



New York State Department of Labor
Andrew M. Cuomo, Governor
Colleen C. Gardner, Commissioner

Memo

To: William L. Carlson, Ph.D., Administrator

From: New York State Workforce Agency (NY SWA)

Date: May 29, 2012

Re: Revised ETA Form 9127

The Division of Immigrant Policies & Affairs, including the New York State Monitor Advocate and the Foreign Labor Certification Unit, have reviewed the proposed changes to the ETA Form 9127. The proposed changes relate to the review and transmittal of job orders submitted by employers to recruit US workers through the intrastate and interstate job clearance systems, conducting H-2A prevailing wage and practice surveys, and performing H-2A related housing inspections. In addition, the NY SWA took into consideration the Department's efforts to have the SWAs collect data regarding prevailing, normal, accepted or common employment practices or by conducting "ad hoc" surveys.

The NY SWA agrees with the determination that the form should be updated. The ETA Form 9127 collects both H-2A and H-2B data and, with the proposed changes to the H-2B program, it does seem logical that the form be updated to collect the necessary data required to implement those changes.

The NY SWA has noticed an increase in requests for "ad hoc" surveys relating to agricultural employment practices. The increase in requests to conduct these surveys and the time spent to contact a sufficient number of agricultural employers does stretch both monetary and staff resources. The additional possibility of H-2B requests for "ad hoc" surveys of non-agricultural employment practices would add an additional strain on our staff. In order to monitor the cost of complying with these requests, SWAs should collect data relating to the resources expended in conducting the survey; i.e., the number of staff, the amount of travel, the amount of time taken from outreach to perform the surveys, the amount of in-office work to compile the results of the survey, etc.

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The NY SWA recommends the following changes to the form:

- Add a blank space where the SWA can add pertinent information relating to the data collected. This section could also be used to provide data not specifically requested, but deemed important by the SWA for the Department's use.
- Track the resources used to complete a survey by adding a line that requests the amount of time/staff spent to complete the surveys.
- Delete the section on Prevailing Wage Determinations that is no longer done by the SWAs.