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**Henry Friedman,**

*Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

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## DEPARTMENT OF LABOR

### Employment and Training Administration

#### Employment and Training Administration (ETA) Program Year (PY) 2021; Workforce Innovation and Opportunity Act (WIOA) Section 167, National Farmworker Jobs Program (NFJP) Grantee Allotments

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** This Notice announces Program Year (PY) 2021 allotments to States for the National Farmworker Jobs Program (NFJP), which is authorized under the Workforce Innovation and Opportunity Act (WIOA), Section 167. These allotments are based on the funds appropriated in the Consolidated Appropriations Act, 2021 (from this point forward will be referred to as the “the Act”).

**DATES:** The PY 2021 NFJP allotments become effective for the grant period that begins July 1, 2021.

**ADDRESSES:** Questions on this notice can be submitted to the Employment and Training Administration, Office of Workforce Investment, Attention at: [NFJP@dol.gov](mailto:NFJP@dol.gov).

**FOR FURTHER INFORMATION CONTACT:** Laura Ibañez, Unit Chief, at (202) 693–3645. Individuals with hearing or speech impairments may access the telephone numbers above via TTY by calling the toll-free Federal Information Relay Service at 1–877–889–5627 (TTY–TDD).

**SUPPLEMENTARY INFORMATION:** This notice is published according to Section 182(d) of the WIOA, Prompt Allotment of Funds. ETA developed the formula to distribute funds geographically by state service area, based on each state service area’s relative share of persons eligible for the program. The formula’s original

methodology is described in the **Federal Register** notice 64 FR 27390, May 19, 1999. That information is accessible at <https://www.federalregister.gov/>. In PY 2018, ETA incorporated two modifications to the allotment formula to provide more accurate estimates of each state service area’s relative share of persons eligible for the program. The formula also used updated data from each of the four data files serving as the basis of the formula since 1999. The revised formula methodology is described in the **Federal Register** notice 83 FR 32151, July 11, 2018.

Two modifications were incorporated into the formula for PY 2021. These modifications improve the formula’s accuracy in terms of estimating the true NFJP-eligible population in state service areas, and one of the modifications is necessitated by a recent statutory change to the NFJP eligibility criteria, which Congress enacted in the FY 2021 appropriation. Section II includes further explanation of these modifications.

This notice represents the final of a two-stage process. ETA published a notice requesting public comments on May 10, 2021, regarding the formula methodology and modifications. Additionally, ETA hosted a webinar on May 5, 2021, to share the preliminary allotments, explained the data sources, and encourage response to the notice published shortly thereafter. ETA did not receive any comments through the public comment process. In this final stage, ETA is publishing the final formula and final allotment levels.

### I. Background

The Department is announcing the final PY 2021 allotments for the National Farmworker Jobs Program (NFJP). This notice provides information on the amount of funds available during PY 2021 to state service areas awarded grants through Funding Opportunity Announcements FOA–ETA–20–08 and FOA–ETA–20–08–A for the NFJP Career Services and Training grants and Housing grants. Funds to implement NFJP are appropriated in the Act. In appropriating these funds, Congress provided \$87,083,000 for formula grants (of which \$86,946,000 was allotted after \$137,000 was set aside for program integrity), \$6,256,000 for migrant and seasonal farmworker housing (of which not less than 70 percent shall be for permanent housing), and another \$557,000 for discretionary purposes. Included below is the table listing the PY 2021 allotments for the NFJP Career Services and Training grants. Individual grants are awarded for Housing as a result of the grants

competition and are further distributed according to language in the appropriations law requiring that of the total amount available, not less than 70 percent shall be allocated to permanent housing activities, leaving not more than 30 percent to temporary housing activities.

### II. Description of Data Files and Review of PY 2021 Modifications to the Allotment Formula

As with all state planning estimates since 1999, the PY 2021 estimates are based on four data sources: (1) State-level, 2017 hired farm labor expenditure data from the United States Department of Agriculture’s (USDA) Census of Agriculture (COA); (2) regional-level, 2017 average hourly earnings data from the USDA’s Farm Labor Survey; (3) regional-level, 2010–2018 demographic data from the ETA’s National Agricultural Workers Survey (NAWS); and, (4) 2015–2019 (5-year file) data from the United States Census Bureau’s American Community Survey (ACS). A detailed description of how each data source is used within the formula is in the **Federal Register** notice 64 FR 27390, May 19, 1999. In addition to populating the formula with updated data, ETA incorporated two modifications that will improve the formula’s accuracy in terms of estimating the true NFJP-eligible population in state service areas. One of the modifications is necessitated by the change to the NFJP eligibility criteria applicable to the PY 2021 appropriation.

(1) First, the Act expands program eligibility for grants funded by the PY 2021 appropriation to include farmworkers who are in families with total family incomes at or below 150 percent of the poverty line. Therefore, the PY 2021 allocations used special tabulations of data from the ACS and the NAWS to estimate the share of farmworkers with total family incomes at or below 150 percent of the poverty line. ETA will subsequently revise the PY 2022 guidance regarding the definition of “low-income individual,” as needed if the same provision is not included in subsequent appropriations.

(2) Second, and to more closely align the formula with the definition of eligible migrant and seasonal farmworker under WIOA Section 167(i) and 20 CFR 685.110 and clarified in the Training and Employment Guidance Letter 18–16, ETA modified how the formula accounts for crop workers who are primarily employed in agriculture. This formula considers a crop worker to be primarily employed in agriculture if at least 50 percent of their total individual income is from farm work or

at least 50 percent of their total employment time is in farm work.<sup>1</sup> As with all state planning estimates since 1999, ETA used NAWS data to determine the share of crop labor hours in each state that was performed by crop workers who were primarily employed in agriculture, per this eligibility criterion.

**III. Description of the Hold-Harmless Provision**

ETA has incorporated the hold-harmless provision as instituted in PY 2018. The updated data resulted in significant changes for a few states and the hold-harmless provision provides for a stop loss/stop gain limit to transition to the use of the updated data. This approach is based on a state service area's previous year's allotment percentage, which is its relative share of the total formula allotments. ETA will implement the staged transition of the hold-harmless provision as follows:

(1) In PY 2021, each state service area will receive an amount equal to at least 95 percent of their PY 2020 allotment percentage, as applied to the PY 2021 formula funds available;

(2) In PY 2022, each state service area will receive an amount equal to at least 90 percent of their PY 2021 allotment percentage, as applied to the PY 2022 formula funds available;

(3) In PY 2023, each state service area will receive an amount equal to at least 85 percent of their PY 2022 allotment

percentage, as applied to the PY 2023 formula funds available.

In PY 2021, 2022, and 2023, the stop gain provision provides that no state service area will receive an amount that is more than 150 percent of their previous year's allotment percentage.

In PY 2024, since the Department has a responsibility to use the most current and reliable data available, amounts for the new awards will be based on updated data from the sources described in Section II, pending their availability. At that time, the Department will determine whether the changes to state allotments are significant enough to warrant another hold-harmless provision. Otherwise, allotments to each state service area will be for an amount resulting from a direct allotment of the funding formula without adjustment.

**IV. Minimum Funding Provisions**

A state area that would receive less than \$60,000 by application of the formula will, at the option of the DOL, receive no allotment or, if practical, be combined with another adjacent state area. Funding below \$60,000 is deemed insufficient for sustaining an independently administered program. However, if practical, a state jurisdiction that would receive less than \$60,000 may be combined with another adjacent state area.

**V. Program Year 2021 State Allotments**

The state allotments set forth in the Table appended to this notice reflect the

distribution resulting from the allotment formula described above. For PY 2020, \$85,229,000 was appropriated for migrant and seasonal farmworker training grants and allotted based on the PY 2018 formula updates. The figures in the first numerical column show the actual PY 2020 formula allotments to state service areas. The next column shows the percentage share of each allotment to the total available.

For PY 2021, the funding level provided for in the Act for the migrant and seasonal farmworker program is \$93,896,000 of which \$87,083,000 was appropriated for training grants. After allowable funds are set aside for program integrity (\$137,000), the Department will allot \$86,946,000 for training grants based on the formula and data outlined in this notice. For purposes of illustrating the effects of the updates to the allotment formula, columns 3 and 4 show the state service area allotments with the application of the first-year (95 percent) hold-harmless and minimum funding provisions, followed by the percentages. The difference between PY 2021 and PY 2020 allotments is shown in column 5. Column 6 of the Table shows the allotments based on the formula without the application of the hold-harmless or minimum funding provisions. The percentages are reported in column 7.

U.S. DEPARTMENT OF LABOR, EMPLOYMENT AND TRAINING ADMINISTRATION, NATIONAL FARMWORKER JOBS PROGRAM—  
CAREER SERVICES AND TRAINING GRANTS  
[Impact of final PY 2021 allotments to states]

State	PY 2020		PY 2021				
	Allotment	Percentage share	With hold harmless			Without hold harmless	
			Allotment	Percentage share	Difference (PY 2021 vs. PY 2020)	Allotment	Percentage share
(1)	(2)	(3)	(4)	(5)	(6)	(7)	
Total .....	\$85,229,000	100.00000	\$86,946,000	100.00000	\$1,717,000	\$86,946,000	100.00000
Alabama .....	801,605	0.94053	776,866	0.89350	(24,739)	774,531	0.89082
Alaska .....	.....	0.00000	.....	0.00000	.....	.....	0.00000
Arizona .....	2,538,153	2.97804	2,459,822	2.82914	(78,331)	2,547,948	2.93049
Arkansas .....	1,144,067	1.34234	1,193,276	1.37243	49,209	1,262,754	1.45234
California .....	23,333,261	27.37714	22,613,160	26.00828	(720,101)	23,114,407	26.58478
Colorado .....	1,347,060	1.58052	1,662,689	1.91232	315,629	1,759,499	2.02367
Connecticut .....	402,388	0.47213	501,264	0.57652	98,876	530,450	0.61009
Delaware .....	155,864	0.18288	154,593	0.17780	(1,271)	163,594	0.18816
Dist of Columbia .....	.....	0.00000	.....	0.00000	.....	.....	0.00000
Florida .....	3,763,684	4.41597	3,647,531	4.19517	(116,153)	3,159,183	3.63350
Georgia .....	1,671,697	1.96142	1,656,566	1.90528	(15,131)	1,753,019	2.01622
Hawaii .....	322,061	0.37788	312,122	0.35898	(9,939)	157,635	0.18130
Idaho .....	1,777,707	2.08580	2,194,625	2.52412	416,918	2,322,406	2.67109

<sup>1</sup> To determine "primarily employed in agriculture" criteria, which has two parts, ETA uses individual income from farm work.

U.S. DEPARTMENT OF LABOR, EMPLOYMENT AND TRAINING ADMINISTRATION, NATIONAL FARMWORKER JOBS PROGRAM—  
CAREER SERVICES AND TRAINING GRANTS—Continued

[Impact of final PY 2021 allotments to states]

State	PY 2020		PY 2021				
	Allotment	Percentage share	With hold harmless			Without hold harmless	
			Allotment	Percentage share	Difference (PY 2021 vs. PY 2020)	Allotment	Percentage share
(1)	(2)	(3)	(4)	(5)	(6)	(7)	
Illinois .....	1,746,897	2.04965	1,829,288	2.10394	82,391	1,935,797	2.22644
Indiana .....	1,145,731	1.34430	1,229,140	1.41368	83,409	1,300,706	1.49599
Iowa .....	1,588,068	1.86330	1,756,778	2.02054	168,710	1,859,065	2.13818
Kansas .....	1,220,211	1.43169	1,243,435	1.43012	23,224	1,315,834	1.51339
Kentucky .....	1,044,219	1.22519	1,011,993	1.16393	(32,226)	836,164	0.96170
Louisiana .....	798,040	0.93635	782,626	0.90013	(15,414)	828,194	0.95254
Maine .....	328,886	0.38589	408,044	0.46931	79,158	431,802	0.49663
Maryland .....	386,681	0.45370	521,061	0.59929	134,380	551,400	0.63419
Massachusetts .....	364,444	0.42761	512,780	0.58977	148,336	542,637	0.62411
Michigan .....	2,129,494	2.49856	2,073,573	2.38490	(55,921)	2,194,306	2.52376
Minnesota .....	1,629,902	1.91238	1,579,601	1.81676	(50,301)	1,664,564	1.91448
Mississippi .....	1,026,761	1.20471	995,074	1.14447	(31,687)	922,368	1.06085
Missouri .....	985,363	1.15614	1,219,415	1.40250	234,052	1,290,415	1.48416
Montana .....	628,528	0.73746	699,452	0.80447	70,924	740,177	0.85131
Nebraska .....	1,295,534	1.52006	1,255,552	1.44406	(39,982)	1,319,642	1.51777
Nevada .....	190,893	0.22398	223,924	0.25754	33,031	236,962	0.27254
New Hampshire .....	115,590	0.13562	145,953	0.16787	30,363	154,451	0.17764
New Jersey .....	602,990	0.70749	769,856	0.88544	166,866	814,680	0.93700
New Mexico .....	1,049,022	1.23083	1,067,856	1.22818	18,834	1,130,032	1.29969
New York .....	1,574,968	1.84793	2,169,172	2.49485	594,204	2,295,471	2.64011
North Carolina .....	2,638,326	3.09557	2,556,903	2.94079	(81,423)	2,107,580	2.42401
North Dakota .....	828,016	0.97152	802,462	0.92294	(25,554)	778,997	0.89595
Ohio .....	1,417,710	1.66341	1,437,210	1.65299	19,500	1,520,892	1.74924
Oklahoma .....	1,007,381	1.18197	976,292	1.12287	(31,089)	926,713	1.06585
Oregon .....	2,447,454	2.87162	2,371,922	2.72804	(75,532)	2,335,380	2.68601
Pennsylvania .....	1,485,920	1.74344	1,762,208	2.02678	276,288	1,864,813	2.14479
Puerto Rico .....	2,420,800	2.84035	2,346,090	2.69833	(74,710)	2,043,240	2.35001
Rhode Island .....	60,713	0.07124	64,858	0.07460	4,145	68,635	0.07894
South Carolina .....	811,276	0.95188	786,239	0.90428	(25,037)	695,074	0.79943
South Dakota .....	610,598	0.71642	665,710	0.76566	55,112	704,471	0.81024
Tennessee .....	894,737	1.04980	867,124	0.99731	(27,613)	631,232	0.72600
Texas .....	5,281,950	6.19736	5,118,941	5.88749	(163,009)	4,630,482	5.32570
Utah .....	466,894	0.54781	653,979	0.75217	187,085	692,057	0.79596
Vermont .....	185,768	0.21796	204,723	0.23546	18,955	216,643	0.24917
Virginia .....	1,002,595	1.17635	971,653	1.11754	(30,942)	784,640	0.90245
Washington .....	4,518,313	5.30138	4,510,391	5.18758	(7,922)	4,773,008	5.48962
West Virginia .....	155,408	0.18234	150,612	0.17322	(4,796)	112,164	0.12900
Wisconsin .....	1,639,775	1.92396	1,719,060	1.97716	79,285	1,819,152	2.09228
Wyoming .....	245,597	0.28816	312,536	0.35946	66,939	330,734	0.38039

Suzan G. LeVine,  
Principal Deputy Assistant Secretary,  
Employment and Training, Labor.

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## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

#### Petitions for Modification of Application of Existing Mandatory Safety Standards

**AGENCY:** Mine Safety and Health  
Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** This notice includes the summaries of two petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the party listed below.

**DATES:** All comments on the petitions must be received by MSHA's Office of Standards, Regulations, and Variances on or before July 16, 2021.

**ADDRESSES:** You may submit your comments including the docket number of the petition by any of the following methods:

1. *Electronic Mail:* [zzMSHA-comments@dol.gov](mailto:zzMSHA-comments@dol.gov). Include the docket number of the petition in the subject line of the message.

2. *Facsimile:* 202-693-9441.

3. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202-5452, Attention: Jessica Senk, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.