**Transcript**

**WIOA Title III – State Plan TA Wagner Peyser**

**Act Employment Services Webcast**

**Randy:** Hello, and thank you for viewing the “Requirements and Considerations for WIOA Unified and Combined State Plans: Modifications and Beyond.” This presentation will cover both cross-cutting and program specific sections of the State Plan ICR for the Workforce Innovation and Opportunity Act (WIOA) Title IIII Wagner-Peyser Act Employment Service, including the Agricultural Outreach Plan, as well as the Reemployment Services and Eligibility Assessment (RESEA) for the Unemployment Insurance Program. As part of this presentation, we will walk through parts of the ICR that may have changed or in which guidance has been updated to reflect our progress in the implementation of WIOA.

As States are working on submitting their Modifications to the State Plan, we encourage States to review this presentation through the lens of the WIOA title I programs. This technical assistance is intended to provide thoughts and considerations for States to use when making modifications to their State Plans.

*Today’s presenters are Randy Painter with ETA’s Office of Workforce Investment, Adult Services Unit, Larry Burns with ETA’s Office of Unemployment Insurance, and Laura Tramontana with ETA’s Office of Workforce Investment.*

Since the last time States submitted State Plans for approval in 2020, we have hit some milestones that are important for us to reflect on as we look at State Plans modifications for 2022. In the past two years, we experienced a global pandemic and the economic impact of the COVID-19 pandemic, which required the workforce system to respond while keeping staff and participants healthy. We know this will continue to be reflected in state plans and performance into 2022.

The State Plan modification process gives the Title III Employment Service the opportunity to look at the Plans with fresh eyes and provide any updates based on developments such as changing State and local economies, emerging industries, and to share the Governor’s vision and policies reflecting these changes.

From a program perspective, we can reflect on how are we engaging businesses in a holistic manner, how are we integrating services across programs to ensure job seekers and particularly UI claimants get the best mix of services for their career needs, how we are ensuring program access to migrant and seasonal farmworkers, and how we are leveraging resources in service strategies that help people return to work.

This is a chance for us to look back on where we have been and to chart a path forward for where we are going.

In addition to the program specific elements in the State Plan ICR, there are several elements that apply to all the WIOA core programs. State Plans must include analyses of State economic conditions, the workforce, and State workforce development activities; as well as a strategic vision and goals designed to address the findings from the analyses; and finally, a strategy for how the State will achieve those goals.

ETA will be looking for how States leverage labor market information to serve populations and how the programs will be leveraged to support a Governor’s vision for their State.

ETA is interested in how States integrate the Employment Service into its comprehensive service delivery strategy, which may include connecting participants to Career Pathways that are aligned with sector strategies based on current labor market information. State Plans must contain descriptions of how core programs, including the Employment Service and other one-stop partner programs will be assessed. The Employment Service provides universal access to job seekers and often serves as the “front door” to the American Job Center system.

It is key that the Employment Service be fully colocated and integrated into the State’s service delivery strategies since it serves the most participants and can be a gateway to the other programs for individuals who need those services.

***TEGL 16-16*** provides valuable guidance regarding One-Stop operations, including the integration of core programs and other required one-stop partner programs in the American Job Center Network.

States are encouraged to consider this guidance as they develop policies, procedures, and systems to ensure a high functioning One-Stop system. As a universal access program, the Employment Service should be included in any description of policies, procedures, and systems supporting the overall State service delivery strategy.

The Department will be looking for a more detailed discussion of the work that has been done and the work that is planned for the purposes of aligning AND integrating the data systems in the State. These should describe not only the goals, but also the steps that the State will take to achieve those goals.

State Plans are required to include a description of how States will implement and monitor priority of service requirements for veterans and eligible spouses.

Updating Performance Targets are a key component for the WIOA State Plan modifications. In addition to updating the targets, this is an opportunity for the States to discuss how they are aligning and integrating workforce and education data systems across programs, making enhancements to management information systems, and any other successful practices in improving the use of program data in service delivery.

Additionally, the chart on this slide indicates which primary indicators of performance are considered “baseline” for each title, and which primary indicators of performance must have targets proposed. State plans must have proposed targets for each cell labeled as “Expected Level” in the chart, and must *not* have proposed targets for those cells labeled “Baseline.” Please note, the performance target requirements have shifted since the 2020 state plan modifications. No Title III requirements have shifted but check all relevant Title requirements for other state plan components. As a reminder, Title III does not need to report on Credential Attainment rate or Measurable Skill Gains.
State plans must include the following elements: Co-Location assurance; Professional Staff Development; UI Claims; Reemployment Assistance to UI Claimants; Coordination of WP Funds; and Agricultural Outreach Plan. We will walk through these program requirements in greater detail during the next few slides.

The element requires a description of how the State will utilize professional development activities for the Employment Service to ensure staff will be able to provide high quality services to job seekers and businesses.

The State must describe the strategies developed to support training and awareness across all core programs and the Unemployment Insurance program.

Examples of potential strategies may include but are not limited to, job shadowing; new employee onboarding; handbooks or field manuals; mentoring; and online resources such as webinars and Federally developed materials including the numerous communities of practice and resource pages hosted on WorkforceGPS, fact sheets, and other technical assistance.

I’m now handing it over to Larry Burns (Ellen Wright) who will discuss the expectations for content in the modification for Unemployment Insurance and the Reemployment Services and Eligibility Assessment (RESEA) program.

**Larry:**Thank you, Randy. As part of the state plan process, each state must also explain how it will provide information and meaningful assistance to individuals (including individuals with language or other barriers) seeking assistance in filing a claim through the one-stop centers.

The assistance offered must be “meaningful” and can be provided: In person, at an AJC by staff who are well trained in UI claims filing activities including the rights and responsibilities of claimants and information necessary to file a claim; Meaningful assistance can also be provided by phone or other technology, such as live web chat or video conference.

If technology is used to provide meaningful assistance, it must be a technology that enables trained staff to provide assistance on timely basis and at a level equivalent to what could be provided if the services were provided in person. Referring an individual to a phone line or website used by all other claimants does not meet the meaningful assistance requirement.

Additional information about meaningful assistance can be found in Unemployment Insurance Program Letter 14-18, Unemployment Insurance and the Workforce Innovation and Opportunity Act.

As a best practice States should take an integrated approach to their reemployment strategy that strategically coordinates the resources and activities of all programs serving the unemployed.

In the context of serving UI claimants there are many areas of opportunity for improved integration including: Helping UI claimants understand and access the full range of available AJC services; Developing strategies and procedures to connect individuals referred to the workforce system by the Reemployment Services and Eligibility Assessment Program(RESEA) or Worker Profiling and Reemployment Services Program (WPRS) as likely to exhaust UI benefits; Increasing communication between workforce programs and UI to help detect potential eligibility issues; Increased coordination with Rapid Response, and other activities used to respond to layoff events; and Exploring strategies that promote entrepreneurship and self-employment, such as UI’s Self-Employment Assistance (SEA) program.

In Fiscal Year 2018 amendments to the Social Security Act permanently authorized the RESEA program. The permanent RESEA program is more flexible, has grown in recent years, and is now formula funded. In response to the pandemic most states, leveraged new RESEA flexibility to transform how RESEA is provided by incorporating remote and virtual services into their service-delivery.

One of the primary goas of RESEA is to serve as an entry-point to the workforce system. Given the recent changes to RESEA, states may want to consider how RESEA is staffed, integrated into AJCs, and best leveraged as a one-stop partner, including contributions to infrastructure costs and other shared activities.

It is important that states provide a comprehensive description of their strategies for serving unemployed individuals.

This description must not be limited to WPRS and RESEA activities because these programs only serve a portion of UI claimants. Additionally these programs are limited to regular UI and cannot serve individuals in temporary UI programs. For example, individuals that received pandemic unemployment assistance or extended benefits were not eligible for RESEA.

WIOA reemphasized the need for WP funds to be used specifically to support the reemployment and related services to UI claimants. States must describe how WP funds will be used to support UI claimants, the communication between WP and UI. This description must include: Coordination and provision of labor exchange services for UI claimants; Registration of state UI claimants with the State’s employment service if required by law; and Administration of the Work Test requirements including eligibility assessments and referral to adjudication and providing job finding and placement services.

As a reminder, UI claimants selected under the RESEA program must be enrolled in Wagner Peyser funded Employment Services and appropriately documented in case management and performance reporting systems

**Laura**: Thank you. Each State agency must develop an Agricultural Outreach Plan (AOP) every four years as part of the Unified or Combined State Plan. In the next few slides, I will provide an explanation of each element that must be included in the AOP, in addition to pointing out common areas states may need to update in the two-year modification process. The four main element areas of the AOP include: An Assessment of Need (both about the agricultural activity and farmworkers in the state); A description of planned outreach activities; A description of the services provided to farmworkers and agricultural employers through the one-stop delivery system; and Other requirements.

Before we get started talking about each element of the AOP, we should first make sure to understand who is responsible for developing the AOP and what roles other staff fulfill.

The State Workforce Agency (SWA) is responsible for developing the AOP. As you may know, each SWA has a State Monitor Advocate (SMA), whose responsible to monitor the SWA for equitable services provided to Migrant and Seasonal Farmworkers (MSFWs) and to advocate for improved services. The AOP represents the SWA’s plans for how it will provide services to MSFWs, including outreach and other components that I will describe later. The SMA’s role in this process is not to write the plan, but rather to review it and comment on it to make sure that it complies with applicable regulations and is clear and workable. In order to do this, the SWA needs to make sure it establishes a reasonable timeline for drafting the AOP and any modifications so that the SMA has enough time to meaningfully review the AOP and provide feedback to the SWA, so that the SWA can resolve any compliance issues the SMA identifies.

Additionally, the AOP must contain a statement confirming the SMA has reviewed and approved the AOP.

In addition to the SMA needing to review and comment, ETA regulations require that states involve National Farmworker Jobs Program (NFJP) grantee partners in their AOP development and comment periods. So, SWAs need to make sure they also build in enough time for this.

Specifically, the regulations require that at the beginning of the process, while SWAs are developing their AOP, they must solicit information and suggestions from NFJP grantees, other appropriate MSFW groups, public agencies, agricultural employer organizations, and other interested organizations.

At least 45 calendar days before submitting the final AOP into the State Plan Portal, SWA must provide a proposed plan to NFJP grantees, public agencies, agricultural employer organizations, and other organizations expressing an interest, and must allow at least 30 days for review and comment.

SWA must: Consider any comments received in formulating the final AOP; Inform all commenting parties in writing whether their comments have been incorporated and, if not, the reasons why not; and Transmit the comments and recommendations received and the SWA’s responses with the submission of the AOP in the State Plan Portal.

The AOP must also include a statement confirming that NFJP grantees, other appropriate MSFW groups, public

agencies, agricultural employer organizations and other interested employer organizations have been given an opportunity to comment on the AOP.

SWAs must also include the list of organizations from which the SWA solicited information and suggestions, any comments that were received, and responses to those comments with the AOP that is submitted in the State Plan Portal. The AOP is not complete without transmitting the list of organizations solicited, their comments, and the SWA’s responses.

Again, this requires careful planning to allow enough time to solicit comments, respond to and incorporate comments, and for the SMA to review, comment, and approve the final version of the AOP, which should take public comments into consideration.

Now that we’ve established a timeline for preparing the AOP, let’s talk about what goes into the AOP. The first section of the AOP is an assessment of need. This section is very important because it asks you to look at data for your specific State, including MSFW characteristics, type of work, and the unique needs of farmworkers, which SWAs must understand in order to make appropriate plans to meet those needs in future sections of the AOP. In gathering, assessing, and providing this information, SWAs must take into account data from NFJP grantees, other MSFW organizations, employer organizations, and State and Federal agency data sources like the U.S. Department of Agriculture and the U.S. Department of Labor Employment and Training Administration (ETA).

This section asks for specific information, which SWAs must completely provide in order to be considered responsive to the Plan.

For example, SWAs must identify: The top five labor-intensive crops, The months of heavy activity, and The geographic area of prime activity

SWAs must also summarize agricultural employers’ needs in the state, including: Whether they are primarily hiring local or foreign workers, and Whether they are expressing that there is a scarcity in the agricultural workforce, meaning whether workers are hard to find

SWAs must also identify Any economic, natural, or other factors that are affecting agriculture in the State, and Any projected factors that will affect agriculture in the State

The Assessment of Need also includes summarizing MSFW characteristics, including: If they are predominantly from certain countries; What language(s) they speak; Approximate number of MSFWs in the State during peak season and during low season, and Whether MSFWs tend to be migrant, seasonal, or year-round farmworkers

In the two-year update to the State Plan, which includes this AOP, SWAs must revisit this assessment of need to determine whether there have been changes to the agricultural activity in the State or farmworkers needs, since they originally submitted the AOP.

There are a few key definitions to know when writing or revising your AOP. First, the Assessment of Need discusses “farmwork” activity in the state. ETA defines farmwork at 20 CFR 651.10, which includes: … the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities. This includes the raising of livestock, bees, fur-bearing animals, or poultry, the farming of fish, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market. It also includes the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state. For the purposes of this definition, agricultural commodities means all commodities produced on a farm including crude gum from a living tree products processed by the original producer of the crude gum from which they are derived, including gum spirits of turpentine and gum rosin. Farmwork also means any service or activity covered under [20 CFR] 655.103(c)… and/or 29 CFR 500.20(e) and any service or activity… identified through official Department guidance such as a Training and Employment Guidance Letter (TEGL).

The Assessment of Need also asks SWAs to identify whether MSFWs tend to be migrant, seasonal, or year-round farmworkers. It is important to understand that the term “MSFW” includes individuals who may be either seasonal or migrant farmworkers, and need not be both.

A seasonal farmworker is individual who is employed, or was employed in the past 12 months, in farmwork (as defined in 20 CFR 651.10) of a seasonal or other temporary nature and is not required to be absent overnight from their permanent place of residence.

Labor is performed on a seasonal basis where, ordinarily, the employment relates to or is of the kind exclusively performed at certain seasons or periods of the year and which, from its nature, may not be continuous or carried on throughout the year. A worker who moves from one seasonal activity to another, while employed in farmwork, is employed on a seasonal basis even though he/she may continue to be employed during a major portion of the year.

A worker is employed on other temporary basis where they are employed for a limited time only or their performance is contemplated for a particular piece of work, usually of short duration. Generally, employment which is contemplated to continue indefinitely is not temporary.

Seasonal farmworkers are not required to be away from home overnight, so they may be individuals who are within commuting distance, or local workers, who perform farmwork.

A migrant farmworker is someone who meets the previous definition of seasonal farmworker plus they must travel to the job site so that they are not reasonable able to return to their permanent residence within the same day.

Remember, a person can meet either one of these definition ns to be considered MSFW.

Additionally, TEGL 5-20 clarifies that a farmworker, as defined at 20 CFR 651.10, means an individual employed in farmwork and includes foreign workers in the United States on H-2A visas.” Therefore, the AOP’s should account for MSFWs who are H-2A visa holders, including providing an assessment of unique needs.

The second section of the AOP describes outreach activities. The SWA’s strategies in this section must be informed by the Assessment of Need and designed to meet the needs of MSFWs in the state. The purpose of outreach activities is to locate and contact MSFWs who are not being reached through normal intake activities.

Before we discuss how the SWA will outreach to MSFWs, we need to understand which staff are involved. The Outreach Activities section of the AOP asks several questions about how outreach will be performed. In this section, the AOP involves “outreach staff,” who are ES staff with the responsibilities described at 20 CFR 653.107(b). The AOP also asks how the SWA will “contact” MSFWs. This refers to ETA’s specific definition of an “outreach contact, “ which means each MSFW that receives the presentation of information, offering of assistance, or follow-up activity from outreach staff.

It should be clear in the AOP that the SWA understands the role of outreach staff compared to the State Monitor Advocate. Per the definition of “outreach staff,” the SMA is not outreach staff because the SMA’s responsibilities are not located at 20 CFR 653.107(b). Instead, the SMA is responsible to monitor the SWA’s outreach efforts. This section of the plan needs to describe the SWA’s plan regarding outreach staff, specifically.

SWAs must describe their strategies for contacting farmworkers who are not being reached by the normal intake activities conducted by the ES offices. As we just discussed, this is the responsibility of SWAs and outreach staff, not the SMA. SWAs must have an adequate number of outreach staff to perform MSFW outreach in their service areas, based on the Assessment of Need. If an AOP describes an SMA needing to perform the SWA’s outreach, it would appear that the SWA does not have enough outreach staff.

This section should focus on MSFWs who are not being reached by normal intake activities. For example, how will outreach workers make contact with MSFWs at MSFW working, living, or gathering areas, by means of written and oral presentations either spontaneous or recorded, in a language readily understood by the MSFWs? Think of how services may be provided outside of ES offices through outreach.

Describe plans like: What tools and resources will outreach workers use? How many outreach staff will the SWA have? Will outreach staff work full or part-time?

Please remember that the staffing structure described in this section must comply with ETA regulations, which require: Significant MSFW States must have full-time, year-round outreach staff, Non-Significant MSFW States must have year-round part-time outreach staff, and during periods of the highest MSFW activity, there must be full-time outreach staff, All outreach staff must be multilingual, if warranted by the characteristics of the MSFW population in the State, and must spend a majority of their time in the field, and Full-time means 100 percent of the staff person’s time is devoted to MSFW outreach.

In the next portion, the SWA must describe how it will provide technical assistance to outreach staff. Please make sure the response focuses specifically on assistance to outreach staff. This is an area of the AOP that SWAs often confuse and improperly provide information on training for local ES office staff, the SMA, or for MSFWs. Instead, this section should address how the SWA will support outreach staff and must address technical assistance through: Trainings, Conferences, Additional resources, Increased collaboration with other organizations on topics such as: One-stop center services (including availability of referrals to training, supportive services, and career services, as well as specific employment opportunities), The ES and Employment-Related Law Complaint System, Information on the other organizations serving MSFWs in the area, and A basic summary of farmworker rights, including their rights with respect to terms and conditions of employment.

SWAs must also describe how they will increase training and awareness for outreach staff of other core programs, including the Unemployment Insurance (UI) program and training on identifying UI eligibility issues. Make sure the answer relates to outreach staff and make sure the answer describes an increase in training and awareness, not just that training will be done or that it will continue. This section solicits growth information.

The SWA must also explain how it will provide outreach staff with professional development activities to make sure outreach staff are able to provide high quality services to jobseekers and employers.

Lastly, in this section, SWAs must answer how they will coordinate outreach efforts with NFJP grantees and other public and private community service agencies and MSFW groups. Again, provide “how” content, for example, will the SWA conduct joint outreach with specific partners? Does the SWA have information sharing agreements or other planning arrangements in place with partners?

The next section of the AOP turns to how the SWA will provide the full range of services to MSFWs through the one-stop delivery system, so we should now be thinking about services inside the ES office, one-stop, or American Job Center.

The SWA must answer: How career and training services required under WIOA Title I will be provided to MSFWs through the one-stop centers, and How the State serves agricultural employers and how it intends to improve such services.

If an MSFW comes into or calls a one-stop center, how will they access services? Remember, in providing services to MSFWs, one-stop centers must consider and be sensitive to the preferences, needs, and skills of individual MSFWs and the availability of job and training opportunities. Therefore, this section should also agree with the unique needs of MSFWs described in the Assessment of Need.

This section should address things like, whether and how one-stops will provide language assistance, how one-stops will identify MSFWs, and how one-stops will make the full range of services available to MSFWs.

This section also asks how the state serves agricultural employers and how it intends to improve such services to agricultural employers. Again, the plan asks for what growth is planned.

The AOP also asks SWAs to describe strategies for marketing the employment service complaint system to farmworkers and other farmworker advocacy groups. This must include, but is not limited to: ensuring information about the use of the Complaint System is publicized, which must include, but is also not limited to, the prominent display of an ETA-approved Complaint System poster in each one-stop center, and Outreach staff explaining to MSFWs at their working, living, or gathering areas information on the Complaint System.

SWAS must also explain how they will market the Agricultural Recruitment System to agricultural employers and how they intend to improve publicity.

Under “other requirements,” the SWA must describe collaborative agreements the SWA has with other MSFW service providers including NFJP grantees and other service providers. The SWA must also describe how the SWA intends to build upon/increase collaboration with existing partners and in establishing new partners. This description must include any approximate timelines for establishing agreements or building upon existing agreements.

We already reviewed that the SWA must solicit information and suggestions from NFJP and other appropriate groups at the beginning of this discussion, when we talked about the drafting timeline. At the end of the AOP, the SWA must include a statement confirming NFJP grantees, other appropriate MSFW groups, public agencies, agricultural employer organizations and other interested employer organizations have been given an opportunity to comment on the AOP.

The SWA must also include the list of organizations from which information and suggestions were solicited, any comments received, and responses to those comments.

Under Data Assessment, the SWA must review previous Wagner-Peyser data reports on performance, including Workforce Integrated Performance System (WIPS) reports, and Labor Exchange Agricultural Reporting System (LEARS) ETA 5148 Reports. These reports provide data to calculate ETA’s Equity Ratio Indicators, and Minimum Service Level Indicators. TEGL 14-18 Attachment 5 explains these indicators.

If the SWA has not met these goals, the AOP must: Explain why the SWA believes such goals were not met, and How the SWA intends to improve its provision of services in order to meet such goals.

In the Assessment of Progress, the plan must include an explanation of: What was achieved based on the previous AOP, What was not achieved, and An explanation as to why the SWA believes the goals were not achieved, and how the SWA intends to remedy the gaps of achievement in the coming year.

To complete this assessment, SWAs need to look back to their previous AOP and identify what goals it set, then compare it to current conditions. If applicable, check for data-driven goals, explain changed circumstances, highlight successes, acknowledge shortcomings and propose meaningful ways to improve.

The last portion of the AOP requires that the plan must contain a statement confirming the SMA has reviewed and approved the AOP. Remember, the SMA reviews and comments on proposed State ES directives, manuals, and operating instructions relating to MSFWs and in order to ensure: That they accurately reflect the requirements of the regulations; and That they are clear and workable…

Your SWA’s SMA is your resident expert on MSFW-related ES requirements and services, so I encourage you to use them as a resource in developing your AOP. The SMA needs to review and approve the final version of the AOP, which includes the two-year update and any other modifications. Please make sure you budget sufficient time for the SMA to meaningfully review, provide feedback, and for the SWA to resolve any issues the SMA may identify prior to the SMA’s approval.

On these next two slides, we have provided several resources that provide guidance regarding State Plan submission and content.

If you have any questions, please consult the State Plan guidance, the ETA regulations, your State Monitor Advocate and/or your Regional Monitor Advocate, or Federal Project Officer. Thank you for your attention and work.

(END)