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# Workforce Services for Migrant and Seasonal Farmworkers

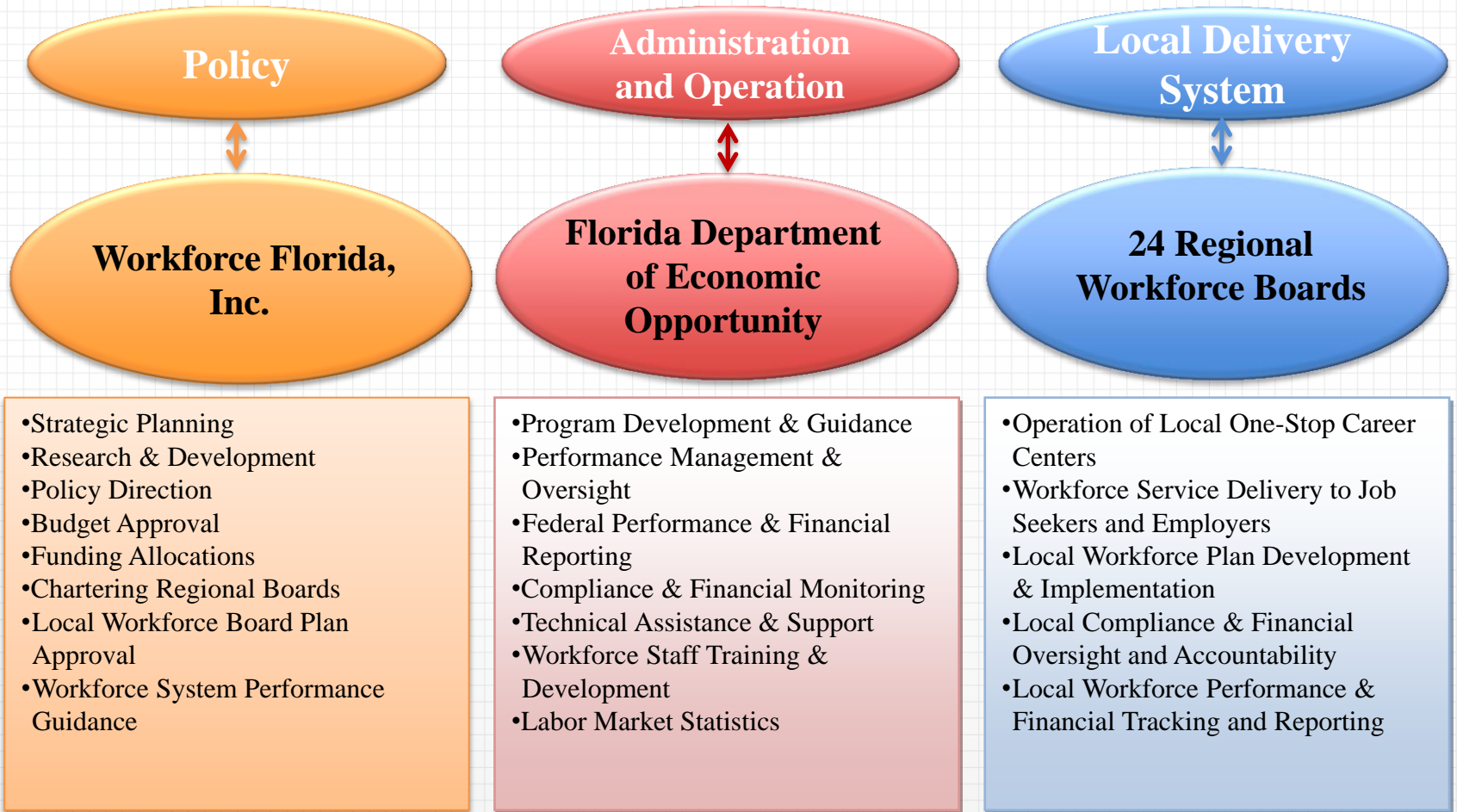
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Senior Monitor Advocate



# Florida's Workforce System



# Overview of Florida's Workforce Services

- Basic labor exchange (employment) services – Connecting job seekers and employers
  - Job referral/placement; counseling and career development; referral to training
  - Vets and Migrant and Seasonal Farmworker (MSFW) services
- Training programs
- Reemployment Assistance
- Business (employer) services
  - Posting job orders, recruitment, job fairs, job matching
  - Assistance with I-9 preparation, where offered
  - Work Opportunity Tax Credit (WOTC)
  - Foreign Labor Certification



# Services for Migrant and Seasonal Farmworkers



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# The Definition of MSFW

## Seasonal Farmworker

- Worked at least 25 days (or parts of days) performing farmwork during the last 12 months AND earned at least one half of total income performing farmwork AND was not employed in farmwork by the same employer all year

## Migrant Farmworker

- A seasonal farmworker AND has to travel to do farmwork AND is unable to return to permanent residence within the same day

## Migrant Food Processing Worker

- Worked 25 days (part of days) doing food processing during the last year AND earned at least one half the total earned income from food processing AND has to travel to do food processing and cannot return to permanent residence within the same day



# MSFWs and the Workforce System

- As a result of a 1972 lawsuit against the United States Department of Labor (USDOL) alleging discrimination against farmworkers, the USDOL Employment and Training Administration (ETA) established equitable and minimum service level standards for migrant and seasonal farmworkers, which must be met by all states and territories
- MSFW outreach programs and outreach staff in offices that serve a large number of MSFWs (significant offices)
- The Monitor Advocate System was created

# Monitor Advocate System

FEDERAL LEVEL

National Monitor Advocate



FEDERAL REGIONAL LEVEL

Regional Monitor Advocate



STATE LEVEL

State Monitor Advocate



LOCAL LEVEL

Outreach Worker



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# Role of the Monitor Advocate

- Serve as an advocate to improve services for MSFWs within the employment service system
- Conduct an ongoing review of delivery of services and protections afforded by federal regulations to MSFWs by the State agency and local offices
- Assure that all significant MSFW local offices are reviewed for compliance at least once a year
- Provide technical assistance and training to Regional Workforce Boards
- Compile DEO's annual Agricultural Outreach Plan and review local MSFW outreach plans annually
- Serve as the state-level Complaint Specialist, and monitor the performance of the Employment Service Complaint System
- Conduct field visits to the working and living areas of MSFWs
- Conduct field checks at farms utilizing the H-2A Program





# Workforce Services for MSFWs

## Requirements for **all** One-Stop Career Centers:

- 🌐 MSFW customers are coded in the system and assisted with a full registration
- 🌐 They are provided a verbal and written explanation (in their language) of workforce services available
- 🌐 MSFWs are not referred to agricultural jobs that have not been screened; agricultural job orders must contain details on the terms and conditions of employment to ensure no violations take place
- 🌐 MSFWs are referred to supportive services as needed



# Outreach Program

- ➊ MSFW outreach workers are bilingual and have MSFW background; spend the majority of time in the field
- ➋ Ten outreach programs throughout the State
  - Quincy (Gadsden, Leon, Liberty, Holmes and Jackson counties)
  - Plant City (Hillsborough County)
  - Winter Haven (Polk County)
  - Bradenton (Manatee County)
  - Sebring (Highlands County)
  - Wauchula (Hardee and DeSoto counties)
  - Port Saint Lucie (St. Lucie, Indian River, Martin and Okeechobee counties)
  - Belle Glade (western Palm Beach County)
  - Homestead (south Dade County)
  - Immokalee (northern Collier, Glades and Hendry counties)



# Outreach Program

## Outreach is conducted at:

- Work sites
- Migrant labor housing
- Farmworker and social services agencies
- Local businesses
- Anywhere farmworkers can be found!

## Information is provided on:

- One-Stop services
- Employment opportunities
- Other agencies that serve farmworkers and their services
- Farmworker labor rights
- Complaint-Resolution System

## Outreach workers offer MSFWs onsite registration and services such as referrals



# Complaint System

## Complaints are taken when:

- Employer violates employment-related laws
- Employer violates terms and conditions of job order
- One-Stop staff violate employment services regulations

## Complaints can be filed:

- In person
  - With the outreach worker
  - At the local One-Stop Career Center
- Over the phone by calling the Farmworker Helpline (800-633-3572)
- “Apparent Violations”
  - Person wishes to remain anonymous
  - Staff observes or becomes aware of a suspected violation



# Complaint Processing

We refer complaints to:

## Federal agencies

- Wage and Hour Division
- OSHA
- Equal Employment Opportunity Commission (EEOC)
- US Department of Justice

## State agencies

- Department of Business and Professional Regulation
- Department of Health
- Department of Agriculture and Consumer Services
- Department of Financial Services, Division of Workers' Compensation
- Florida Commission on Human Relations

## Legal Services



# H-2A Temporary Agricultural Visa Program



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# H-2A Program

- 🌐 Allows U.S. agricultural employers to employ foreign workers on a temporary basis or seasonal basis to perform agricultural labor or services
- 🌐 When sufficient U.S. Domestic Workers are not available
- 🌐 Allows recruitment for temporary agricultural employment
  - Intrastate within Florida by One-Stop Career Centers
  - Interstate in other states



# H-2A Application Process

- 🌐 Florida's H-2A program is centralized at the DEO H-2A Program Office:
  - Receives and reviews employer ETA 790 Agricultural and Food Processing Clearance Orders (application)
  - Enters and manages all H-2A Employ Florida Marketplace (EFM) Job Orders
- 🌐 One-Stop Career Centers refer workers to employers





# H-2A Program Assurances

- 🌐 US workers and H-2A Visa Workers receive the same terms and conditions of employment (No preferential treatment)
- 🌐 Terms and conditions in clearance order must be disclosed and adhered to:
  - Wage and piece rate guarantees
  - Travel guarantees
  - Free housing for H-2A Visa Workers and U.S. Workers who do not commute
  - Specified job duties
  - Specified crops
  - Specified job sites
  - Requirements/qualifications, if any, must apply also to foreign workers
  - Area of intended employment
  - Access to MSFW Outreach staff and Complaint Resolution System



# H-2A Program Assurances

🌐 Workers who do not live within commuting distance must be provided:

- Reimbursement for transportation and meals to jobsite
- The cost of the trip and meals to return home or to the next job destination at the end of the contract should be paid by employer
- Free transportation between employer provided housing and work site and return

🌐 Workers must be paid the higher of:

- The Federal Minimum Wage: \$7.25 per hour
- The Florida Minimum Wage: \$7.79 per hour
- The Adverse Effect Wage Rate: \$9.97 per hour in Florida for 2013
- The Prevailing Piece Rate or Hourly Rate: Varies by crop or activity



🌐 Workers must be guaranteed  $\frac{3}{4}$  of the work contract



# H-2A Worker Limitations

- 🌐 H-2A visas are limited to a maximum of 10 months, but may be extended
- 🌐 H-2A workers cannot work for another employer
- 🌐 They are not eligible for most federally funded benefits
- 🌐 Not eligible for job training programs
  
- 🌐 They can take ESOL and ABE courses
- 🌐 May qualify for community-based social services or legal aid



# Questions?



# For More Information Contact:

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Division of Workforce Services

Florida Department of Economic Opportunity

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(850) 921-3207

Please direct H-2A Questions to:

**Walter Jants**

*Foreign Labor Certification*

[Walter.Jants@deo.myflorida.com](mailto:Walter.Jants@deo.myflorida.com)

(850) 921-3466

**Florida Farmworker Helpline: 800-633-3572**





**Got Food?  
Thank a Farmworker.**