

AGRICULTURAL RECRUITMENT SYSTEM JOB ORDERS

The Agricultural Recruitment System (ARS) provides both employers and workers with recruitment and referral services for temporary or seasonal employment in agriculture through the job order process.

DEFINITIONS

Definitions used in this policy can be found in Definitions [Policy 9.2](#):

- Agricultural employer
- Clearance order
- Clearance system
- ETA Regional Office
- Intrastate clearance order
- Interstate clearance order
- Local Job Service Office order holder
- Supply Job Service Office
- Supply State Temporary or Seasonal Position

LOCAL RECRUITMENT

Prior to exploring the ARS, a job service office must attempt to find sufficient workers within the local labor market area or anticipates a shortage of local workers for the job order.

Examples of finding sufficient workers in the local labor market area include:

- Post the job order in SDWORKS for the local workforce to view and apply for the job.
- Review the current list of participants seeking jobs to see if there are any qualified and interested in the job and make a job referral to the job order.

Examples of anticipating a shortage of local workers for the job order include:

- Local market being recently tested already.
- Data supporting a labor shortage for the agricultural workforce.
- Other employers in the industry report labor shortages.

If the job service office and employer have attempted and haven't been successful in obtaining sufficient workers in the local labor market area or the job service office anticipates a shortage of local workers, then the job order may be placed into the ARS as an intrastate (within SD) clearance job order.

INTRASTATE CLEARANCE JOB ORDER

All job service offices must promote the ARS to agricultural employers seeking employment and help complete any ARS job orders.

Examples of promoting the ARS include:

1. Informing an agricultural business of the ARS.
2. Hanging posters of the ARS in public areas of the job service office.
3. Going over the Employment and Training Administration (ETA) Forms 790 and 790B found on the [ARS SharePoint Page](#)

If an agricultural employer wants to use the ARS, the job service office must help the employer complete the ETA Form 790 and 790A. The Job Service office must ensure the ETA Form 790 and 790A is:

1. Complete, including stating all the material terms and conditions of employment as described in [20 CFR 653.501\(c\) \(1\) \(iv\)](#).
2. Does not contain unlawful discriminatory specifications (e.g. Required to be male).
3. Signed by the employer.

4. Provides wages and working conditions to meet prevailing wages and working conditions for similarly employed farm workers.
5. Agrees to provide or pay for transportation of workers and their families on at least the same terms as is commonly provided by the local employers to farmworkers and their families.

Once the form is complete, submit it to the State Monitor Advocate (SMA) by using the [ARS Submission Form](#) found on the ARS SharePoint page located on the MSFW Resource page for final review and approval.

The SMA will review the completed form for approval. If approved, the SMA will inform the local job service office order holder the job order has been approved. The local job service office order holder can then send the order form to supply job service offices of their choice.

The **Local Job Service Office Order Holder** must provide a copy of the approved clearance order to all the selected **Supply Job Service Offices**.

SUPPLY JOB SERVICE OFFICE RESPONSIBILITIES AND REQUIREMENTS FOR ARS INTRASTATE JOB ORDER

Upon receiving the Clearance Order, the Supply Job Service Offices must:

1. Add the clearance order to SDWORKS and suppress the employer information to require individuals to contact the job service office. This is to ensure an adequate explanation of the job order is provided by the job service office to the job seeker.
2. Actively recruit workers for referral.
3. Assist all farmworkers, upon request in their native language, to understand the terms and conditions of employment set forth in intrastate and interstate clearance orders and must provide such workers with checklists in their native language showing wage payment schedules, working conditions, and other material specifications of the clearance order.

INTERSTATE CLEARANCE JOB ORDERS

An interstate (out-of-state) ARS clearance order is requested from the ETA Regional Office when an intrastate (in-state) order is unsuccessful.

The job service office would submit the previously completed ETA Form 790 and 790A to the SMA. The SMA will review the completed form and submit it to the ETA Regional Office for approval

ETA regional office (U.S. DOL) must review and approve the order within 10 business days of its receipt of the order, and the Regional Administrator or his/her designee must approve the areas of supply to which the order will be extended. Any denial by the Regional Administrator or his/her designee must be in writing and state the reasons for the denial.

The ETA regional office will review and provide a list of other out-of-state Job Service Offices the order is approved for. The **Local Job Service Office Order Holder** must provide each of the approved offices an electronic copy of the clearance order to advertise in their serving area.

The supply state has the option to reject the order. In the event a supply state local office rejects a clearance order, the reasons for the rejection must be documented and submitted to the ETA Regional Administrator having jurisdiction over the job service office to review the reasons and determine if they accept the rejection.

The **Local Job Service Office Order Holder** must conduct field checks for all filled clearance orders pursuant to the Field Checks section of this document.

FIELD CHECKS

The **Local Job Service Office Order Holder** must notify the employer in writing that the Job Service Office must conduct random, unannounced field checks to determine and document if the terms of the clearance order are being met.

Field Checks must be in compliance with [20 CFR 653.503 Field checks](#). Field checks must include visit(s) to the worksite at a time when workers are present. When conducting field checks, the ES must consult both the employees and the employer to ensure compliance with the full terms and conditions of employment.