

monthly AEW of \$1,901.21, the agreed-upon collective bargaining wage, or the applicable minimum wage imposed by Federal or State law or judicial action at the time work is performed on or after the effective date of this notice.

Authority: 20 CFR 655.211(b).

Brent Parton,

Acting Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2022-27333 Filed 12-15-22; 8:45 am]

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DEPARTMENT OF LABOR

Employment and Training Administration

Labor Certification Process for the Temporary Employment of Foreign Workers in Agriculture in the United States: Adverse Effect Wage Rates for Non-Range Occupations in 2023

AGENCY: Employment and Training Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Employment and Training Administration of the Department of Labor (DOL) is issuing this notice to announce the 2023 Adverse Effect Wage Rates (AEWR) for the employment of temporary or seasonal nonimmigrant foreign workers (H-2A workers) to perform agricultural labor or services other than the herding or production of livestock on the range. AEWRs are the minimum wage rates the DOL has determined must be offered and paid by employers to H-2A workers and workers in corresponding employment to help ensure the Department meets its statutory obligation to certify that the employment of H-2A foreign workers will not have an adverse effect on the wages of agricultural workers in the United States (U.S.) similarly employed. In this notice, DOL announces updates of the AEWRs and the average AEWR, which is used to calculate adjustments to required bond amounts for H-2A Labor Contractors.

DATES: These rates are applicable January 1, 2023.

FOR FURTHER INFORMATION CONTACT: Brian Pasternak, Administrator, Office of Foreign Labor Certification, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N-5311, Washington, DC 20210, telephone: (202) 693-8200 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone numbers above via

TTY/TDD by calling the toll-free Federal Information Relay Service at 1 (877) 889-5627.

SUPPLEMENTARY INFORMATION: The U.S. Citizenship and Immigration Services of the Department of Homeland Security will not approve an employer's petition for the admission of H-2A nonimmigrant temporary and seasonal agricultural workers in the U.S. unless the petitioner has received an H-2A labor certification from DOL. The labor certification provides that: (1) there are not sufficient U.S. workers who are able, willing, and qualified and who will be available at the time and place needed to perform the labor or services involved in the petition; and (2) the employment of the foreign worker(s) in such labor or services will not adversely affect the wages and working conditions of workers in the U.S. similarly employed. See 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184(c)(1), and 1188(a); 8 CFR 214.2(h)(5); 20 CFR 655.100.

Adverse Effect Wage Rates for 2023

DOL's H-2A regulations at 20 CFR 655.122(l) provide that employers must pay their H-2A workers and workers in corresponding employment at least the highest of: (i) the AEWR; (ii) a prevailing wage rate if the Office of Foreign Labor Certification (OFLC) Administrator has approved a prevailing wage survey for the applicable crop activity or agricultural activity and, if applicable, a distinct work task or tasks performed in that activity; (iii) the agreed-upon collective bargaining wage rate; (iv) the Federal minimum wage rate; or (v) the State minimum wage rate, whichever is highest, for every hour or portion thereof worked during a pay period. Further, when the AEWR is adjusted during a work contract and is higher than the highest of the previous AEWR, a prevailing rate for the crop activity or agricultural activity and, if applicable, a distinct work task or tasks performed in that activity and geographic area, the agreed-upon collective bargaining wage, the Federal minimum wage rate, or the State minimum wage rate, the employer must pay at least that adjusted AEWR upon the effective date of the new rate, as provided in the applicable **Federal Register** Notice. See 20 CFR 655.120(b)(3). Similarly, when the AEWR is adjusted during a work contract and lower than the wage rate that is guaranteed on the job order, the employer must continue to pay at least the wage rate guaranteed on the job order. See 20 CFR 655.120(b)(4).

On November 5, 2020, DOL published a final rule, *Adverse Effect Wage Rate*

Methodology for the Temporary Employment of H-2A Nonimmigrants in Non-Range Occupations in the United States, 85 FR 70445 (2020 AEWR Final Rule), to establish a new methodology for setting hourly AEWRs, effective December 21, 2020. Litigation followed the 2020 AEWR Final Rule's publication. On December 23, 2020—two days after the 2020 AEWR Final Rule went into effect—the court in *United Farm Workers, et al. v. Dep't of Labor, et al.*, No. 20-cv-01690 issued an order preliminarily enjoining the Department from further implementing the 2020 AEWR Final Rule and ordering the Department to use the 2010 H-2A Final Rule methodology for establishing hourly AEWRs.¹ On April 4, 2022, the court vacated the 2020 AEWR Final Rule.² Accordingly, DOL has used the methodology set forth in the 2010 H-2A Final Rule to determine the 2023 AEWRs.

The 2023 AEWRs for all agricultural employment (except for the herding or production of livestock on the range, which is covered by 20 CFR 655.200 through 655.235) for which temporary H-2A certification is being sought is equal to the annual weighted average hourly wage rate for field and livestock workers (combined) in the State or region as published by the U.S. Department of Agriculture (USDA) in the November 23, 2022, Farm Labor Report. DOL's regulation, 20 CFR 655.120(b)(2), requires that the OFLC Administrator publish the USDA field and livestock worker (combined) wage data as AEWRs in a **Federal Register** Notice. Accordingly, the 2023 AEWRs to be paid for agricultural work performed by H-2A and workers in corresponding employment on and after the effective date of this notice are set forth in the table below:

TABLE—2023 ADVERSE EFFECT WAGE RATES

State 2023 AEWRs	
Alabama	\$13.67
Arizona	15.62
Arkansas	13.67
California	18.65
Colorado	16.34
Connecticut	16.95
Delaware	16.55
Florida	14.33
Georgia	13.67
Hawaii	17.25
Idaho	15.68
Illinois	17.17
Indiana	17.17
Iowa	17.54

¹ 509 F. Supp. 3d 1225 (E.D. Cal. 2020).

² No. 20-cv-01690-DAD-BAK, 2022 WL 1004855 (E.D. Cal. April 4, 2022).

TABLE—2023 ADVERSE EFFECT WAGE RATES—Continued

State 2023 AEWRs	
Kansas	17.33
Kentucky	14.26
Louisiana	13.67
Maine	16.95
Maryland	16.55
Massachusetts	16.95
Michigan	17.34
Minnesota	17.34
Mississippi	13.67
Missouri	17.54
Montana	15.68
Nebraska	17.33
Nevada	16.34
New Hampshire	16.95
New Jersey	16.55
New Mexico	15.62
New York	16.95
North Carolina	14.91
North Dakota	17.33
Ohio	17.17
Oklahoma	14.87
Oregon	17.97
Pennsylvania	16.55
Rhode Island	16.95
South Carolina	13.67
South Dakota	17.33
Tennessee	14.26
Texas	14.87
Utah	16.34
Vermont	16.95
Virginia	14.91
Washington	17.97
West Virginia	14.26
Wisconsin	17.34
Wyoming	15.68

The AEWRs set forth in the table above are the AEWRs applicable to the SOC 45–2092 (Farmworkers and Laborers, Crop, Nursery, and Greenhouse), published by the OFLC Administrator in accordance with 20 CFR 655.120(b)(2). Accordingly, the simple average of these AEWRs constitutes the average AEWR. See 20 CFR 655.103(b) (definition of average AEWR). The simple average is calculated by finding the sum of the AEWRs listed in the table above, then dividing by the total number of AEWRs, which is currently 49 (\$790.61/49 = \$16.13). On and after the effective date of this notice, the average AEWR to be used to calculate the bond amounts required under 20 CFR 655.132(c)(2)(ii) is \$16.13.

Authority: 20 CFR 655.120(b)(2); 20 CFR 655.103(b).

Brent Parton,

Acting Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2022–27332 Filed 12–15–22; 8:45 am]

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MILLENNIUM CHALLENGE CORPORATION

[MCC FR 22–17]

Report on the Selection of Eligible Countries for Fiscal Year 2023

AGENCY: Millennium Challenge Corporation.

ACTION: Notice.

SUMMARY: This report is provided in accordance with the Millennium Challenge Act of 2003, as amended. The report is set forth in full below.

SUPPLEMENTARY INFORMATION:

Report on the Selection of Eligible Countries for Fiscal Year 2023

Summary

This report is provided in accordance with section 608(d)(1) of the Millennium Challenge Act of 2003, as amended (the Act) (22 U.S.C. 7707(d)(1)).

The Act authorizes the provision of assistance under section 605 of the Act (22 U.S.C. 7704) to countries that enter into compacts with the United States to support policies and programs that advance the progress of such countries in achieving lasting poverty reduction through economic growth, and are in furtherance of the Act. The Act requires the Millennium Challenge Corporation (MCC) to determine the countries that will be eligible to receive assistance for the fiscal year, based on their demonstrated commitment to just and democratic governance, economic freedom, and investing in their people, as well as on the opportunity to reduce poverty through economic growth in the country. The Act also requires the submission of reports to appropriate congressional committees and the publication of notices in the **Federal Register** that identify, among other things:

1. The countries that are “candidate countries” for assistance for fiscal year (FY) 2023 based on their per-capita income levels and their eligibility to receive assistance under U.S. law, and countries that would be candidate countries, but for specified legal prohibitions on assistance (section 608(a) of the Act (22 U.S.C. 7707(a)));
2. The criteria and methodology that the Board of Directors of MCC (the Board) used to measure and evaluate the policy performance of the “candidate countries” consistent with the requirements of section 607 of the Act in order to determine “eligible countries” from among the “candidate countries” (section 608(b) of the Act (22 U.S.C. 7707(b))); and

3. The list of countries determined by the Board to be “eligible countries” for FY 2023, with justification for eligibility determination and selection for compact negotiation, including with which of the eligible countries the Board will seek to enter into compacts (section 608(d) of the Act (22 U.S.C. 7707(d))).

This is the third of the above-described reports by MCC for FY 2023. It identifies countries determined by the Board to be eligible under section 607 of the Act (22 U.S.C. 7706) for FY 2023 with which the MCC will seek to enter into compacts under section 609 of the Act (22 U.S.C. 7708), as well as the justification for such decisions. The report also identifies countries selected by the Board to receive assistance under MCC’s threshold program pursuant to section 616 of the Act (22 U.S.C. 7715).

Eligible Countries

The Board met on December 8, 2022 to select those eligible countries with which the United States, through MCC, will seek to enter into a Millennium Challenge Compact pursuant to section 607 of the Act (22 U.S.C. 7706). The Board selected the following eligible countries for such assistance for FY 2023: Senegal, The Gambia, and Togo. The Board also selected the following previously selected countries for compact assistance for FY 2023: Côte d’Ivoire, Mozambique, Sierra Leone, and Zambia.

Criteria

In accordance with the Act and with the “Report on the Criteria and Methodology for Determining the Eligibility of Candidate Countries for Millennium Challenge Account Assistance in Fiscal Year 2023” formally submitted to Congress on September 27, 2022, selection was based primarily on a country’s overall performance in three broad policy categories: *Ruling Justly*, *Encouraging Economic Freedom*, and *Investing in People*. The Board relied, to the fullest extent possible, upon transparent and independent indicators to assess countries’ policy performance and demonstrated commitment in these three broad policy areas. The Board compared countries’ performance on the indicators relative to their income-level peers, evaluating them in comparison to either the group of countries with a GNI per capita equal to or less than \$2,045, or the group with a GNI per capita between \$2,046 and \$4,255.

The criteria and methodology used to assess countries, including the methodology for the annual scorecards, are outlined in the “Report on the Criteria and Methodology for