

Farm Labor Stabilization Pilot Program

Post Award - Frequently Asked Questions

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Required Reporting and Payment Information

1. When can I receive my payment?

Section 7.3 in the [FLSP Notice of Funding Opportunity \(NFO\)](#) outlines the payment and reporting schedule. Please review the following table. Please note the second payment would be approximately at the one-year mark and the final payment would be approximately at the end of the second year (assuming your grant is not impacted by an extension).

Payment period, amount	Milestones	Reporting and/or Confirmation requirement(s)	Where do I submit it?
1 50% of award total	Successful H-2A application and recruitment. Launch of worker contracts and completion of KYRR training.	• Copy of awardee’s accepted Job Order (Form 790-A) from their respective State Workforce Agency	Email FLSPgrants@usda.gov
		• Copy of submitted I-129 form	Email FLSPgrants@usda.gov
		• Confirmation of completed Know Your Rights and Resources (KYRR) training	Grantee requires no steps. Alianza will confirm with USDA.
		• Confirmation of recruitment	Grantee requires no steps. State Department will confirm with USDA.
2 25% of award total	Completion of FLSP commitments in the first project “growing” season, including research participation.	Awardee’s FLSP Interim Report	Upload to Grant Solutions portal.
3 25% of award total	Successful project completion, including second year of research participation.	Awardee’s FLSP Final Report	Upload to Grant Solutions portal.

2. I received a grant. When can I use the funds?

As stated in **Section 1.3 on Table 2** of the [FLSP Notice of Funding Opportunity \(NFO\)](#), one of the baseline requirements for the FLSP:

“All commitments must be applied universally to all of the applicant’s agricultural employees, H-2A or otherwise, whether hired directly, jointly or via a contractor, at each and every work site within the applicant’s operation throughout the entirety of the grant performance period ... all commitments in the Awardee’s application must be included in their H-2A Job Order.”

The language in the job order(s) must fully capture the detailed commitments that the awardee made in their FLSP application, including all *Baseline* and *Supplemental* commitments, as well as working conditions described in employer practices and plans.

For most awardees, this means that the FLSP grant funds will be used to cover their upcoming production season, covering workers arriving after grant agreements are signed (7/15/24), once they have included all of the terms of employment with related FLSP commitments on their next job order. See question 6 below on job order recommendations.

3. What does Period of Performance (PoP) mean?

The Period of Performance is the total amount of time during which the federal agency authorizes a grantee to complete the approved work of the project described in the application. All FLSP grants have a **start date of July 15, 2024** and **end date of July 14, 2026**. USDA will conduct required grant training/onboarding for all awardees in July/August 2024.

4. How do the Period of Performance dates relate to the timeline for grant activities?

All FLSP grants have a **start date of July 15, 2024** and **end date of July 14, 2026**. However, the beginning of “grant activities” for awardees will vary based on their seasonality and submission of their first H-2A job order that includes all FLSP commitments:

- Most awardees will begin their “grant activities” with their next H-2A job order, which may be in 2024 or 2025, depending on seasonality.
- Awardees who have already adequately included FLSP Commitments in a previously submitted ETA-790 (Job Order) form can begin grant activities on July 15, 2024. See Question 6 for additional guidance.
- Grant activities must cover two full production seasons, beginning either in 2024 or 2025. All FLSP commitments must be implemented for at least two complete seasons.
- All awardees must begin their grant activities by at least Summer 2025, depending on your seasonality.

If an awardee will begin their grant activities on a future job order (this growing or production season or next), you may submit a request for a no-cost extension of time for consideration. USDA will consider all circumstances on a case-by-case basis. USDA requires all awardees to begin their grant activities no later than the summer of 2025.

5. What are “grant activities” and what activities are “allowable costs” under FLSP?

This is a fixed-award grant. That means that there is no requirement for post-award review of actual costs incurred under the grant since grant payments are aligned with achievement of key grant milestones, as provided in the Table in response to Question 1 and Section 7.3 of the FLSP Terms and Conditions.

Instead, the award can be used in a flexible manner to ensure that you achieve all of the commitments you make as part of your respective award level, including any costs related to business operations, provided the costs are allowable. Please see the unallowable costs in the Terms and Conditions, 6.1 Allowable and Unallowable Costs and Activities in the [FLSP General Terms and Conditions \(pdf\)](#). You can also visit our [FAQ page](#) to see more details on spending. Some typical allowable costs include:

- Costs related to the hiring and onboarding of U.S. and H-2A workers including, for example but not limited to recruitment, applications, attorneys, and other consulting fees, etc.
- Operations expenses related to labor costs, such as (but not limited to) wages, business and administrative costs necessary for compliance with the program commitments, etc.

6. I have recently submitted an H-2A job order. [Can I still use the grant on expenses related workers associated with that job order?](#)

Generally speaking, yes, you can use FLSP pre-award costs dating back to March 15, 2024, that are directly related to your federal grant award and are deemed necessary for efficient/timely performance of your FLSP commitments. However, such costs are only allowable within the parameters of the [FLSP Terms and Conditions](#). To ensure financial integrity, awardees must notify FLSP staff in writing that they plan to use funds for pre-award expenses.

Additionally, one of the requirements for the FLSP is that grantees must follow:

“...All commitments must be applied universally to all of the applicant’s agricultural employees, H-2A or otherwise, whether hired directly, jointly or via a contractor, at each and every work site within the applicant’s operation throughout the entirety of the grant performance period. If awarded, all commitments in the Awardee’s application must be included in their H-2A Job Order and in the work contract or other disclosure provided to employees.”

You must consider whether your DOL job order (ETA 790-A) offers sufficient detail to ensure that you are in compliance with H-2A rules.

Please see the grid below to determine whether you can or should use the grants on your current job order along with relevant next steps, or if you may consider waiting until your next job order

<u>Did not include FLSP commitments:</u>	<u>Included FLSP grant info but not in sufficient detail:</u>	<u>Included significant FLSP details:</u>
<p>Unfortunately, no.</p> <ul style="list-style-type: none"> - Because you have not yet submitted your FLSP commitments on your job order, you cannot consider work to date as "grant activities" and therefore use grant funds. - Job orders may not be amended once you have received your labor certification from DOL; you will have to begin your grant activities at the time you begin your next job order. 	<p>Maybe.</p> <ul style="list-style-type: none"> - If DOL/ETA has already cleared your job order and work has begun, we recommend that you submit your cleared job order to USDA (FLSPgrants@usda.gov). - The USDA team will help assess whether you have provided enough information to ensure that workers were informed of the terms of employment and help you assess whether you should consider starting your grant activities on your next job order so that you do not encounter any compliance issues under the H-2A regulations. - Alternatively, you can opt to begin your grant activities at the time you begin your next job order. 	<p>Yes.</p> <ul style="list-style-type: none"> - Requests for USDA to evaluate pre-award activities must be submitted to FLSPgrants@usda.gov no later than September 20, 2024 at 11:59pm Eastern Time. - This deadline is required to ensure such costs are charged to the initial budget period of the award and USDA cannot make any exceptions to this policy.

7. I committed to Northern Central American (NCA) Recruitment and am wanting to start my grant activities as soon as possible, and already included all of my FLSP grant commitments in 790A(s) for the workers I recruit from Mexico or other countries. However, I did not recruit any workers from NCA countries this year because I was waiting to hear if I was awarded the grant. I still plan to get workers from NCA next season. Would this knock me out of receiving any of the grant funds in 2024?

You have two options:

- i. **Lower award amount.** If you have made a commitment to recruit from NCA countries but you do not do this, it is possible that your award amount may be reduced to a lower level when you submit for your first payment as you must submit a copy of your [USCIS submitted I-129 form](#) which includes the country(ies) from which workers were issued visas from.

- ii. **Retain original award amount.** If you would like to retain your original award amount, we recommend that you begin your award activities on your next job order.

8. What happens if my financial needs exceed the amount of money I requested, and at the end of the performance period, the last payment does not cover all of the costs?

FLSP is a one-time grant program, therefore, there is no opportunity to request more funding if an awardee requires additional funds to meet their commitments.

Furthermore, it is important to understand all FLSP grant payments are driven by project milestones, research participation, and reporting requirements. Awardees need to demonstrate the continuation of FLSP commitments throughout each project year – except for KYRR training and NCA recruitment which only require completion in the first year. Developing a sound project management plan would help ensure your success.

Generally speaking, awardees cannot receive their final FLSP grant payment (totaling 25% of their grant total award) until the aforementioned reports/research participation requirements are confirmed.

Know Your Rights and Resources (KYRR) Trainings and Scheduling

9. I need to schedule my KYRR training ASAP. What do I do to get in touch with Alianza?

Awardees can only schedule trainings after agreements are fully executed. We are working diligently to create the agreements in our system.

At this time, awardees should take the following actions:

- 1) **Take the [FLSP Employer Activity Planning Form \(link here\)](#).** You should have received a survey from our Technical Assistance Cooperator, Seso, requesting more details about the timing needs you have for your KYRR and technical assistance needs to support Alianza in planning the training schedule. If you haven't yet taken it, please do so ASAP.
- 2) **Email Alianza to schedule your KYRR Training(s).** Each awardee is responsible for promptly reaching out to Alianza Nacional de Campesinas ("Alianza") to schedule their KYRR training session(s) with all hired farmworkers as promptly as possible. You should reach out as soon as you know when your workers begin, and you have signed your grant agreement with USDA.

Please reach out to KYRRtraining@campesinasunite.org. In your email, please include the following:

- Name of Grantee
- Contact information for point of contact for managing KYRR coordination
- Confirm Start and End dates for each job order(s)

Please familiarize yourself with the additional details below on scheduling as it will inform what you put into your email. In addition, the KYRR trainings and process will be reviewed in detail during the required FLSP orientation webinars in August 2024.

Additional Details on KYRR trainings

➤ Scheduling

- In order to meet the spirit of the KYRR requirement, Alianza will make an effort to schedule the trainings as early on into the job order for each group of workers AND will combine KYRR training for multiple job orders as much as possible to reduce burden on grantees and maximize the use of resources.
- Exact scheduling dates will depend on demand for KYRR sessions at that time and availability of the Alianza training team. Alianza will make reasonable efforts to accommodate employers' schedules to the best of their abilities.
 - **If you have multiple start dates** spanning several weeks or even months:
 - If start dates are reasonably close in proximity within a single locality, USDA recommends attempting to schedule KYRR training(s) for one date. This can include sequential dates for multiple individual 2-hour sessions if you employ more than 50 workers.
 - **If you have multiple job orders** (e.g. multiple start dates) the awardee will need to schedule KYRR dates separately for each job order. After employers reach out to Alianza to schedule their KYRR trainings, employers will be able to indicate their preferred training date ranges.
- Once the employer and Alianza confirm the training date(s) and time(s), Alianza will notify USDA of the scheduled training(s).

➤ Alianza will remain in contact with you leading up to KYRR training day(s), and all grantees are responsible for promptly responding to email and phone contact with Alianza. USDA will be conducting a webinar briefing with Alianza that all awardees are required to attend.

➤ Training structure

- Each KYRR 2-hour session can accommodate up to a maximum of 50 workers to ensure that everyone has a positive and productive learning experience.
- If you have more than 50 workers, Alianza will conduct the trainings in multiple sessions. That means you will work with Alianza to schedule multiple sessions, which can include up to two per day, or several sessions over the course of several days.
- If you have new groups of workers throughout your growing season, you will coordinate with Alianza to develop a schedule that accommodates that as well. Alianza will maintain the discretion to determine if trainings for workers under multiple job orders can be scheduled at the same time.

➤ Day of the training(s)

- Employers (or a designated agent) will facilitate Alianza’s arrival and ensure they have access to the designated conducive space for the KYRR sessions(s).
- During training(s), Alianza will take roll to confirm the attendance of all workers and confirm that management is not in attendance.
- If the Alianza trainers have any concerns about the KYRR training not meeting the standards established by USDA, Alianza will communicate concerns to the employer or their agent verbally, offering a chance to correct the issue, and in writing if necessary. Following successful completion of training(s), Alianza will contact USDA to confirm successful completion of the training. No initial payment will be issued until successful completion of KYRR; if employers or their agents do not fulfill their KYRR obligations, their grant payment(s) will be at risk.

10. If I have multiple job orders and my training dates are several months apart, does that mean I can’t receive payment until the last workers on my final job order participate in their KYRR?

Generally speaking, grantees cannot receive their first FLSP grant payment (totaling 50% of their grant total award) until all workers have received the KYRR training and all other requirements for the first payment (i.e., submitted job orders and I-129 forms, confirmation of recruitment) have been met. However, some employers have multiple start dates spanning several weeks or even months and if this poses significant challenges, please contact USDA: FLSPgrants@usda.gov.

Changes to Project and Changes Requiring Prior Written Approval

11. What if I cannot comply with the FLSP commitments that I made, or if one or more of my commitments is not active by the time I request my first FLSP payment? Can I still receive my first payment?

All FLSP commitments must be active for two full growing/production seasons during your FLSP Period of Performance, except for the KYRR training and NCA recruitment which only require completion in the first season. To receive your first grant payment, you must comply with all the reporting requirements listed in the Table outlined in Question 1 above (which is from Section 7.3 of the FLSP Terms and Conditions) and all FLSP commitments must be active. If USDA has concerns about a delay in the implementation of your FLSP grant commitments, this could cause a delay in the issuance of your first FLSP grant payment.

If you need to change one of your FLSP commitments, you should contact FLSPgrants@usda.gov as soon as possible; changes to your grant commitments will only be approved on a case-by-case basis.

If you selected participation in a WSR program or CBA, that commitment must be active before you receive your first grant payment. USDA may request updated CBA documentation throughout the grant Period of Performance. For WSRs, your active participation with your selected WSR program is subject to verification by USDA ahead of all grant payments. For clear guidelines on what qualifies as active “participation” in an WSR program, please contact your WSR partner.

12. What can USDA do if employers don't hire the total amount of workers they estimated in their application by the end of the period of performance?

Whether or not this affects the grant award amount depends on whether or not the reduction in hired workers puts the awardee in a different award category noted in the columns in the **Award Chart** below. If you anticipate changes in employee totals or total expected hours than those you indicated on your application, you should contact FLSPgrants@usda.gov. See also Section 7.0 in the **FLSP Terms and Conditions** for more information about changes to grant projects and activities requiring prior written approval from USDA, per the terms of the FSLP grant.

REMEMBER: Award amounts for FLSP grants were determined by two factors:

- i. **Requested award level (Baseline, Silver or Platinum)**
- ii. **Projected number of full-time equivalent agricultural employees (FTEs)**
This was measured by the total number of annual working hours of hired farmworkers. This is calculated as full-time year-round equivalency, or "FTEs." Each year-round equivalent FTE is equal to 2080 working hours (regardless of whether these hours are worked by 1 person, .75 persons or 2 or more people).

USDA used the following award chart with thresholds of 1-10 FTEs, 11-25 FTEs, etc., to determine the applicant's award category. If a grantee's FTEs change puts them in a different award column category, USDA will change the total grant award amount accordingly.

For example, if a Platinum-level grantee indicated on their FLSP application that they intended to employ farmworkers for 54,080 hours (equal to 26 FTEs) during the first year of their grant activities, they would be entitled to a \$800,000 award. However, if they end up only employing workers for a total of 50,000 hours (equal to 24 FTEs), USDA will reduce the grantee's award from \$800,000 to \$400,000 to align with the award chart.

Table 1. Award structure, based on FTEs and applicant commitment level.

Award amount	1-10 FTEs	11-25 FTEs	26-75 FTEs	76-200 FTEs	201-500 FTEs	501-2000 FTEs	2001+ FTEs
Baseline	\$ 25,000	\$ 50,000	\$ 100,000	\$ 150,000	\$ 180,000	\$ 215,000	\$ 250,000
Silver	\$ 100,000	\$ 200,000	\$ 400,000	\$ 600,000	\$ 720,000	\$ 860,000	\$ 1,000,000
Platinum	\$ 200,000	\$ 400,000	\$ 800,000	\$ 1,200,000	\$ 1,440,000	\$ 1,720,000	\$ 2,000,000

DOL Job Orders

13. How should FLSP awardees include their FLSP commitments in [DOL Job Orders \(ETA-790A\)](#) and other work contracts or disclosures provided to employees? Does USDA have recommendations or templates that awardees can use to ensure they include FLSP commitments correctly?

As stated in Section 1.3 on Table 2 of the [FLSP Notice of Funding Opportunity \(NFO\)](#), one of the baseline requirements for the FLSP is that

“All commitments must be applied universally to all of the applicant’s agricultural employees, H-2A or otherwise, whether hired directly, jointly or via a contractor, at each and every work site within the applicant’s operation throughout the entirety of the grant performance period ... all commitments in the Awardee’s application must be included in their H-2A Job Order.”

The language in the job order must fully capture the detailed commitments that the awardee made in their FLSP application, including all *Baseline* and *Supplemental* commitments, as well as working conditions described in Employer Practices and Plans.

The FLSP commitments should be included in the following areas of the ETA Form 790:

- 1) [ETA 790A](#), Section A and Addendum A → **all wage-related commitments**
Any commitments, practices, or terms of employment that are wage-related (e.g., bonus payments, overtime) must be included in the wage-related fields within Section A of ETA 790A, and, as directed in ETA 790A and its instructions.
- 2) [ETA 790A](#), [Addendum C](#) → **all non-wage-related commitments, employer practices or other terms and conditions**
Where there is not a specific form field for the commitment or benefit within Section A of ETA 790A, it should be listed in Addendum C.

FLSP commitments that should go in Addendum C include baseline FLSP commitments, non-wage related supplemental commitments (e.g., external innovative partner), as well as employer practices and terms and conditions of employment. This includes all benefits (e.g., paid sick leave, protections, and working conditions included in the FLSP narrative application form.

Question 11. Baseline Requirements

- While there was no narrative requirement for these commitments, the grantee should describe the four commitments they attested to doing in their application:
 - 1) universal protections and benefits
 - 2) participation in FLSP research and reporting which includes granting access to workers to take surveys and participating in in-person interviews,
 - 3) workers will all be made available to attend a 2-hour paid training on their rights and resources while working in the U.S.
 - 4) responsible recruitment methods, including recruiting U.S. based workers first, followed by recruitment by government Ministries that are registered with the government in the country (if they exist), or a letter articulating their recruitment practices, if they used a private recruiter.

Question 14. Supplemental Employee Commitments

If any applicant chose to make Supplemental commitments, they must describe them in detail as they did in the application along with any updates they have made since the application was submitted. Table 3. below lists all of the potential commitments that must be listed in Addendum C.

****Note:** If an awardee committed to one of these items but only offered a general description in the application, the addendum should include the final way they intend to implement the commitment so that workers know what to expect.

Question 15. Description of Employer Practices and Plans

While the information listed in this question was used on the application to inform competitiveness, this information is also the terms for employment that the applicant used to describe employer practices and plans that impact working conditions for workers. Include the details you included on 15.b of your application.

Table 3. Supplemental Employee Commitments for *Silver* and *Platinum* award levels

RESPONSIBLE RECRUITMENT	PAY, BENEFITS AND WORKING CONDITIONS	PARTNERSHIP AGREEMENTS
<i>Silver bundle:</i> recommended but not required <i>Platinum bundle:</i> required	<i>Silver bundle:</i> choose at least two <i>Platinum bundle:</i> choose at least three	<i>Silver bundle:</i> recommended, but not required <i>Platinum bundle:</i> choose at least one
1. Recruitment via NCA Ministries.	1. Overtime Pay. 2. Bonus Payment. 3. Paid Sick Leave. 4. Weekly Housing Maintenance Plan. 5. Collaborative Working Group. 6. Innovative External Partnership.	1. Participation in a Worker-driven Social Responsibility (WSR) program. 2. Participation in a Collective Bargaining Agreement (CBA). 3. Committing to Neutrality, Access, and Voluntary Recognition (where permitted under state law).

DOL Resources:

- [ETA Form 790A](#)
- [Read more about filing the ETA-790A Job Order form here.](#)
- [Form ETA-790A Addendum A](#)
- [Form ETA-790A Addendum C](#)

14. I file multiple job orders per year. How many do I need to submit and when?

You need to submit all job orders associated with your period of performance (between July 15, 2024 - July 14, 2026) that include FLSP commitments; these job orders should cover the totality of all employees indicated in your FLSP application, who will be employed on your operation during the performance period.

Awardees should submit job orders (ETA-790A) to FLSPgrants@usda.gov when they are ready to request their first grant payment, per **Section 7.3** in the [FLSP Notice of Funding Opportunity \(NFO\)](#). Please see Question 1 for more details.

If an awardee has multiple job orders, such as one from January to March and another from April to September, with no overlap between the orders, this may affect the scheduling of KYRR training sessions and the timing of the first payment. For additional details on KYRR scheduling, [see question 10](#).

Awardees with multiple start dates spanning several weeks or months should contact USDA to assess anticipated challenges. USDA could consider, on a case-by-case basis, the issuance of a partial first award payment – **IF** – the majority (more than 50%) of an employer’s workers have already received the

KYRR training. However, partial payment requests related to job order timing differences may only be approved where there is sufficient justification and extenuating circumstances.

Terms & Conditions

Forthcoming based on July 22, 2024 webinar.