolving common issues.

The NMA team also participated in various MSFW conferences and provided technical assistance. For example, one NMA team member participated in the September 2014 Association of Farmworker Opportunity Programs (AFOP) Conference and provided a training on SMA and NFJP collaboration. The NMA team also attended MAFO and provided three presentations: WIOA, Farmworker Displacement: U.S. Worker versus Foreign Labor, and the Role of the State and Regional Monitor Advocates.

The NMA also provided training to the SMAs and NFJP grantees at the Region 3 regional conference. The training included the complaint system and the pre-harvest responsibilities.

Ongoing TA: The NMA consistently provides TA to SMAs and RMAs. Questions are often posed through the nma@dol.gov email collective or directed to the NMA team and the team provides timely assistance to resolve all issues and misunderstandings.

The NMA team also began to organize a Monitor Advocate National Conference which would take place in PY15.

iii) Partnerships:

The NMA team attended the Bakersfield, CA Farmworker Appreciation Day and met with local ES outreach workers, representatives from the local WHD, the EEOC, and local MSFW service providers.

Cross Agency Coordination:

- The NMA team participated in and presented at 10 Cross Agency Agricultural Coordination calls. These calls are intended to bring Federal, regional, and State stakeholders in MSFW and agricultural employer issues together to discuss the provision of services and resources and how we can avoid duplication and increase collaboration. The NMA team offered to present during the first round of agency presentations. Participating agencies include DOL's WHD (national and regional), OSHA (national and regional), NIOSH, and USDA, as well as Regional and State Monitor Advocates.
- One member of the NMA team (who is based in San Francisco, CA) organized a trip to Washington D.C. to increase collaboration among MSFW stakeholders, provide technical assistance, and augment awareness of the Monitor Advocate System. She collaborated with representatives from DOL's Office of Policy, Development, and Research, the Wage and Hour Division, the Occupational Safety and Health Administration, the Solicitors Offices, the Office of Foreign Labor Certification, the Office of the Assistant Secretary, the Office for International Labor Affairs, as well as the National Institute for Occupational Safety and Health, the U.S. Department of Justice, the Equal Employment Opportunity Commission. Many of these stakeholders agreed to participate in SMA and/or RMA training sessions as well as the National Monitor Advocate Conference.

10) Overall Challenges

While specific challenges varied by region, these are the most commonly reported issues:

1. Complaint System:
 - a. Too few complaints and apparent violations reported.
 - b. Difficulty identifying and logging complaints and apparent violations.
2. Difficulty identifying and logging MSFWs (both at the local office level and through participant self-registration via online systems).
3. Agricultural Recruitment System:
 - a. Appropriate referrals and utilization of the system.
 - b. Growth in H-2A orders and a lack of domestic worker referrals.

4. The Labor Exchange Agricultural Reporting System (LEARS) was a challenge for all states in PY14.
5. SMA role, responsibilities, and agency within the SWA. Technical assistance is needed to define and support SMAs in their roles so that SWAs respond to SMA findings and recommendations as provided in applicable regulations

11) Overall Best Practices

The following offer examples of best practices reported during PY14:

- Cross-Agency Collaboration: The Region 1 RMA convened a meeting with the Equal Employment Opportunity Commission and the one SMA to discuss how to collaborate to help seasonal farmworkers that may be displaced by hiring J-1 visa students and other issues.
- Fostering Partnerships: Region 2 fostered partnerships between SMAs and NFJP grantees by facilitating joint technical assistance calls that promoted collaboration and spread knowledge about resources that may benefit their shared customer population.
- Monitoring employment services: The Virginia SWA diligently worked to monitor Agricultural Recruitment System clearance orders placed in connection with requests for foreign workers (H-2A). The SWA exceeded the minimum number of field checks required for the program year. The SWA also strongly advocated for domestic MSFWs when it initiated discontinuation of services to one H-2A agent for violation of 20 CFR 655.135, failure to be available to accept qualified U.S. workers referred through the clearance system and failure to cooperate with the SWA to accept U.S. workers.
- Leveraging the resources of other federal agencies: During the Region 6 conference for SMAs and NFJP grantees, several different agencies presented on how each serves MSFWs. Specifically, presentations included Wage and Hour Division, Health and Human Services (regarding the Affordable Care Act and how MSFWs could access it), U.S. Department of Agriculture's Food and Nutrition Service staff regarding the Supplemental Nutrition Program (SNAP, formally Food Stamps), the Environmental Protection Agency (regarding upcoming pesticide related regulations and other services they provide MSFWs). The Arizona SMA and the NFJP grantee, Portable, Practical

Educational Preparation, Inc. PPEP staff also presented on how their relationship between the SWA and NFJP grantee and how they provide services to MSFWs.

12) Conclusion

The quantitative and qualitative analysis of the services provided to MSFWs through the One Stop system indicates that most states remain compliant with the Judge Richey Court Order. However, more outreach needs to be done to ensure more MSFWs visit our AJCs and states are reporting the proper numbers when accepting complaints filed by MSFWs. While many states work closely with the NFJP grantees and MSFW service providers, some states must continue to improve their relationship with the NFJP grantees as the workforce development system moves towards implementing and operating under the WIOA regulations.

The NMA team will continue to provide technical assistance to the RMAs, SMAs, and outreach workers to ensure our nation's farm workers can continue to receive the full range of employment and training services on a qualitatively equivalent and quantitatively proportionate basis as those services provided to non-MSFWs.