

Texas Workforce Commission

**Employment Service
Guide**

March 2011

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Employment Service Guide

Overview of Guide

The Employment Service (ES) program administered by the Texas Workforce Commission (TWC) is governed by the Wagner-Peyser Act and federal regulations published by the U.S. Department of Labor's Employment and Training Administration, and is funded by unemployment insurance (UI) taxes assessed on employers through the Federal Unemployment Tax Act (26 U.S.C., Chapter 23).

The Wagner-Peyser Act of 1933 established a nationwide system of public employment offices known as the Employment Service (formerly known as Job Service). The Wagner-Peyser Act was later amended in relation to the Workforce Investment Act of 1998 and its establishment of the one-stop service delivery system.

The one-stop delivery system is intended to provide universal access, through self-service or with staff assistance, to an integrated array of labor exchange (ES) services. This allows employers, workers, and job seekers to obtain the services they need, when they need them, and in the manner in which they prefer (e.g., online, in person, by phone).

ES focuses on providing a variety of employment-related services, including:

- job search assistance, job referral, and placement assistance for job seekers;
- reemployment services for UI claimants; and
- recruitment services for employers with job openings.

Depending on the needs of the labor market, other services also may be available, such as:

- assessment of skill levels, abilities, and aptitudes;
- career guidance;
- job search workshops; and
- referral to training.

Employer services include:

- the referral of job seekers to available job openings;
- assistance in the development of job posting requirements;
- matching job seekers with job requirements, skills, and other attributes;
- assisting employers with special recruitment needs;
- arranging job fairs;
- assisting employers with analyzing hard-to-fill jobs;
- assisting with job restructuring; and
- helping employers with layoffs.

In addition to universal access for employers and job seekers, ES provides specialized service to:

- veterans;
- individuals with disabilities;
- migrant and seasonal farmworkers;
- ex-offenders;
- youth; and
- older workers.

The core principles of the ES program are to:

- assist employers in filling jobs by recruiting, screening, and referring qualified job seekers that meet job requirements;
- assist job seekers in finding employment for which they are qualified, in order to provide them long-term employment stability and earnings potential;
- facilitate job matching between employers and job seekers;
- participate in clearing labor between states, including using a standardized classification system;
- ensure UI claimants meet the work test requirement by registering with the state ES system;
- provide information regarding labor market conditions; and
- address or assist in addressing labor issues in regard to state and federal laws.

Purpose

The purpose of this guide is to:

- provide information about ES policies and procedures; and
- highlight how ES supports the primary mission of TWC and Local Workforce Development Boards (Boards).

Objectives

The objectives of this guide are to:

- establish a comprehensive resource for ES information and operational guidance and oversight of service delivery;
- communicate expectations for program design and service delivery; and
- ensure a consistent level of service.

Target Audience

The target audience for this guide is:

- Workforce Solutions Office staff;
- Board staff; and
- TWC staff.

Parts of the Guide

The numbering system for this guide is based on alphabetical divisions, with numerical subdivisions.

[Part A: Operations](#)

[Part B: Delivery of Services](#)

[Part C: Oversight](#)

[Part D: List of Revisions](#)

Changes to Content

TWC maintains the ES guide online at www.twc.state.tx.us/boards/guides/guides.html to provide access to current statewide policy and guidance information.

Updates to the guide will be issued through WD Letters and Release Notes, which will indicate that the guide has been revised to incorporate new information. Part D of the guide, List of Revisions, contains the revision date, the section revised, and a brief explanation of the specific revision.

Employment Service Guide

Part A – Operations

A-100: Program Requirements

A-101: Code of Federal Regulations, Part 652

The Code of Federal Regulations (CFR), Title 20, Chapter V, Part 652 (Establishment and Functioning of State Employment Services) requires that, at a minimum, each state administer a labor exchange (job matching) system that has the capacity to:

- assist job seekers in finding employment;
- assist employers in filling job openings;
- facilitate the match between job seekers and employers;
- participate in a system for clearing labor between the states, including the use of standardized classification systems issued by the Secretary of Labor; and
- meet the work test requirements of the state unemployment compensation system.

The entire text of 20 CFR, Chapter V, Part 652, is available on the U.S. Department of Labor (DOL) Website at www.dol.gov/dol/cfr/Title_20/Chapter_V.htm.

A-102: Interstate Clearance of Job Postings

Interstate clearance of job postings ensures that job seekers and employers in multistate labor areas have full access to job opportunities and the available labor pool, respectively, without regard to state boundaries. This is primarily directed at and particularly helpful to agricultural employers and laborers.

When an out-of-state employer wishes to post an out-of-state job in WorkInTexas.com, Local Workforce Development Boards (Boards) must ensure that Workforce Solutions Office staff directs the employer to the Employment Service (ES) agency in the employer's home state. If the employer wishes to post farm work or food processing jobs—regardless of the state in which the employer operates—Boards must ensure that Workforce Solutions Office staff directs the employer to the Texas Workforce Commission's (TWC) Agricultural Services Unit.

To find an ES office in a particular state, go to America's Service Locator at www.servicelocator.org and enter the zip code or other location information.

A-103: Nondiscrimination

20 CFR §652.8(j)(1) requires, in part, that:

No individual be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with any services or activities authorized under the [Wagner-Peyser] Act because of age, race, sex, color, religion, national origin, handicap [disability], political affiliation or belief.

Section 652.8(j)(2) requires, in part, that discriminatory job postings must not be accepted, except where the stated requirement is a bona fide occupational qualification (BFOQ). See also B-305.f: Job Posting with a Bona Fide Occupational Qualification.

Boards must ensure that job postings comply with all applicable federal and state laws, such as the Fair Labor Standards Act, the Texas Child Labor Law, and the Texas Payday Law.

A-104: Employment Service Complaints

The two types of ES complaints are:

- those involving an employer where potential illegal hiring activities or practices are taking place. These complaints are regarding a specific job to which the job seeker self-referred or was referred by Workforce Solutions Office staff and includes:
 - violations of the terms and conditions of the job posting; or
 - violations of employment-related law (i.e., employer related); and
- those related to the type and quality of services provided by a Workforce Solutions Office, including complaints submitted to TWC regarding staff actions or omissions under ES regulations.

See also B-501: Complaint Procedures.

A-105: Affirmative Action

Affirmative action refers to actions imposed on or assumed by an employer to provide equal employment opportunities for members of a specified group who, for reasons of past custom, historical practice, or other non-occupationally valid purposes, have been discouraged from entering certain occupational fields. (See 20 CFR §651.10.)

A-106: Labor Disputes

During a labor dispute such as a strike or employee lockout, no job posting will be accepted and no job referral will be made directly or indirectly to fill a job opening that is at issue in the labor dispute. (For additional information, see [B-304.g: Labor Disputes.](#))

A-107: Unemployment Insurance Work Test

Workers who lose their jobs through no fault of their own may be eligible for unemployment benefits, which are funded by a state employer tax. To comply with the work test requirements, an unemployment insurance (UI) claimant must be able and available to accept suitable work and must be actively seeking work if required to do so.

Boards must ensure that when Workforce Solutions Office staff becomes aware that a UI claimant has failed to comply with the work test, staff reports the failure to the local Workforce/Unemployment Insurance (WF/UI) coordinator, who in turn reports the issue to the state WF/UI coordinator.

For additional information, see:

- 20 CFR §652.210;
- Texas Unemployment Compensation Act §207.008 and §207.021;
- TWC's UI rules at 40 Texas Administrative Code (TAC), Chapter 815, §815.20 and §815.28; and
- [B-404: Employment Service / Unemployment Insurance Coordination.](#)

A-108: Veterans Priority

Serving veterans is the responsibility of all Workforce Solutions Office staff.

To reinforce the federal priority of service provisions under the Jobs for Veterans Act of 2002, and to implement state priority of service provisions, Boards must ensure that eligible veterans, who are entitled to receive priority over all other equally eligible individuals in the receipt of workforce services, are:

- identified as an eligible veteran at the point of entry;
- informed of their entitlement to priority of service; and
- provided priority of service in all programs or services that are funded in whole or in part by DOL.

For additional information, see the following:

- Title 38 U.S.C. §4215
- 20 CFR Part 1010, Priority of Service for Covered Persons

- Training and Employment Guidance Letter No. 10-09, issued November 10, 2009, and entitled “Implementing Priority of Service for Veterans and Eligible Spouses in all Qualified Job Training Programs Funded in whole or in part by the U.S. Department of Labor (DOL)”
- Texas Labor Code §302.014
- Texas Family Code, Chapter 264
- WD Letter 04-09, Change 3, issued January 20, 2010, and entitled “Priority of Service for Eligible Veterans and Eligible Foster Youth: *Update*,” and subsequent issuances.

A-109: Services to Persons with Disabilities

The Wagner-Peyser Act and the Americans with Disabilities Act (ADA) provide for voluntary disclosure of disabilities. ADA also requires that reasonable accommodations be provided upon request to job seekers seeking Workforce Solutions Office services.

Boards must ensure that Workforce Solutions Office staff does not disclose information to potential employers about a job seeker’s disability without prior approval from the job seeker.

A-110: Equality of Service to Migrant and Seasonal Farmworkers

Boards must ensure that migrant and seasonal farmworkers (MSFWs) receive services that are qualitatively equivalent and quantitatively proportionate to services provided to non-MSFWs.

For additional information on MSFWs, see 20 CFR, Chapter V, §653.101, at www.dol.gov/dol/cfr/Title_20/Chapter_V.htm.

A-111: Open Records

All ES program information, such as WorkInTexas.com employer accounts, job postings, job seeker work registrations, and service records, are public records.

Boards must comply with the responsibilities and requirements set forth in the Open Meetings and Public Information Acts, and in WD Letter 80-05, Change 1, issued March 19, 2008, and entitled “Senate Bill 286: Open Meetings and Public Information Training Requirements for Elected and Appointed Public Officials and Board Responsibilities under the Open Meetings Act and Public Information Act,” and subsequent issuances.

For additional information, see [B-502: Request for Information](#).

A-112: Financial Literacy

Texas Labor Code §302.0027 requires that TWC and the Boards ensure that all workforce development programs offered in the state include training in financial literacy.

For additional information, see:

- [B-503: Financial Literacy](#); and
- WD Letter 60-05, issued October 28, 2005, and entitled “Implementation of Financial Literacy Training in Workforce Development Services,” and subsequent issuances.

A-113: Professional Standards

To avoid any appearance of impropriety, Boards must ensure that Workforce Solutions Office staff is prohibited from accomplishing any of the following tasks without first obtaining management permission:

- completing, updating, or keying a job seeker account for themselves, a coworker, a relative, or a friend using their WorkInTexas.com staff logon; or
- referring themselves, a coworker, a relative, or a friend to a job posting using their WorkInTexas.com staff logon.

Note: If the service provided is a referral to a job, Boards must ensure that management approval is documented on the WorkInTexas.com *Job Posting Notes* page.

Additionally, Boards must ensure that Workforce Solutions Office staff does not make inquiries in the UI Tax or UI Benefits systems for themselves, a coworker, a relative, or a friend.

If a conflict occurs or the appearance of impropriety emerges, Boards must ensure that Workforce Solutions Office staff immediately reports the incident to their supervisor.

Boards also must ensure that Workforce Solutions Office staff:

- does not access or monitor any records except those that are absolutely necessary to complete assigned job duties; and
- is aware that certain information is of a personal nature, is sensitive and confidential under law, and will be disclosed only in compliance with Commission guidelines and the Public Information Act.

For additional information, see:

- [B-501.d: Security of Personal Identity Data](#)
- [B-502: Request for Information](#)

Employment Service Guide

Part B – Delivery of Services

B-100: Delivery of Services

Local Workforce Development Boards (Boards) must ensure that a variety of services and multiple levels of services are offered to employers and job seekers. Employment Service (ES) is one segment of the services available in Workforce Solutions Offices. The Wagner-Peyser Act states that “the basic purpose of ES is to improve the functioning of the nation’s labor markets by bringing together individuals who are seeking employment and employers who are seeking workers.”

ES provides universal access to:

- job search and placement assistance;
- job referrals;
- labor market information; and
- an array of other services available in Workforce Solutions Offices throughout the state.

In 2003, the Texas Workforce Commission (TWC) implemented the Texas Model for the delivery of ES services. Under the Texas Model, Boards and their Workforce Solutions Offices have full responsibility for day-to-day guidance of state ES staff. TWC still maintains administrative responsibility, but Workforce Solutions Office managers share responsibility for directing daily work assignments, assigning individual performance goals, coordinating hiring, initiating disciplinary action, and evaluating staff performance.

All direction and guidance given to ES employees must be consistent with the provisions of state and federal laws, rules, and regulations governing the administration and delivery of the ES program. TWC provides technical support and quality assurance to Boards and contracted service providers through local Integrated Service Area Managers.

B-200: WorkInTexas.com

WorkInTexas.com helps employers and job seekers connect through the Internet. Employers and job seekers can register online, browse job seekers or jobs, and request matches against job postings and work registrations.

WorkInTexas.com features—available free of charge to employers—include:

- online self-registration;
- online job posting and job matching in real time;
- ability to view résumés and contact job seekers immediately;
- e-mail notification of matches, if requested;
- current labor market information; and
- other recruiting tools and information.

WorkInTexas.com features—available free of charge to job seekers—include:

- online self-registration;
- résumé creation;
- online creation of a State of Texas Application for Employment to apply for state jobs;
- online job matching;
- ability to browse jobs and contact employers immediately;
- e-mail notification of matches, if requested;
- current labor market information;
- access to career tools and training resources; and
- access to job notices from other sources (e.g., JobCentral).

B-300: Services to Employers

State law requires that Boards establish an employer services component as an integral part of the local workforce system. As part of the Texas workforce system, Boards must establish and maintain an effective working relationship with their local business community. Employer services are a critical link between workforce services and employer needs.

Each Board must establish a process that meets the needs of its local businesses. Boards must direct employer services toward:

- promoting the use of the full range of Texas workforce system services and facilities;
- identifying the specific employment needs of individual employers, and providing the appropriate solutions available through the Texas workforce system;
- providing recruitment and placement assistance; and
- obtaining and maintaining current information from local employers concerning their:
 - labor needs;
 - employment and training opportunities; and
 - other information to use in providing services to employers and job seekers.

Employer services provided at Workforce Solutions Offices include:

- outreach to promote the use of Workforce Solutions Office facilities and services;
- entry, review, and maintenance of job postings in WorkInTexas.com;
- making contacts and filling job postings;
- specialized testing;
- WorkInTexas.com technical assistance;
- recruitment assistance;
- information on employment-related issues;
- employer training services;
- rapid response to layoffs and business closures;
- agricultural clearance; and
- Work Opportunity Tax Credit (WOTC).

B-301: Employer Access to Systems and Services

For the purposes of ES, an employer is defined by the U.S. Department of Labor (DOL) (20 CFR §651.10) as follows:

A person, firm, corporation or other association or organization (1) which currently has a location within the United States to which U.S. workers may be referred for employment and which proposes to employ a worker at a place within the United States and (2) which has an employer relationship with respect to employees under this subpart as indicated by the fact that it hires, pays, fires, supervises and otherwise controls the work of such employee. An association of employers shall be considered an employer if it has all of the indications of an employer set forth in this definition. Such an association, however, shall be considered as a joint employer with the employer member if either shares in exercising one or more of the definitional indications.

Note: Federal contractors associated with the military as employers are considered employers, even if the jobs are located outside the United States.

Boards must ensure that appropriate staff follows the employer approval process outlined below prior to entering into any cooperative agreement to provide employer services, including:

- employer outreach (in person or by telephone);
- Workforce Solutions Office orientation;
- employer site recruiting;
- interview rooms;
- job fairs; and
- customized employer training.

Boards must be aware that to self-register a new employer account in WorkInTexas.com, an entity must have one of the following:

- Tax account number
- Federal Employer Identification Number (FEIN) related to a tax account number

Note: Boards must ensure that Workforce Solutions Office staff with access to the mainframe system through the Resource Access Control Facility (RACF) provides employers with their tax account number upon request—but only after confirming the employer’s identity.

Approval of New Employer Accounts

Boards must be aware that entities that do not have one of the above items necessary to self-register with WorkInTexas.com will be:

- unable to access the system at that time; and
- directed to contact a Workforce Solutions Office for assistance with account registration.

When an entity without a tax account number wishes to post a job opening in WorkInTexas.com, Boards must ensure that appropriate staff approves the new employer account if the entity:

- meets the definition of employer, as set forth in 20 CFR §651.10; and
- agrees to comply with the job posting requirements in the Employer Use Agreement, located at wit.twc.state.tx.us/WORKINTEXAS/wtx?pageid=EV_REG_AGRMNT&lang=en.

If an entity meets the above criteria, Boards must ensure that appropriate staff provides assistance by:

- establishing a WorkInTexas.com employer account and setting the approved status of the new employer account to *Yes*; and
- offering assistance with entering job postings.

Boards must ensure that *only employers that request* to establish a tax account number are referred to the Unemployment Tax Registration page at www.twc.state.tx.us/ui/tax/uitaxreg.html.

When an *out-of-state* employer wishes to post a job in WorkInTexas.com, Boards must ensure that:

- if the job is *in Texas*, appropriate staff follows the same procedures used for Texas employers that do not have a tax account number; and
- if the job is *out-of-state*, appropriate staff refers the out-of-state employer to the ES agency in the employer’s home state.

If the employer wishes to post farm work or food processing jobs—regardless of the state in which the employer operates—Boards must ensure that appropriate staff directs the employer to TWC’s Agricultural Services Unit.

Ineligible Employers and Entities—New and Existing Employer Accounts

If an employer or entity is determined to be ineligible to use WorkInTexas.com, Boards must ensure that appropriate staff:

- clearly communicates the reasons for ineligibility to the entity;
- provides the entity with alternatives for posting the job (e.g., other websites, print media, bulletin boards); and
- documents the conversation and outcome using the Business Customer Management module in WorkInTexas.com, as follows:
 - For new employers that are determined ineligible prior to registration, document the conversation and outcome in the *Customer Management Notes* attached to the Ineligible Employer account (Employer ID 1279913).
 - For existing employer accounts that are determined ineligible after registration, document the conversation and outcome in the *Customer Management Notes* attached to the existing employer account, as well as the *Customer Management Notes* attached to the Ineligible Employer account (Employer ID 1279913).

TA Bulletin 158, Change 1, issued March 1, 2011, and entitled “Documenting Ineligible Employers and Entities in the Business Customer Management Module of WorkInTexas.com—*Update*,” provides detailed instructions on documenting ineligible employers and entities in WorkInTexas.com (<http://www.twc.state.tx.us/boards/tabull/tabull.html>).

TA Bulletin 211, Change 1, issued March 1, 2011, and entitled “Determining Employing Entities’ Access to WorkInTexas.com —*Update*,” provides detailed information on how to determine whether an employing entity should be granted access to WorkInTexas.com (<http://www.twc.state.tx.us/boards/tabull/tabull.html>).

B-302: Discontinuation of Services to Employers

Boards must be aware that services to employers can be discontinued if employers:

- refuse to alter or withdraw job postings containing specifications that are contrary to employment-related laws;
- refuse to provide assurances that the jobs offered are in compliance with employment-related laws;
- are found through field checks or otherwise to have either misrepresented the terms or conditions of employment specified on job postings or failed to comply with assurances made on job postings;
- are found by a final determination by an appropriate enforcement agency to have violated any employment-related laws, and notification of this final determination has been provided to TWC by that enforcement agency;
- are found by TWC to have violated ES regulations set forth in 20 CFR §658.416(d)(4);
- refuse to accept qualified workers referred through the interstate clearance system; or
- refuse to cooperate in field checks.

In any of these situations, Boards must document the following information in the Business Customer Management module in WorkInTexas.com and make an effort to connect with the employer to address the situation:

- WorkInTexas.com employer identification number
- Employer name and location
- Date the job posting was submitted
- Job posting identification number
- Brief description of the problem or situation
- Brief description of the Board's efforts to address the situation

If the employer is unwilling or a Board is unable to address the situation, Boards must send a written discontinuation of services request—by letter or e-mail—to TWC's Workforce & UI Policy and Program Assistance Department. In addition to the information listed above, this request must include a summary of the employer's violations of ES regulations and how the Board has addressed the situation.

Boards must be aware that TWC will initiate procedures for discontinuation of services in accordance with 20 CFR, Part 658, Subpart F, when the decision is based on one of the above violations.

Boards must be aware that TWC will:

- advise Boards of the outcome of any investigation and what action should be taken, including the discontinuation or reinstatement of the provision of services; and
- expect the Board to notify the employer of such action.

B-303: Job Postings in WorkInTexas.com

WorkInTexas.com gives employers access to the largest database of job seekers in Texas. Employers can enter, update, and archive job postings securely.

Boards must be aware of the following:

When entering job postings in WorkInTexas.com, employers can:

- specify job qualifications based on skills and experience;
- conduct a search of the job seeker database for matches based on job qualifications;
- view résumés and contact job seekers immediately;
- receive e-mail notification of matches;
- receive a list of qualified job seekers; and
- access labor market information.

The WorkInTexas.com job seeker database includes everyone from skilled professionals to temporary laborers. The system allows for quick viewing of a list of skills and qualifications for each job seeker. Interested employers also can access job seeker contact information.

Workforce Solutions Office staff can access both employer job postings and job seeker accounts entered into WorkInTexas.com.

Employers can post their own jobs or provide job posting information to Workforce Solutions Office staff for the matching and referral of qualified job seekers. The job posting information allows Workforce Solutions Office staff to:

- evaluate the hiring requirements of the employer and determine whether those requirements are legal and related to job performance; and
- evaluate the qualifications of the job seeker.

A WorkInTexas.com job posting includes the following information:

- **General Details**—includes, but is not limited to, employer name, job title, service level, and number of openings.
- **Job Details**—includes job site address, job description, and driver’s license requirements. Job description must be nondiscriminatory and realistic and include, if applicable, physical requirements such as poundage and frequency of lifting (to avoid discrimination by sex or disability), age [if a bona fide occupational qualification (BFOQ)], and citizenship (if BFOQ). (See [B-306: Recruitment Assistance](#).)

Note: The job posting must not contain subjective remarks and personal judgments unrelated to job performance.

- **Occupation, Experience, and Education**—includes required occupation, experience, minimum education, and license or certification requirements, in addition to optional skills and license or certification type.
- **Job Requirements**—includes match requirements (e.g., veterans only, keywords, and computer or language skills).
- **Pay, Workweek, and Benefit Details**—includes pay and workweek information and benefit details, if applicable.
- **Contact Information**—includes contact, contact method, additional contact instructions, and website address, if applicable.

- **Job Status and Employer Questions**—includes optional employer questions and the status of the job.

When an employer’s job application is provided to job seekers through the referral process (distributed by Workforce Solutions Office staff when there is an existing job posting in WorkInTexas.com), Boards must ensure that Workforce Solutions Office staff:

- reviews the application for illegal or discriminatory questions or statements; and
- directs concerns regarding potentially illegal or discriminatory statements in an employer’s job application to the Board’s Equal Opportunity Officer for review and determination.

- **Service Levels**—determined by Workforce Solutions Office staff based on the level of access the employer wants given to its job postings.

- *Service Level 1*—All employer-entered job postings are listed as Service Level 1. Interested job seekers will contact the employer directly without Workforce Solutions Office staff intervention. Employers can choose what information to display to job seekers and what information to suppress from job seekers. Workforce Solutions Office staff also can list staff-entered job postings as Service Level 1.

This level generally is appropriate for standard job postings with no special or specific qualifications or requirements.

- *Service Level 2*—Workforce Solutions Office staff creates the job posting either by employer request or by Workforce Solutions Office staff decision based on interaction with the employer and on staff knowledge of the local labor market. These postings are visible to job seekers but require that job seekers first contact a Workforce Solutions Office before viewing an employer’s contact information. Service Level 2 job postings always require Workforce Solutions Office staff intervention.

This level generally is appropriate for job postings for which staff has been requested or feels the need to do additional screening, prior to a job seeker contacting the employer.

- *Service Level 3*—Only Workforce Solutions Office staff can create or view Service Level 3 job postings, and only Workforce Solutions Office staff can initiate the matching and contacting process. Service Level 3 postings will not appear in a job seeker’s search or match results in WorkInTexas.com.

This level generally is appropriate for confidential job postings or job postings with special or specific qualifications or requirements that job seekers must have in order to be considered by the employer.

B-303.a: Job Postings in Local Workforce Development Areas Served by Other Workforce Solutions Offices

Workforce Solutions Office staff sometimes receives job posting requests that:

- are from an employer located in a local workforce development area (workforce area) served by another Workforce Solutions Office;
- specify the work is to be performed in another workforce area; or
- recruit workers from another workforce area.

In these cases, Boards must ensure that:

- Workforce Solutions Office staff encourages the employer to contact a Workforce Solutions Office that is in the workforce area in which the worksite is located to facilitate coordination between the employer and that Workforce Solutions Office; and
- if the employer insists on listing the job posting at a Workforce Solutions Office that does not serve the workforce area in which the worksite is located, Workforce Solutions Office staff notifies staff at a Workforce Solutions Office that does serve that workforce area of the job posting either by telephone or e-mail.

B-303.b: Job Posting Maintenance

Boards must establish procedures for updating job postings and updating the status of a contact.

It is recommended that the process allow information to be shared and job posting activity and responsibility to be coordinated with the Business Services Unit, ES staff, Texas Veterans Commission staff, and other Workforce Solutions Office staff.

Boards must ensure that appropriate staff is designated to review new job postings in WorkInTexas.com on a daily basis to ensure that the job postings:

- *do* contain:
 - the correct occupational category;
 - appropriate job requirements;
 - documentation of the employer's claim of a BFOQ; and
 - a complete description of the terms and conditions of employment (e.g., drug screening, proficiency tests or assessments, credit checks); and

- *do not* contain:
 - violations of state or federal laws, including equal employment opportunity, child labor, and minimum wage laws;
 - union or nonunion specifications;
 - openings for jobs vacated as a result of a strike or lockout;
 - discriminatory remarks or improper conditions;
 - inappropriate language;
 - requirements that the job seeker provide credit card or bank account information in order to apply; or
 - fees charged to the job seeker in order to apply for or fill the job.

Boards must ensure that, after reviewing new job postings, designated staff:

- contacts the employer *before* making any modifications to a job posting, including modifications to the number of job openings within a job posting; and
- if employer contact is necessary, places the posting on hold until the employer is contacted.

Boards may determine whether designated staff needs supervisory approval to modify a job posting after an employer requests or agrees to modifications.

Boards must ensure that designated staff *does not* delete, cancel, or modify a job posting—including modifying the number of job openings within the job posting—if:

- the employer does not wish to modify the job posting; and
- the job posting meets the requirements set forth in this guide.

Boards must be aware that WorkInTexas.com job postings cannot be deleted:

- after seven days from the creation date;
- once a contact has been made (even if a contact is deleted later, the job posting has already recorded one contact; therefore, the posting still cannot be deleted); and
- if it is not assigned to the Workforce Solutions Office that staff has in focus.

When a job posting is deleted, a note is automatically posted to the *Customer Management Notes* for that employer account. The note lists the Job Posting ID, name of the staff member who deleted the posting, and the timestamp associated with the delete transaction.

Boards must ensure that Workforce Solutions Office staff:

- enters all contacts and hires (if applicable); and
- closes job postings in a timely manner using WorkInTexas.com.

Refer to the *WorkInTexas.com User Guide* on TWC's Intranet¹ at intra.twc.state.tx.us/intranet/its/docs/wit_user_guide_master.pdf for instructions on:

- running job matches;
- conducting real-time job searches;
- entering employer services;
- entering contacts and hires
- maintaining job postings;
- using the *Job Posting Notes* page; and
- generating reports.

Boards must be aware of the following:

- Building a good relationship with an employer requires keeping the employer informed about the status of its job postings—from the time Workforce Solutions Office staff receives the job posting until it is filled or canceled.
- Follow-up contact with employers during the job-filling process ensures that Workforce Solutions Office staff has current and accurate information about job postings, including:
 - whether information provided is complete, the occupation entered is correct, job requirements are included, or job seekers meet the minimum qualifications;
 - whether a sufficient number of qualified job seekers have applied;
 - whether the position has been filled; and
 - the name of the job seeker hired and the start date.

Boards also must ensure that the *Job Posting Notes* page in WorkInTexas.com is used to document any relevant information, including conversations between Workforce Solutions Office staff and the employer, about the job posting itself.

The *Job Posting Notes* page is used only for the following:

- Job posting management entries, such as:
 - supervisory instructions;
 - notes of changes to the job posting;
 - records of employer contacts; or
 - notations of employer exceptions to quality referral/contact standards; and
- Job posting status (e.g., long periods on hold, special searches/referrals, feedback regarding quality of referrals).

Boards must be aware that discussions and information obtained from employers are sensitive. Certain information is confidential under law and will be disclosed only in compliance with Commission guidelines and the Public Information Act.

¹ *The Intranet is not available to the general public.*

B-303.c: JobCentral Job Postings in WorkInTexas.com

WorkInTexas.com and JobCentral continue to work together to increase the number of job postings available to job seekers and to introduce WorkInTexas.com to employers who may not have previously used the system.

JobCentral's Texas-based job postings are automatically:

- downloaded into WorkInTexas.com through a nightly batch;
- assigned a WorkInTexas.com Job Posting ID; and
- marked with a JobCentral icon.

JobCentral job postings:

- include current job matching criteria such as O*NET codes;
- are purged from WorkInTexas.com after one month of employer inactivity; and
- are not tracked or counted in the Job Openings Filled or Market Share performance measures.

B-304: Job Postings That Violate Federal or State Law

Boards must be aware of the following:

Job postings that include certain types of hiring criteria may violate federal or state law. These include job postings that:

- have union or nonunion specifications;
- predesignate the job seeker to refer;
- contain discriminatory specifications or have citizenship specifications;
- involve a fee to the job seeker for filling a job;
- violate child labor laws by allowing youth (ages 14–17) to be referred;
- are below the prevailing wage or are substandard job postings; or
- fill a job vacated due to a strike or lockout.

B-304.a: Union or Nonunion Specifications

Boards must be aware that job postings specifying membership or non-membership in a labor organization as a condition of employment may violate federal or state law.

Unions and labor organizations are subject to the Texas Right to Work Law, which makes a job posting illegal if there is an agreement between an employer and a union that requires union membership immediately or after a certain period

of time. An agreement that requires individuals to pay union membership dues even if they are not members also is illegal.

The Texas Right to Work Law does not apply to:

- a railroad or “carrier,” as defined in the Railway Labor Act;
- a federal enclave or any type of federal installation; or
- work performed outside the state of Texas.

For additional information, refer to:

- Texas Business and Commerce Code, Title 2, §§15.05(e)(1)–(2), available at law.justia.com/texas/codes/bc.html; and
- National Labor Relations Act, 29 U.S.C., Chapter 7, Subchapter II, §158(a)(3) and §164(b), available at www.nlr.gov/about_us/overview/national_labor_relations_act.aspx.

B-304.b: Predesignating the Job Seeker

Boards must ensure that Workforce Solutions Office staff does not take action on a job posting in which the employer requests that Workforce Solutions Office staff refers a certain job seeker. The only exceptions to this are agricultural and agricultural-related job postings for a specific crew leader or worker (20 CFR Part 651).

B-304.c: Discriminatory Specifications

Boards must be aware that federal law and ES policies prohibit selecting and referring job seekers on the basis of any discriminatory specifications. This includes job postings with a citizenship requirement, unless specifications are based on a legal requirement for workers in certain jobs or situations. (Many jobs in federal, state, county, and municipal service are by law available only to U.S. citizens.)

B-304.d: Charge for Filling a Job

Boards must ensure that Workforce Solutions Office staff does not take action to fill a job posting that would result in a placement fee for bringing the job seeker and employer together. However, there are certain acceptable preemployment costs to the job seeker, such as:

- a physical examination (under ADA guidelines, this examination may only be performed after an offer of employment is made); or
- usual and customary licensing fees or certifications.

In these instances, Boards must ensure that:

- the cost is reasonable and customary for that workforce area;
- the fee has supervisor/manager approval;
- the information regarding the preemployment cost is specific and listed in the job posting; and
- the details of the cost are reviewed with the job seeker before contact with the employer.

Note: Application fees, purchasing kits, and work-from-home plans are not acceptable.

B-304.e: Referring Youth

Boards must ensure that Workforce Solutions Office staff makes all youth job posting contacts in accordance with federal and state laws relating to school attendance and child labor standards. [See Texas Labor Code, Chapter 51 (Texas Child Labor Law).]

B-304.f: Substandard Job Postings

Boards must ensure that Workforce Solutions Office staff does not call in or refer job seekers on substandard job postings that offer wages, hours, or working conditions that are substantially less favorable to the job seeker than those existing for similar work in the area. If discussion with the employer fails to result in change to the job posting, Boards must ensure that Workforce Solutions Office staff:

- informs the employer that:
 - the job posting is substandard in comparison with previous job postings for similar jobs in WorkInTexas.com; and
 - there is a limited chance of the opening being filled; and
- refers the job posting to the appropriate supervisor/manager to ensure that uniform decisions are made.

B-304.g: Labor Disputes

To notify DOL, and to prevent any job referrals on job postings impacted by a labor dispute, Boards must ensure that local WF/UI coordinators follow the steps below when a labor dispute affects a job posting:

1. Verify the existence of the labor dispute, when the Board or Workforce Solutions Office staff becomes aware of a labor dispute that involves a work stoppage.

2. Place any current job postings for the affected vacancies in “hold” status.
3. Determine whether the labor dispute impacts any other vacancies posted in WorkInTexas.com, and if so, place those vacancies in “hold” status.
4. Notify the state WF/UI coordinator of the labor dispute using the Report of Labor-Management Disagreement form (WF-41).

Boards must be aware that the state WF/UI coordinator will forward the information to the DOL Regional Office.

Additionally, Boards must be aware that TWC staff will lock the employer’s account if there are any affected job postings, and the employer will be unable to access his or her WorkInTexas.com account. (However, Workforce Solutions Office staff will be able to access the employer’s account.)

Boards also must ensure that:

- the employer is notified that WorkInTexas.com cannot list a job posting for vacancies affected by the labor dispute; and
- Workforce Solutions Office staff assists the employer, if requested, in listing job postings for vacancies that are not related to the labor dispute.

Further, Boards must ensure that Workforce Solutions Office staff does not make job contacts (i.e., referrals) on job postings or “job develop” job seekers in a manner that would aid directly or indirectly in the filling of a job opening that is vacant because:

- the former occupant is on strike;
- the former occupant is being locked out in the course of a labor dispute; or
- the job opening is otherwise at issue in a labor dispute involving work stoppage.

Boards must ensure that Workforce Solutions Office staff:

- provides to all job seekers referred to jobs not at issue in a labor dispute the Job Seeker Notice of Labor Dispute form (E-12), which explains:
 - a labor dispute exists in the employing establishment; and
 - the job opening to which the job seeker was referred is not at issue in the dispute; and
- retains a signed copy of the Job Seeker Notice of Labor Dispute.

Boards must ensure that Workforce Solutions Office staff does not accept or work existing job postings from temporary staffing companies or staff leasing companies for positions at issue in a labor dispute.

Boards must be aware that, if the Commission becomes aware of a labor dispute before the Board, the state WF/UI coordinator will:

- verify the existence of the labor dispute; and
- notify all appropriate local WF/UI coordinators of the labor dispute and which occupations are affected.

Form E-12, Job Seeker Notice of Labor Dispute, and Form WF-41, Report of Labor-Management Disagreement, are available on the Intranet under Forms/Employment Service.

B-305: Special Types of Job Postings

Boards must be aware that several special types of job postings require specific selection and referral procedures to ensure federal and state laws and TWC rules and policies are followed. These job postings include:

- affirmative action job postings;
- job postings from staffing companies (private employment and temporary help agencies, etc.);
- Federal Contractor Job Listings;
- military recruiting job postings;
- on-the-job training job postings; and
- job postings with a bona fide occupational qualification.

B-305.a: Affirmative Action Job Postings

Boards must be aware of the following:

Some job openings are mandated by written notification to allow an employer to recruit in specific categories (e.g., women only or Hispanics only). In some cases, DOL's Office of Federal Contract Compliance Programs has reviewed the hiring patterns of the employer in question and found that the employer needs to increase recruitment for employees in specific categories.

Boards must ensure that:

- Workforce Solutions Office staff does not take an affirmative action job posting unless the employer supplies a copy of the federal letters or documents requiring that type of recruitment; and
- such information is retained for a minimum of three years.

For employers that are not under an affirmative action mandate and that express an interest in recruiting from certain targeted populations in order to improve the demographics of their companies, Boards must ensure that Workforce Solutions Office staff:

- informs the employer that job seekers cannot be referred *exclusively* from targeted populations; and
- assures the employer that any qualified individuals from targeted populations will be referred.

B-305.b: Job Postings from Staffing Companies

Boards must ensure that Workforce Solutions Office staff accepts job postings from staffing companies provided that:

- the staffing company is a valid employer;
- they have a current and available job vacancy with their client employer; and
- the staffing company will not charge the job seeker a fee to secure or keep the job.

Boards must ensure that Workforce Solutions Office staff advises job seekers who are referred on these job postings—including UI claimants—that the positions are being filled through a staffing company.

B-305.c: Federal Contractor Job Listings Job Postings

The affirmative action provision of the Vietnam Era Veterans' Readjustment Act of 1972 requires employers (and their subcontractors) with government contracts of \$100,000 or more to list most of their job openings with the state labor exchange system (WorkInTexas.com). These Federal Contractor Job Listings (FCJL) job postings provide protected veterans with priority referrals to such jobs. The Office of Federal Contract Compliance Programs is responsible for ensuring compliance.

When entering a new job posting in WorkInTexas.com, Boards must ensure that appropriate staff indicates whether it is an FCJL job posting. To find an FCJL job, browse jobs *By Job Type* and select *Federal Contractor*.

B-305.d: Military Recruiting Job Postings

Boards are encouraged to develop local partnerships with military recruiters to:

- develop WorkInTexas.com job postings for specific active and reserve component military occupations;
- refer job seekers who indicate an interest in military service to local military recruiting offices; and
- provide recruiters with an active presence in Workforce Solutions Offices to include periodic on-site recruitment opportunities and space for recruiting materials, such as brochures.

B-305.e: On-the-Job Training Job Postings

Boards must be aware that, when Workforce Solutions Office staff refers an individual to an employer for on-the-job training (OJT), a job posting can be entered in WorkInTexas.com only if:

- the individual will participate in training as an employee and will receive wages and benefits as a current employee;
- the job posting is designated as an “On-the-Job Training” posting in the Job Description section of WorkInTexas.com; and
- the job posting is placed on Service Level 3.

B-305.f: Job Postings with a Bona Fide Occupational Qualification

A bona fide occupational qualification (BFOQ) is a qualification based on age, sex, national origin, or religion that is necessary to the individual’s ability to perform the job in question.

Except as stated in 42 U.S.C. §2000(e)–2(e) and in 29 CFR, Parts 1604, 1605, 1606, and 1625, Boards must ensure that discriminatory job postings that specify referrals are to be made on the basis of age, sex, religion, or national origin are not accepted.

A characteristic may be a BFOQ only if there has been a specific court ruling or the employer has received such a determination from the Equal Employment Opportunity Commission (EEOC). Boards must ensure that, if an employer claims a BFOQ, appropriate staff:

- consults with management prior to including the BFOQ on a job posting; and
- indicates the BFOQ status on the *Job Posting Notes* page.

B-306: Recruitment Assistance

Boards must be aware of the following:

In addition to assistance with job postings, recruitment assistance can be provided to employers, including:

- assistance with making contacts and filling job postings;
- provision of interview rooms;
- job fair assistance;
- specialized testing;
- on-site staffing assistance; and
- labor market information.

B-306.a: Making Contacts and Filling Job Postings

Boards must be aware that after an employer enters a job posting in WorkInTexas.com, the process of searching for qualified job seekers to refer to the employer begins. Job seekers registered in WorkInTexas.com are a primary source of qualified job seekers. Instructions for conducting automated searches for qualified job seekers are in the *WorkInTexas.com User Guide*.

Boards must ensure that Workforce Solutions Office staff adheres to the following guidelines in the referral and placement process:

- Give eligible veterans priority over all other equally qualified individuals in the receipt of services funded in whole or in part by DOL, in accordance with 38 U.S.C. §4215. This process is automated in WorkInTexas.com during the two-day veterans hold.
- Give eligible veterans priority over all other equally qualified individuals in the receipt of employment assistance or job training services funded in whole or in part by state funds, in accordance with Texas Labor Code, Chapter 302, Subchapter G.
- Give eligible foster youth priority over all other equally qualified individuals except eligible veterans in the receipt of federal- and state-funded services.
- Do not extend referral preference to any job seeker or group of job seekers, except in accordance with legal requirements, such as veterans' priority (20 CFR §652.8).
- Ensure that only job seekers suitably qualified for job openings are referred to employers. Referring an unqualified job seeker to an employer is a disservice to both the employer and the job seeker, and is disrespectful of their time. Failure to screen job seekers according to the employer's specifications results in the loss of the employer's confidence and eventually compels the employer to seek assistance elsewhere.
- When referring job seekers to an employing establishment where a labor dispute exists, provide the Job Seeker Notice of Labor Dispute form (E-12) to the job seeker indicating that such dispute exists and that the position to which the job seeker is being referred is not at issue in the dispute (20 CFR, Chapter V, Part 652.9).
- Do not make a job posting contact to a position where the services to be performed or the terms or conditions of employment violate federal or state law. Such postings must be put on hold.

- Do not actively recruit for employment if the wages, hours, or other conditions of work offered are substantially less favorable to the individual than those existing for similar work in the workforce area.
- Search the job seeker’s registration for occupational experience similar to that of the job posting. If this approach fails, extend the search to include related occupations.
- When possible, refer job seekers to job postings that use their highest skills.
- Enter all job posting contacts/referrals in WorkInTexas.com at the time the referral is made. However, discuss the job opening with the job seeker to ensure the terms and conditions of the job are acceptable (job location, wages, benefits, work hours, duration, working conditions, or opportunity for advancement) before the contact/referral is entered in WorkInTexas.com.

Success in filling an employer’s job posting depends on the ability of Workforce Solutions Office staff to locate qualified job seekers who are acceptable to the employer and to whom the job is acceptable. It is recommended that Boards formulate a plan for locating suitable job seekers as quickly as possible.

TA Bulletin 194, issued December 17, 2008, and entitled “Improving WorkInTexas.com Job Match Quality,” provides information and assistance for ensuring better quality job seeker and employer job matches in WorkInTexas.com (www.twc.state.tx.us/boards/tabull/ta194.pdf).

B-306.a(1): Definition of Job Development

A *job development* occurs when Workforce Solutions Office staff contacts an employer and secures a referral to that employer on behalf of a specific job seeker who possesses skills sought by the employer, and for whom there is no suitable job posted from that employer in WorkInTexas.com.

For purposes of job development, a *referral* is:

- an interview between the job seeker and the employer; or
- the agreement of the employer to accept the job seeker’s résumé or application.

Boards must be aware that under the definition, the presence of a job development service on a job seeker’s service record must reflect receipt of a positive response—in the form of a referral—from the employer contacted in the job development service.

Boards also must be aware that all WorkInTexas.com job seeker service definitions are shared with The Workforce Information System of Texas

(TWIST). TWIST automatically reflects changes to WorkInTexas.com job seeker service definitions.

Boards must be aware that the following *do not* count as job development services:

- While talking with a job seeker, staff discovers that the job seeker is working, and asks for the job seeker’s start date and the name of the employer.
- Staff searches other job search websites (e.g., Monster, CareerBuilder, etc.) and finds a job for a job seeker.
- Staff notes a job posting in Sunday’s classified ads. While talking to a job seeker, the job seeker indicates an interest in this type of job. Staff gives the job seeker a copy of the ad.
- At a local mall, staff sees a “Now Hiring” sign in a store window and tells a job seeker to go to the store and apply.
- An employer schedules a job fair at a Workforce Solutions Office. During the job fair, staff obtains a list of the job seekers who spoke with the employer.
- Staff receives a “Hired” list from an employer, but cannot find a matching job posting for this employer or a *Contact* listing in WorkInTexas.com.
- Staff uses the UI wage records to confirm that a job seeker is receiving wages, but no *Contact* listing exists in WorkInTexas.com for the employer.

Boards must ensure that if a pattern of job developments to the same employer emerges—but the employer is not posting jobs in WorkInTexas.com—Workforce Solutions Office staff consults with the employer to determine if a job posting is appropriate.

B-306.a(2): Definition of Hire

A *hire* is the employing of a job seeker by an employer as a direct result of a contact (referral) or job development made through and documented in WorkInTexas.com.

Additional information on hires is available in:

- 20 CFR §651.10; and

- TA Bulletin 210, issued August 19, 2009, and entitled “Recording Hires in WorkInTexas.com,” and subsequent issuances, available at www.twc.state.tx.us/boards/tabull/ta210.pdf.

B-306.a(3): Hire Validation

Boards must ensure that Workforce Solutions Office managers and appropriate supervisors perform random verifications on hires and services recorded in WorkInTexas.com. This method helps managers and appropriate supervisors determine customer satisfaction with job seeker referrals and other Workforce Solutions Office services.

Hire validation can be accomplished by calling the employer to verify employment status (i.e., that the individual did go to work, not that the individual is necessarily still working there), calling the job seeker, or verifying wages using the TWC Wage Record Inquiry function.

B-306.b: Provision of Interview Rooms

Boards must ensure that, on request and availability, Workforce Solutions Office staff provides employers with suitable accommodations at Workforce Solutions Offices for conducting interviews and testing job seekers. This is a critical service for employers because:

- Workforce Solutions Office staff can assist with screening and setting appointments;
- Workforce Solutions Office staff can assist with preliminary testing, as described in [B-306.d: Specialized Testing](#);
- job seekers are familiar with the location of the Workforce Solutions Office and, in many cases, public transportation is available;
- a jobsite may be under construction; and
- a jobsite may lack appropriate office space and equipment.

B-306.c: Job Fair Assistance

A job fair is a gathering of multiple employers for the purpose of taking applications, interviewing, and making contact with potential job seekers to fill current job openings. One employer with multiple positions is not a job fair, but is considered a hiring event, application session, or hiring fair.

Job fairs:

- provide a central location for job seekers to complete multiple applications;
- allow for quick and efficient mass hiring;
- encourage networking among job seekers and employers;

- advertise multiple openings throughout the workforce area;
- provide an important job matching service to job seekers and employers; and
- promote Workforce Solutions Office services in the community.

Boards may assist employers with local job fairs, and also may plan and conduct job fairs for area employers.

A job fair employer service can be entered into WorkInTexas.com only if one or more of the following activities are performed:

- Securing the venue
- Recruiting employers
- Assisting with registering job fair attendees (job seekers)
- Helping employers with set-up
- Providing job seekers with job fair information
- Providing booth staffing for employer breaks, etc.

For additional information on job fairs, see TA Bulletin 192, issued December 1, 2008, and entitled “Job Fairs,” and subsequent issuances, available at www.twc.state.tx.us/boards/tabull/ta192.pdf.

B-306.d: Specialized Testing

Many tools and techniques are available for evaluating a job seeker’s occupational skills, aptitudes, achievement levels, and interests. Testing is a valuable service available to employers as needed (e.g., when making employment decisions such as hiring, promotion, referral, and retention).

It is recommended that Boards:

- only use test instruments, for job selection and referral purposes, that meet EEOC’s Uniform Guidelines on Employee Selection Procedures (41 CFR Part 60-3), located at www.dol.gov/dol/cfr/Title_41/Chapter_60.htm; and
- become familiar with the guidelines before purchasing commercially developed tests.

If commercially developed tests are used to make employment decisions, Boards must ensure that Workforce Solutions Office staff is aware that the tests and test administration procedures are subject to the Uniform Guidelines on Employee Selection Procedures. Employment decisions include, but are not limited to:

- selecting a candidate for training;
- selecting a candidate for transfer;
- hiring;
- referring a candidate to a suitable employer; and
- licensing and verification.

Test Validation

Boards must:

- ensure that purchased tests have been developed in accordance with the validation requirements set forth in the Uniform Guidelines on Employee Selection Procedures;
- review the manufacturer's most current validation study;
- include language in purchasing contracts requiring the manufacturer to provide copies of current validation studies to the Board upon request and at a negotiated minimal cost; and
- provide copies of the current validation studies to interested parties upon request.

Test Administration

Boards must ensure that, prior to administering tests to job seekers, Workforce Solutions Office staff:

- follows appropriate manufacturer guidance to understand the tests and learn how to use the corresponding materials (e.g., software, scoring guidelines, etc.);
- coordinates with the employer to properly document the skill sets required to perform the responsibilities specified in the job description;
- ensures that skills tests will be administered only to applicants for jobs requiring the use of the corresponding skills on the job, as set out in the job description;
- consults with the employer to set appropriate and reasonable benchmarks to determine which job seekers are referred, consistent with normal expectations of acceptable proficiency in the workforce; and
- provides a suitable testing environment.

Records Retention

Boards must ensure that all test materials—paper and electronic—completed by job seekers in connection with employment decisions are retained for at least one year from the date of administration of the test.

Boards must maintain and have available for inspection any records disclosing the impact of selection procedures on employment opportunities. Records must show the identifiable race, sex, and ethnic group of any job seeker to whom a test has been administered.

Boards must adopt safeguards to ensure that records are used only for intended purposes and are not used improperly.

Boards must ensure that Workforce Solutions Office staff maintains confidentiality of all records relating to the selection and referral of job seekers to employment opportunities.

B-306.e: On-site Staffing

Boards may outreach and assist local employers by sending Workforce Solutions Office staff to the jobsite to:

- recruit;
- screen;
- administer specialized testing (as discussed in [B-306.d: Specialized Testing](#)); and
- schedule interviews.

B-307: Provision of Information on Employment-Related Issues

Boards must ensure that Workforce Solutions Office staff assists employers with employment-related issues by providing information and services available through the Texas workforce system, including:

- labor market information (LMI);
- wage range surveys;
- available talent pool;
- recruitment services;
- training resources;
- employment rules and regulations;
- equal employment opportunity (EEO) regulations;
- unemployment compensation tax and labor law information; and
- resources for unemployment compensation claims appeals.

Definition of Labor Market Information

Boards must be aware that LMI, defined as an employer service, is “providing substantive and customized information to a specific employer regarding occupational staffing or hiring patterns, working conditions, salary, local employment history and trends, available job seeker pool,...etc., in response to the employer’s specific needs or requests.”

Boards must be aware that LMI does not include:

- mass mailings or newsletters containing information about the job market in the employer’s area;
- calling an employer to follow-up on a referral list (to see who was hired);
- attending job fairs and talking to all the participating employers;
- providing the employer with their TWC tax account number or Federal Employer Identification Number (if unknown or not available);
- discussing WorkInTexas.com;
- providing advice regarding wages based on previous job postings;
- discussing Workforce Solutions Office programs and services; or
- providing general information regarding the labor market as described above.

Providing the Labor Market Information Service to Employers

When providing the LMI service to an employer, Boards must ensure that appropriate staff:

- determines the employer’s specific needs;
- prepares a substantive and customized LMI report, based on the employer’s specific needs, that contains the criteria specified in the definition of the LMI service; and
- provides the customized report to the employer by the employer’s preferred method.

The following websites provide tools that may assist with creating customized LMI reports for employers:

- SOCRATES (socrates.cdr.state.tx.us)
- Texas Industry Profiles (www.texasindustryprofiles.com)
- Texas Labor Market Information (Tracer2) (www.tracer2.com)
- WorkInTexas.com (www.WorkInTexas.com)
- TWIST Web Reports (earpt104p.twc.state.tx.us:8080/Reports/Login_user.jsp)

Documenting an LMI Service in WorkInTexas.com

Boards must ensure that appropriate staff records an LMI service in WorkInTexas.com only when the service provided meets the definition of LMI.

A complete list of WorkInTexas.com employer services can be found on the Intranet at intra/intranet/gl/docs/twn-024.xls.

B-308: Employer Training Services

Other services that benefit employers are supported by a variety of funding sources, many of which focus on training services for employers, such as:

- OJT;
- customized training;
- Skills Development Fund;
- Self-Sufficiency Fund; and
- work experience (including internships).

B-308.a: On-the-Job Training

Boards must be aware of the following:

Employers benefit from OJT by receiving reimbursement for 50 percent of the job seeker’s wages during the training period, while having the services of a full-time employee.

OJT provides unique opportunities for job seekers who already have some job-related skills, including the opportunity to “learn as they earn.” By participating

in training as an employee, the participant acquires new skills and knowledge and receives the same wages and benefits as current employees in the same or similar positions.

OJT focuses on:

- jobs that use new technologies, production, or service procedures;
- upgrading to new jobs that require additional skills or workplace literacy; and
- other appropriate purposes identified by the Board.

Additionally:

- The employer can be in the public, private nonprofit, or private sector.
- OJT provides knowledge or skills essential to the full and adequate performance of the job.
- The employer is reimbursed a portion of the individual's wage for the additional costs of providing the training and the increased supervision related to the training.
- OJT is limited in duration as determined by the Board, based on the occupation for which the participant is training, the participant's prior work experience, and the service strategy. OJT generally does not exceed six months.

B-308.b: Customized Training

Boards may offer customized training, which benefits an employer by tailoring training programs to the specific needs of the employer, especially by introducing new technologies or procedures. Current employees can participate in customized training to upgrade their skills and knowledge.

Customized training:

- is designed to meet the special requirements of an employer (or group of employers); and
- is conducted with a commitment by the employer to employ the individual on successful completion of the training.

On November 10, 2009, DOL extended and modified a waiver that allows TWC to replace the WIA-required 50 percent employer match for customized training with a 10 to 50 percent sliding scale contribution based on the size of the business. Boards choosing to implement this waiver must adhere to the following sliding scale:

- No less than 10 percent contribution for employers with 50 or fewer employees
- No less than 25 percent contribution for employers with 51–250 employees
- No less than 50 percent contribution for employers with more than 250 employees

Boards must encourage employers to retain individuals who successfully complete customized training.

B-308.c: Skills Development Fund

Boards must be aware of the following:

The Skills Development Fund (SDF) assists businesses and trade unions by financing the design and implementation of customized job training projects for new and existing employees in local businesses.

Businesses interested in participating in SDF grant projects must partner with one of the following eligible applicants:

- a public community college;
- a public technical college;
- the Texas Engineering Extension Service (TEEX); or
- a private, nonprofit, community-based organization in partnership with one of the institutions listed above.

Businesses and the eligible applicants access these funds by submitting a project proposal. The submission form, program description, and links to the rules governing the program are on the TWC Website at www.twc.state.tx.us/svcs/funds/sdfintro.html.

Trainee eligibility is open to current employees and new hires. There are no income or occupation eligibility requirements for trainees.

Parties submitting proposals must involve the Board and the local economic development entity in the initial stages of project development through application submission and the implementation of projects approved for funding. All applicants must include a completed Local Workforce Development Board Review and Comment Form with the submission packet. Applications must be submitted to TWC's Workforce Business Services Department.

For additional information, contact Workforce Business Services at (512) 463-8844 or skills@twc.state.tx.us, or refer to TWC's Skills Development Fund rules at 40 Texas Administrative Code (TAC), Chapter 803 (www.twc.state.tx.us/twcinfo/rules/ch803.pdf).

B-308.d: Self-Sufficiency Fund

Boards must be aware of the following:

The Self-Sufficiency Fund assists businesses and trade unions by financing the development and implementation of customized job training projects for new and current workers. Self-Sufficiency Fund grants provide businesses with customized training solutions that support workforce hiring efforts and skills upgrading for current workers.

The purpose of the Self-Sufficiency Fund is to provide training for targeted employment opportunities, primarily for adult Temporary Assistance for Needy Families (TANF) customers, as well as those individuals at risk of becoming dependent on public assistance.

Businesses interested in participating in a Self-Sufficiency Fund project must partner with one of the following eligible applicants:

- a public community college;
- a public technical college;
- a statewide extension service;
- TEEX; or
- a private, nonprofit, community-based organization.

Businesses and eligible applicants access these funds by submitting a project proposal. The submission form, program description, and links to the rules governing the program are on the TWC Website at www.twc.state.tx.us/svcs/funds/ssfintro.html.

Parties submitting proposals must involve the Board in the initial stages of project development through application submission and the implementation of projects approved for funding. All applicants must include a completed Local Workforce Development Board Review and Comment Form with the submission packet. Applications must be submitted to TWC's Workforce Business Services Department.

For additional information, contact Workforce Business Services at (512) 463-8844 or refer to TWC's Self-Sufficiency Fund rules at 40 TAC, Chapter 835 (www.twc.state.tx.us/twcinfo/rules/ch835.pdf).

B-308.e: Work Experience (Including Internships)

Boards must be aware of the following:

Work experience is planned, structured learning that occurs in a workplace for a limited period of time. Work experience can be paid (in which case payment is made directly to the participant) or unpaid, and can be in one of the following sectors:

- private, for-profit;
- nonprofit; or
- public.

Work experience benefits employers by providing:

- job seeker screening;
- training assistance; and
- qualified and productive workers with a strong career interest in the workplace.

Work experience benefits participants by providing them with opportunities for career exploration and skill development.

B-309: Rapid Response

Boards must be aware of the following:

For employers facing major layoffs, rapid response is an on-site, early intervention program that provides transition and reemployment services to affected workers. The goal of rapid response services is to help affected workers find new employment before they become eligible to receive UI benefits. The best employment transition is one that results in unemployment lasting no more than a few days.

Rapid response is administered at the state level, but operated at the Board level. Each Board has a Rapid Response Coordinator who can provide more information about rapid response services.

Rapid response services are available in the event of mass layoffs and for plant closings involving 50 or more workers; however, Boards may offer rapid response services to fewer than 50 employees at their discretion.

Rapid response services include:

- job search assistance;
- labor market information;
- group stress management seminars;

- group financial management seminars;
- information about mass filing of UI claims;
- group orientation to Workforce Solutions Office services; and
- seminars on change management.

B-310: Foreign Labor Certification

Boards must be aware of the following:

DOL's Foreign Labor Certification nonimmigrant visa program permits employers to hire foreign workers to perform temporary labor or services. Prior to filing a petition for the workers with the U.S. Department of Homeland Security's U.S. Citizenship and Immigration Services (USCIS), employers must file an application with DOL certifying that:

- there are not sufficient workers who are able, willing, qualified, and available at the time and place where the foreign worker is to perform the work; and
- employment of the foreign worker will not adversely affect the wages and working conditions of similarly employed U.S. workers.

TWC's Foreign Labor Certification (FLC) Unit is responsible for assisting employers who have job opportunities in Texas file their temporary applications for labor certification. This involves coordinating recruitment efforts and assisting DOL in the gathering of information needed, which forms the basis for the DOL Certifying Officer's determination to grant or deny labor certifications.

The certification process and recruitment efforts start with job postings in WorkInTexas.com and fall into one of two categories:

- H-2A jobs, targeting foreign temporary or seasonal agricultural workers
- H-2B jobs, targeting foreign temporary nonagricultural workers

The FLC Unit processes:

- H-2A agricultural and H-2B nonagricultural job postings; and
- prevailing wage and prevailing practice surveys.

To contact the FLC Unit, call (512) 475-2571.

Boards must be aware that effective March 15, 2010, Workforce Solutions Office staff was no longer required to verify the employment eligibility of job seekers referred to H-2A job postings.

Boards may make arrangements with employers that include Workforce Solutions Office staff verifying the employment eligibility of job seekers.

B-310.a: H-2B Applications

Identification of H-2B Job Postings in WorkInTexas.com

Boards must ensure that Workforce Solutions Office staff can identify H-2B job postings. In WorkInTexas.com, these job postings are indicated by the following:

- The *FLC Job Type* is H-2B.
- An *FLC Case No.*, if the posting was entered by FLC staff.
- A statement in the *Job Description* indicating that the employment is temporary, including the start and end dates.

Verification of Employment Eligibility

Boards must ensure that Workforce Solutions Office staff:

- verifies the job seeker's employment eligibility for all staff referrals on H-2B job postings;
- documents the job seeker's employment eligibility using Form I-9; and
- does not use E-Verify—USCIS's Internet-based employment eligibility verification system—to verify the employment eligibility of job seekers referred by staff to H-2B job postings.

Boards must be aware that expired documents are no longer acceptable for verifying employment eligibility.

Completion of Form I-9

Boards must ensure that, when using Form I-9 to document a job seeker's employment eligibility, Workforce Solutions Office staff:

- uses the most current Form I-9, available at www.uscis.gov/files/form/i-9.pdf;
- follows the requirements in the *Handbook for Employers* at www.uscis.gov/files/form/m-274.pdf; and
- records the completion date of Form I-9 in WorkInTexas.com *Job Posting Notes*.

For more information on using Form I-9, see the Quick Reference Desk Aid for Form I-9, available at www.twc.state.tx.us/boards/wdletters/letters/15-10att1.pdf.

Completion of the Employment Eligibility Verification Certificate

Wagner-Peyser-funded ES staff is designated as TWC's officials authorized to sign the Employment Eligibility Verification Certificate. Boards must ensure that ES staff:

- uses the information in Form I-9 to complete the Employment Eligibility Verification Certificate, available at www.twc.state.tx.us/boards/wdletters/letters/15-10att2.doc; and
- provides the completed Employment Eligibility Verification Certificate directly to the employer, by mail or in person, "no later than 21 business days after date of hire." Because the date of hire will be unknown, Boards must ensure that ES staff provides the Employment Eligibility Verification Certificate to the employer at the time of the staff referral.

Records Retention

Boards must ensure that the original or a copy of Form I-9 and a copy of the Employment Eligibility Verification Certificate are retained for three years from the date that an individual was last referred by the Board.

Additionally, upon request by USCIS or other U.S. government officials, Boards must ensure that these documents are made available within three business days.

B-310.b: Prevailing Wage Surveys

The FLC Unit will conduct prevailing wage surveys only for the H-2A process.

Additional FLC information is available at the following:

- www.texasworkforce.org/svcs/alc/prevail.html
- www.doleta.gov/jobseekers/labcert.cfm
- www.uscis.gov
- 20 CFR Part 655, Subparts A, B, and H, and Part 656

B-311: Agricultural Services

Boards must be aware of the following:

TWC's Agricultural Services Unit offers employers job-ready job seekers and provides industry training for employers and potential employees to:

- provide a safer agricultural workplace through promoting safety compliance;
- promote awareness of growing agricultural job opportunities by increasing job placement in the agriculture industry;
- define agricultural occupations and their economic contributions to the state;
- seek new opportunities to serve the agricultural employment sector; and
- coordinate recruitment with Workforce Solutions Office staff for out-of-state job postings through the Agricultural Recruitment System (i.e., clearance system).

For additional information, contact TWC's Agricultural Services Unit at alienlabor@twc.state.tx.us.

B-312: Work Opportunity Tax Credit Conditional Certification

Boards must ensure that appropriate staff issues Work Opportunity Tax Credit (WOTC) conditional certifications only for individuals from the following target groups, and for which documentation can be provided prior to the hire date:

- Disabled veterans;
- Ex-felons;
- Vocational rehabilitation referrals;
- *Unemployed veterans; and
- *Disconnected youth.

* Although they may be extended, tax credits for these two groups are currently only funded through calendar year 2010.

Boards must ensure that appropriate staff verifies an individual's conditional certification eligibility as follows:

- Disabled veterans must provide:
 - a U.S. Department of Veterans Affairs rating letter verifying the job seeker's disabled veteran service-connected disability status; and
 - Form DD-214 (Certificate of Release or Discharge from Active Duty), which verifies active military service.
- Unemployed veterans must provide:
 - Form DD-214; and
 - UI documents that verify the receipt of UI benefits for four weeks. To verify receipt of UI benefits, use the UI Benefits System. An electronic or paper copy must be retained.
- Ex-felons must provide appropriate court documents.
- Vocational rehabilitation referrals must provide an Individualized Plan of Employment.
- Disconnected youth must provide:
 - age verification (e.g., driver license);
 - a completed ETA Form 9154 (Youth Self-Attestation Form), available at www.doleta.gov/business/incentives/opptax/PDF/Youth_Self_Attestation_Form.pdf; and
 - a wages earned statement reflecting less than \$2,827.50. To verify wages, use the TWC Wage Record Inquiry function (for instructions, see www.twc.state.tx.us/boards/wdletters/letters/24-10att1.pdf). An electronic or paper copy must be retained.

Boards must ensure that appropriate staff assists the job seeker by preparing ETA Form 9062 (Conditional Certification Work Opportunity Tax Credit), which can be completed electronically using TWC's WOTC ES77 database. (ES77 instructions are available at www.twc.state.tx.us/boards/wdletters/letters/24-10att2.pdf, and an ES77 desk aid is available at www.twc.state.tx.us/boards/wdletters/letters/24-10att3.pdf.)

Within three to five business days after the submission of a conditional certification, the ES77 database automatically mails the following items to the job seeker:

- Cover letter
- ETA Form 9062
- Blank IRS Form 8850, available at www.doleta.gov/business/Incentives/opptax/PDF/WOTC_IRS_Form_8850.pdf

Boards must ensure that appropriate staff:

- informs job seekers that ETA Form 9062 and IRS Form 8850 will be delivered to the job seeker by mail; and
- advises job seekers to inform prospective employers that the official WOTC certification will be issued subsequently, if the job seeker maintains the eligibility requirements as determined by the WOTC Unit.

Boards must be aware that the WOTC Unit will issue the official WOTC certification once:

- the job seeker is hired;
- the employer has timely filed the IRS Form 8850 application; and
- WOTC staff has verified the job seeker's eligibility by reviewing the ES77 database.

Boards must ensure that questions regarding the certification process for the remaining WOTC target groups are directed to the WOTC Unit at 1-800-695-6879:

- TANF recipients
- Veterans
- Designated community residents
- Summer youth
- Supplemental Nutrition Assistance Program recipients
- Supplemental Security Income recipients
- Long-term family assistance recipients

Boards must ensure that, when eligible job seekers receive WOTC conditional certifications, appropriate staff enters the *TCE-WOTC Eligibility* job seeker service into WorkInTexas.com.

Boards must ensure that cooperative agreements with service providers address the provision of WOTC services, including eligibility determinations.

Boards must ensure that appropriate staff receives training prior to providing WOTC conditional certifications to eligible job seekers. For training or assistance, contact the WOTC Unit at 1-800-695-6879.

Boards must retain electronic or paper copies of all conditional certifications and supporting documentation for four years.

WOTC forms are available at www.twc.state.tx.us/svcs/wotc/wotc.html.

B-400: Services to Job Seekers

Boards must be aware of the following:

The Wagner-Peyser Act requires that Boards assist job seekers in:

- finding employment; and
- meeting the work test requirements of the state UI compensation system.

The Workforce Solutions Office is often a UI claimant's first resource when seeking employment because the claimant may be required to have an active WorkInTexas.com job seeker account to receive UI benefits. ES is one of the most important services available to help all job seekers, including UI claimants, achieve their employment goals.

B-401: Job Seeker Services

Boards must be aware that, at a minimum, all Workforce Solutions Offices provide the following basic ES services:

- Registration with WorkInTexas.com
- Referrals to job postings
- Labor market information
- Knowledge, skills, and abilities evaluation and assessment
- Referral to support services

A complete list of WorkInTexas.com job seeker services is located at www.twc.state.tx.us/development/plan/system_services_matrix_locked.xls.

B-401.a: WorkInTexas.com Registration

Boards must be aware of the following:

ES customers are job seekers who usually are registered with WorkInTexas.com. Job seekers who are not registered can self-register by completing the online application or can register in person in a Workforce Solutions Office.

Workforce Solutions Offices generally provide two different registration methods:

- public-access computers for online registration; and
- a paper application.

The paper application allows job seekers to provide information off-line, with WorkInTexas.com data entry completed by Workforce Solutions Office staff after the job seeker has completed the form.

There are three types of acceptable paper applications:

1. Form TWN-001(English version), available at intra.twc.state.tx.us/intranet/gl/docs/twn-001.doc;
2. Form TWN-001S (Spanish version), available at intra.twc.state.tx.us/intranet/gl/docs/twn-001s.doc; or
3. Similar locally created application.

Boards must ensure that locally created forms include all the information needed to create a complete and high-quality WorkInTexas.com job seeker account.

Additionally, information from any of the forms may be used to:

- determine eligibility for specialty services;
- assess qualifications;
- determine skill sets; and
- collect optional EEO data from job seekers who agree to provide it.

WorkInTexas.com registration requires that job seekers provide four general types of information:

1. **Identifying and contact information**—including name, address, telephone number, and e-mail address.
2. **Eligibility information**—collected to help determine eligibility for specialized services, such as:
 - veterans’ services (voluntary disclosure of veteran status);
 - UI claimant services such as Rapid Reemployment Services (RRES);
 - Migrant and Seasonal Farmworker (MSFW) services;
 - WIA dislocated worker services; and
 - Trade Adjustment Act services.
3. **Qualification information**—including work experience, occupational skill sets, education, training, and certifications.
4. **Job preference information**—desired job location(s), pay, shift, duration, and workweek.

Optional information that may be included in a WorkInTexas.com registration includes:

- ethnicity;
- gender;
- Social Security number (SSN) (if not filing for UI);
- date of birth; and
- disability.

Boards must ensure that Workforce Solutions Office staff does not enter or alter—under any circumstances—a job seeker registration without first consulting the job seeker.

B-401.b: Referral to a Job Posting

Once a job seeker completes registration in WorkInTexas.com, the job matching and contact process begins. In accordance with DOL regulations and TWC rules and policies, Boards must ensure that Workforce Solutions Office staff selects and refers equally qualified job seekers to job postings in the following order:

1. Eligible veterans
2. Eligible foster youth
3. Non-eligible individuals (i.e., everyone else)

Boards must be aware that a two-day veterans hold is automatically placed on all job postings in WorkInTexas.com to ensure that veteran job seekers are given first opportunity to match all jobs before the general public.

The *Veterans Only* status on a new job posting can be set to:

- *Yes*, indicating that, for the life of the posting or until the status is changed, only veterans will match or be referred; or
- *No*, indicating that after the automatic two-day hold, the posting will be available to all job seekers regardless of veteran status.

Boards must ensure that Workforce Solutions Office staff continues to refer veteran job seekers to job postings in accordance with federal and state requirements for priority of service.

In addition to giving priority to eligible veterans and foster youth, Boards must ensure that Workforce Solutions Office staff:

- gives a referral only when the job seeker’s work experience, skill sets, and education match the job posting requirements;
- does not make a job posting contact that results in a fee being charged to the job seeker;
- does not make a job posting contact to fill a job where a labor dispute exists, such as a strike or lockout; and
- does not make a job posting contact to a position where the services to be performed or the terms or conditions of employment are contrary to federal or state law.

TA Bulletin 194, issued December 17, 2008, and entitled “Improving WorkInTexas.com Job Match Quality,” provides information and assistance for ensuring better quality job seeker and employer job matches in WorkInTexas.com (www.twc.state.tx.us/boards/tabull/ta194.pdf).

B-401.c: Labor Market Information

Boards must ensure that Workforce Solutions Office staff provides information about occupational requirements and labor market trends to employers, job seekers, and students.

Job seekers often request information about occupational requirements or vocational options. The following career counseling websites are valuable tools for employers, job seekers, and Workforce Solutions Office staff:

- Texas Industry Profiles (www.texasindustryprofiles.com)—includes economic and labor market data
- TRACER (www.tracer2.com)—includes economic and labor market data
- O*NET (www.onetcenter.org)—identifies skill sets needed and tasks performed in specific occupations
- TEXAS CARES (www.cdr.state.tx.us/shared/cares.asp)—provides information on demand occupations and on colleges and universities that provide training
- Reality Check (www.lmci.state.tx.us/realitycheck)—relates desired lifestyle to occupations and career paths

B-401.d: Knowledge, Skills, and Abilities Evaluation and Assessment

If a job seeker is unsuccessful in locating a suitable job in WorkInTexas.com, Boards must ensure that Workforce Solutions Office staff:

- asks the job seeker about additional experience or training not shown on the job seeker's work registration; and
- updates and continually assesses the job seeker's work registration.

Additionally, Boards must ensure that Workforce Solutions Office staff informs job seekers of other services, such as:

- job readiness classes (if available);
- counseling;
- vocational guidance services;
- support services (e.g., transportation, child care);
- educational services;
- job service plan/assistance;
- job development;
- job training;
- training provider information;
- post-employment services;
- work experience and internships;
- relocation assistance;
- tutorial services; and
- labor market information (see also B-401.c: Labor Market Information).

B-401.e: Referral to Support Services

Boards must ensure that each Workforce Solutions Office makes available to job seekers a complete and up-to-date list of support services provided by community and state agencies.

The list can be created and maintained by the Board, an independently published list provided to or purchased by the Board, or an enterprisewide incorporation of the Texas Information and Referral Network (2-1-1 Texas).

2-1-1 Texas is a referral line answered by nationally certified specialists who have access to the most comprehensive database of community-based organizations, government agencies, and nonprofit organizations in Texas that provide assistance with food, rent, utilities, child care, and other benefits. Job seekers can dial 2-1-1, or visit the website at www.211texas.org.

B-402: Migrant and Seasonal Farmworkers

Boards must be aware of the following:

Services to MSFWs are federally mandated to ensure that MSFWs are offered the full range of employment services, benefits, and protections, including the full range of counseling, testing, and job training referral services. This includes an internal monitoring system, outreach, complaint processing procedure, and performance measures and indicators of compliance for MSFWs. The purpose of the mandate is to enhance the MSFW population's employability and to provide needed services. By law, MSFWs must receive services that are qualitatively equivalent and quantitatively proportionate to services provided to non-MSFWs (20 CFR, Chapter V, Part 653).

See the *Texas Workforce Migrant and Seasonal Farmworkers Self Study Guide* for additional information and referral requirements, available on the Intranet at intra.twc.state.tx.us/intranet/train/docs/msfw_self_%20studyguide.pdf.

B-402.a: Migrant and Seasonal Farmworkers Outreach Program

Boards must be aware of the following:

In addition to the required MSFW services previously mentioned, certain Workforce Solutions Offices—designated as MSFW-significant Workforce Solutions Offices—must conduct outreach to MSFWs. An MSFW-significant Workforce Solutions Office is a Workforce Solutions Office in which MSFW job

registrants comprise 10 percent or more of the total job seekers registered during the previous program year (July to June).

Boards must ensure that MSFW-significant Workforce Solutions Offices provide an outreach program to locate and contact MSFWs who are not being reached by the Workforce Solutions Office's normal intake activities. The purpose of the outreach program is to:

- enhance the employability of MSFWs; and
- provide support services.

The goals of the outreach program are to:

- provide basic services where MSFWs work, live, or gather for recreational purposes;
- inform MSFWs of the full array of services available at the Workforce Solutions Office; and
- provide needed support services and referrals to other service providers.

B-402.a(1): MSFW Outreach Worker Roles and Responsibilities

In most MSFW-significant Workforce Solutions Offices, the MSFW outreach worker may be a full-time position. The MSFW outreach worker is responsible for:

- contacting and locating MSFWs where they work and live;
- observing the work and living conditions of MSFWs;
- explaining the services available;
- providing information about the job service complaint system;
- explaining basic farmworker rights with respect to the terms and conditions of employment;
- assisting in the preparation of a WorkInTexas.com job seeker account;
- referring MSFWs to a job currently available;
- assisting in making appointments with other Workforce Solutions Offices or other appropriate agencies;
- referring MSFWs to support services, if needed; and
- assisting in the preparation of a worker complaint. (See [B-501: Complaint Procedures](#).)

For additional information on the MSFW outreach program and outreach worker roles and responsibilities, refer to 20 CFR, Chapter V, Parts 653 and 658.

B-403: Eligible Veterans and Foster Youth

By law, Boards must ensure that eligible veterans and eligible foster youth receive priority over all other equally qualified individuals in the receipt of workforce services.

Definitions

Boards must ensure that the following definitions are used when implementing priority of service:

Eligible Veteran—any one of the following:

- Federal/state qualified veteran—a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable as specified at 38 U.S.C. 101(2). Active services include full-time duty in the National Guard or a Reserve component, other than full-time for training purposes. [*Note: This definition does not apply to eligibility for services provided by Disabled Veterans' Outreach Program/Local Veterans' Employment Representatives staff.*]
- Federal qualified spouse—the spouse of:
 - (1) any veteran who died of a service-connected disability;
 - (2) any member of the Armed Forces serving on active duty who, at the time of application for the priority, is listed in one or more of the following categories and has been so listed for a total of more than 90 days:
 - (i) missing in action;
 - (ii) captured in line of duty by a hostile force; or
 - (iii) forcibly detained or interned in line of duty by a foreign government or power;
 - (3) any veteran who has a total disability resulting from a service-connected disability, as evaluated by the Department of Veterans Affairs;
 - (4) any veteran who died while a disability, as indicated in paragraph (3) of this section, was in existence.
- State qualified spouse—a spouse:
 - (1) who meets the definition of federal qualified spouse; or
 - (2) of any member of the armed forces who died while serving on active military, naval, or air service.

Non-eligible person—an individual who does not meet the definition of eligible veteran or the definition of eligible foster youth.

Point of entry—may include reception through a Workforce Solutions Office, as part of an application process for a specific program, or through any other method by which eligible veterans express an interest in receiving services, either in-person or online.

Eligible Foster Youth

- Current foster youth—A youth, age 14 or older, who is receiving substitute care services under the managing conservatorship of the Texas Department of Family and Protective Services (DFPS), including youth residing in private foster homes, group homes, residential treatment centers, juvenile correctional institutions, and relative care; or
- Former foster youth—A youth up to 23 years of age, who formerly was under the managing conservatorship of DFPS, until:
 - a court transferred the conservatorship;
 - the youth was legally emancipated (i.e., the youth’s minority status was removed by a court); or
 - the youth attained 18 years of age.

Identifying and Informing Eligible Veterans

Boards must ensure that eligible veterans are:

- identified at the point of entry; and
- informed of:
 - their right to priority of service;
 - the full array of employment, training, and placement services available under priority of service; and
 - any applicable eligibility requirements for those programs and services.

Boards must ensure that this policy is implemented and that local procedures are developed:

- to identify eligible veterans at the point of entry by allowing individuals to self-identify as eligible veterans (e.g., placing a “sign-in” sheet at the reception desk at Workforce Solutions Offices that prompts all customers to declare their eligible veteran status prior to receiving services); and
- that do not require completion of a self-attestation form.

Boards must ensure that written copies of local priority of service policies are maintained at all service delivery points and, to the extent practicable, posted in a way that makes it possible for the public to easily access them.

Boards must ensure that eligible veterans receiving staff-assisted services sign a self-attestation form to certify that they meet the definition of eligible veteran. Boards may create their own self-attestation form or use the sample form provided as Attachment 1 to WD Letter 04-09, Change 3.

Note: If a veteran presents a Form DD-214 upon arrival at the Workforce Solutions Office, staff can accept the DD-214 in place of the self-attestation form. Additionally, if a DD-214 is already on file at the Workforce Solutions Office or the veteran is registered in WorkInTexas.com, the self-attestation form is neither necessary nor required.

Implementing Priority of Service

Boards must be aware of three categories of qualified programs in which priority of service will apply:

- Universal access programs (such as ES) that deliver services as a whole and that do not target specific groups;
- Discretionary targeting programs (such as WIA) that focus on certain groups but do not specifically mandate that target groups be served before other eligible individuals; and
- Statutory targeting programs (such as TANF) that are mandated by federal law to provide priority or preference to certain groups or spending requirements or limitations. Boards must determine each individual's eligible veteran status and apply priority of service as described below:
 - Eligible veterans who meet the mandatory priorities or spending requirement or limitation must receive the highest priority for the program or service;
 - Non-eligible persons within the program's mandatory priority or spending requirement or limitation must receive priority for the program or service over eligible veterans outside the program-specific mandatory priority or spending requirement or limitation; and
 - Eligible veterans outside the program-specific mandatory priority or spending requirement or limitation must receive priority for the program or service over non-eligible persons outside the program-specific mandatory priority or spending requirement or limitation.

Boards must be aware of the following:

- Priority of service means the right of eligible veterans to take precedence over non-eligible persons in obtaining workforce services.
- Taking precedence can mean:
 - eligible veterans receive access to workforce services before non-eligible persons; or
 - if workforce services are limited, eligible veterans receive access to workforce services instead of or before non-eligible persons.

Boards must be aware that they do not have the authority to establish additional priorities within the priorities established by the regulations.

Boards also must ensure that non-eligible persons who are currently receiving workforce services are not displaced in order to provide priority of service to eligible veterans. Boards must ensure that the next available workforce services are provided to eligible veterans.

Example 1: An eligible veteran enters a Workforce Solutions Office to use a resource room computer for job search. However, all computers are being used by non-eligible persons and there are several non-eligible persons in line. In this case, the eligible veteran would receive priority by being moved to the front of the line, but does not displace one of the non-eligible persons already using a computer.

Example 2: For a service such as classroom training, priority of service applies to the selection procedure, as follows:

- First, if there is a waiting list for the formation of a training class, the eligible veteran will receive priority by being moved to the top of that list.
- Second, priority of service applies when an individual is both:
 - approved for funding; and
 - accepted or enrolled in a training class.

Therefore, once a non-eligible person has been both approved for funding and accepted or enrolled in a training class, an eligible veteran who is identified subsequently will not take the place of the non-eligible person from that training class.

Priority Order

Boards must ensure that the following order of priority for workforce services is applied.

1. Eligible veterans continue to receive priority over all other equally qualified individuals in the receipt of services funded in whole or in part by DOL, in accordance with 38 U.S.C. §4215.
2. Eligible veterans receive priority over all other equally qualified individuals in the receipt of employment assistance or job training services funded in whole or in part by state funds, in accordance with Texas Labor Code, Chapter 302, Subchapter G.
3. Eligible foster youth receive priority over all other equally qualified individuals—except eligible veterans—in the receipt of federal and state-funded services.

Foster Youth

Boards must ensure that workforce services are prioritized and targeted for youth transitioning out of the foster care system and for former foster youth. Furthermore, where feasible, Boards must ensure that foster youth who need housing are referred for short-term housing stays.

Priority of Service for Support Services

To ensure that eligible veterans and eligible foster youth receive priority over all other equally qualified individuals in the receipt of workforce services, they also must have access to needed support services (e.g., child care, transportation, etc.).

Implementing priority of service for the majority of support services is not difficult; however, because child care services are unique, the following additional guidance is provided.

Child Care

Boards must be aware that the priority for child care services for eligible veterans and eligible foster youth is contingent upon the availability of TWC child care funds. Boards

with a waiting list for TWC-funded child care services must not discontinue care for a child currently enrolled in child care services in order to serve a child of an eligible veteran or a child of a foster youth.

Section 809.43(a)(1) of TWC's Child Care Services rules establishes that the following populations are assured child care services and are not subject to the child care waiting list:

1. Choices child care;
2. TANF applicant child care;
3. Supplemental Nutrition Assistance Program Employment and Training child care; and
4. Transitional child care.

TWC rule §809.43(a)(2) provides that the following populations are served subject to the availability of funds, and include, in priority order:

1. children who need to receive protective services child care;
2. children of an eligible veteran;
3. children of an eligible foster youth;
4. children of teen parents; and
5. children with disabilities.

Data Collection

Boards must ensure that Workforce Solutions Office staff documents the receipt of staff-assisted workforce services in TWIST or WorkInTexas.com.

B-404: Employment Service / Unemployment Insurance Coordination

Boards must be aware of the following:

Each Board must designate a local WF/UI coordinator who is responsible for communicating with the state WF/UI coordinator when issues arise during the normal course of business with UI claimants.

UI claimants are a target population for the receipt of workforce services and assistance in becoming reemployed.

Most UI claimants are required to:

- register for work in WorkInTexas.com within three business days from the date of filing the initial UI claim; and
- actively search for employment.

Individuals who do not have to register in WorkInTexas.com or search for employment include those who:

- are employed by a company that is participating in an approved Shared Work Program, as described in Texas Labor Code, Chapter 215;
- are on temporary layoff with a definite return-to-work date; or
- are members in good standing of a nondiscriminatory union hiring hall.

These individuals are considered *workforce attached* and are not truly available to other employers.

If the claimant is required to register and seek work, the claimant's work registration must be in active status the entire time he or she is receiving UI benefits or is appealing a determination from TWC not to pay benefits. In addition, the UI claimant must:

- make an active search for employment if required to do so, and document those efforts, in the event that TWC requests evidence of acceptable work search;
- be physically able to work;
- be available for full-time employment;
- apply for and accept suitable employment;
- call or report to a Workforce Solutions Office, when instructed (e.g., RRES);
- participate in required reemployment activities if determined likely to exhaust benefits; and
- request payment for weeks of unemployment.

If the UI claimant does not register for WorkInTexas.com within the prescribed time, a WorkInTexas.com registration for the claimant is automatically created using basic information from the individual's UI claim. These automatically created registrations are sufficient for job matching, but are of lower quality than ones completed by the claimant. WorkInTexas.com provides a report for Workforce Solutions Office staff to identify these claimants for outreach purposes in order to enhance the completeness and quality of the work registration.

As a best practice, it is recommended that Boards outreach all UI claimants listed in the report. One reason for not self-registering is poor or limited computer skills. The report provides a list of claimants who can potentially benefit from and appreciate direct staff-assistance.

On September 1, 2007, a memorandum of understanding (MOU) between the Commission and each Board regarding the provision of workforce services for UI claimants at Workforce Solutions Offices became effective. This MOU implements the requirements of federal regulations (20 CFR §652.3) and mandates that Boards provide a variety of workforce services to UI claimants.

Boards must ensure that Workforce Solutions Office staff follows the requirements provided in the MOU when assisting UI claimants at Workforce Solutions Offices.

These requirements include the following:

- Advising UI claimants of the requirement to register for work in WorkInTexas.com if they are required to do so.
- Entering timely and accurate data for UI claimants who lack access to WorkInTexas.com when claimants request staff assistance to register for work.
- Entering all services provided to UI claimants into WorkInTexas.com or TWIST in a timely manner.
- Advising UI claimants of all methods for filing a claim for UI benefits or requesting payment of UI benefits, emphasizing filing and payment request options available via the Internet. Regardless of the method, UI claimants must key or call in their own information.
- Directing UI claimants and employers to refer UI questions and problems to a UI Tele-Center.
- Providing UI claimants and employers with UI Tele-Center phone numbers.
- Providing UI claimants with a copy of the revised Tips for a Productive Work Search, or directing them to www.twc.state.tx.us/ui/bnfts/tipsworksearch.pdf.

Work Search

Boards must ensure that Workforce Solutions Office staff assists UI claimants with their work search, including those activities set forth in:

- Section 815.28 (Work Search Requirements) of TWC's Unemployment Insurance rules; and
- the Tips for a Productive Work Search, available at www.twc.state.tx.us/ui/bnfts/tipsworksearch.pdf.

Boards must ensure that:

- UI claimants receive the full range of labor exchange services available to facilitate their earliest return to work;
- UI claimants requiring assistance in seeking work receive the necessary guidance and counseling to ensure they make a meaningful and realistic work search;
- the local WF/UI coordinator notifies the state WF/UI coordinator if staff becomes aware that a UI claimant:
 - is not able to, or available for, work;
 - refused work or a job referral; or
 - is not actively seeking work;
- the local WF/UI coordinator, when notifying the state WF/UI coordinator of a potential issue:
 - provides a brief description of the potential issue; and
 - does not investigate the issue; and

- Workforce Solutions Office staff does not manually inactivate a UI claimant's work registration in WorkInTexas.com and does not enter or alter—under any circumstances—a job seeker registration without first consulting with the job seeker.

WorkInTexas.com automatically transmits certain outcome information, including job contact outcomes, to the UI Benefits System to provide notification of a potential eligibility issue. When WorkInTexas.com transmits the following job contact outcomes, the UI Benefits System flags the UI claimants so the information can be reviewed to determine if the UI claimants are eligible to continue receiving unemployment compensation:

- Did not report to work
- Did not accept job
- Did not report for interview
- Did not accept WorkInTexas.com *Contact* (refused referral)
- Did not respond to RRES call-in letter

Boards must ensure that Workforce Solutions Office staff records the above job contact outcomes in WorkInTexas.com in order for WorkInTexas.com to automatically transmit the information to the UI Benefits System.

In addition to the outcomes previously listed, there are several other potential issues that require the local WF/UI coordinator to manually communicate with the state WF/UI coordinator, including:

- transportation problems;
- child care problems;
- vacations or other events that require the UI claimant to be out of town;
- extended illness or injury;
- return to full-time work and continuing to file for UI benefits;
- RRES letter returned by the U.S. Post Office; and
- any other issue that impedes a UI claimant's ability to obtain employment.

Boards must ensure that local WF/UI coordinators use the Potential UI Eligibility Issue form (WF-42) to inform the state WF/UI coordinator of potential issues. To submit the form:

- complete the form using only the last four digits of the UI claimant's SSN;
- save the form as a Word document;
- e-mail it as a password-protected attachment to wfui.coordinator@twc.state.tx.us; and
- follow-up with a second e-mail that contains the password to access the document.
Do not send the document and password in the same e-mail.

Form WF-42 is available on the Intranet at intra.twc.state.tx.us/intranet/gl/docs/wf-42.doc.

It is recommended that Boards have their local WF/UI coordinators inform Workforce Solutions Office staff about the type of information that will be needed. This will expedite communication between Workforce Solutions Office staff and the state WF/UI coordinator.

Unemployment Insurance Appeals

Boards must be aware of the following circumstances that involve Board and Workforce Solutions Office staff in the UI appeals process:

- An appealing party submits an appeal by U.S. mail directly to a Board office or Workforce Solutions Office.
- A UI claimant or an employer files an appeal in person at a Board office or Workforce Solutions Office.
- A UI claimant or an employer requests the use of Workforce Solutions Office resources to file an appeal without staff assistance (self-service appeal).
- An appealing party requests use of Workforce Solutions Office resources to participate in a TWC hearing.

Staff Support for UI Claimants and Employers

Boards must ensure that Board staff and Workforce Solutions Office staff adhere to the following procedures:

1. When a Board office or a Workforce Solutions Office receives an appeal by mail, date stamp the appeal on the day received, attach the postmarked envelope in which it arrived, and forward both by mail within one business day of receipt to:

Texas Workforce Commission
Appeals Department
101 East 15th Street
Austin, Texas 78778-0001

2. When a UI claimant or an employer requests to file an appeal in person:
 - provide a *Texas Workforce Commission Notice of Appeal* in English (Form A-4) or Spanish (Form A-4s), both available on the Intranet at intra/intranet/gl/html/general_forms.html;
 - upon completion and return, countersign and date the form and provide a copy to the appealing party;
 - ensure that both the appealing party and the staff member initial any corrections to the form; and
 - fax the form and determination, if attached (a copy of the determination is not required with submission), to TWC Appeals at (512) 475-1135.

3. When a UI claimant or employer requests to use resources to send information to TWC, provide:
 - access to a fax machine;
 - assistance in operating the fax machine if requested; and
 - a fax confirmation sheet with transmittal date, time, and record of successful transmission.

Access to Workforce Solutions Office Resources

Boards must be aware that UI claimants and employers can request to use a Workforce Solutions Office fax machine to address matters related to their UI claims, including appeals, without providing specific information on what they are faxing.

Boards must ensure that, upon request, Workforce Solutions Office staff provides UI claimants and employers access to the following:

- Telephone/speakerphone
- Fax machine
- Location in which to participate in a UI telephone appeal hearing

Boards must ensure that:

- UI transactions take priority over other fax usage;
- UI claimants and employers are provided any necessary assistance with equipment;
- a notice in English and Spanish is posted by the fax machine informing UI claimants and employers that they can request a confirmation of the fax transmittal if one is not automatically provided; and
- UI claimants and employers have access to resources and assistance at all times during a Workforce Solutions Office's regular business hours.

It is recommended that Boards have Workforce Solutions Office staff post a notice in English and Spanish on any public-accessible Workforce Solutions Office doors reminding UI claimants and employers that they can file an appeal immediately by U.S. mail.

UI Benefit Payment Methods

TWC pays UI benefits by direct deposit or through a debit card.

Direct deposit allows TWC to deposit a claimant's UI benefit payment directly into a personal checking or savings account at any U.S. bank or credit union. Claimants may sign up for direct deposit by logging on to ui.texasworkforce.org and selecting *Payment Option* from the *Quick Links* menu, or by selecting option 5 from the Tele-Serv menu (1-800-558-8321). Claimants need:

- their UI Personal Identification Number;
- the savings or checking account number; and
- the associated nine-digit account routing number.

TWC provides the bank or credit union eight business days to verify direct deposit information before TWC can deposit benefits directly into the claimant's account. If the claimant requests UI benefit payment during that eight-day period, TWC will pay those benefits by check.

Boards must ensure that appropriate staff directs UI claimants who have questions regarding direct deposit to the direct deposit information located at www.twc.state.tx.us/ui/bnfts/directdepositfaq.pdf.

TWC also can pay UI benefits through a UI debit card. Claimants may sign up for debit card by logging on to ui.texasworkforce.org and selecting *Payment Option* from the *Quick Links* menu or by selecting option 5 from the Tele-Serv menu (1-800-558-8321). Claimants selecting payment by debit card will receive the card and welcome packet in the mail 7 to 10 days after TWC sends the first payment to the contracted bank. TWC authorizes the contracted bank to open the claimant's debit card account and send a debit card only if the individual qualifies to receive UI benefits.

Boards must ensure that Workforce Solutions Office staff directs UI claimants who have questions regarding debit card payments of UI benefits to:

- debit card information located at www.twc.state.tx.us/ui/uidebitfaq.pdf; or
- the phone number located on the back of the debit card.

Prohibited Activities

Boards must ensure that Workforce Solutions Office staff does not engage in the following activities:

- Answering questions or making predictions about UI benefit eligibility and receipt. Workforce Solutions Office staff must direct all persons with UI questions and problems to a UI Tele-Center.
- Collecting weekly work search logs. The collection of UI claimant work search information (known as work search logs) is the sole responsibility of TWC's UI Division staff.
- Accepting custody of debit cards voluntarily surrendered by UI claimants or others. Boards must ensure that Workforce Solutions Office staff:
 - does not, for any reason, accept a returned debit card; and
 - directs any individual who attempts to surrender a debit card to contact a UI Tele-Center to speak with a customer service representative.
- Setting up a fictitious claim by calling a UI Tele-Center or via the online Apply for Benefits application as an example for a UI claimant or as a way to test that the system is accepting claims.
- Listening to or participating in UI claimant conversations. It is inappropriate for Workforce Solutions Office staff to monitor UI claimant conversations when a claimant is using a telephone at a Workforce Solutions Office to file a claim, participate in an appeal hearing, or provide information requested by a Tele-Center.

The following TA Bulletins, and any subsequent issuances, provide UI-related technical assistance:

- TA Bulletin 208, issued June 10, 2009, and entitled “Updated Instructions for Resetting Unemployment Insurance Claimant Personal Identification Numbers,” available at www.twc.state.tx.us/boards/tabull/ta208.pdf
- TA Bulletin 196, Change 1, issued March 1, 2011, and entitled “Serving Unemployment Insurance Claimants—*Update*,” available at <http://www.twc.state.tx.us/boards/tabull/tabull.html>
- TA Bulletin 147, issued April 11, 2007, and entitled “Unemployment Insurance Tele-Centers Telephone Menus,” available at www.twc.state.tx.us/boards/tabull/ta147.pdf
- TA Bulletin 146, issued April 11, 2007, and entitled “Online *Payment Request* System for Unemployment Insurance,” available at www.twc.state.tx.us/boards/tabull/ta146.pdf
- TA Bulletin 115, issued March 27, 2006, and entitled “Access to Unemployment Insurance Application at Workforce Centers,” available at www.twc.state.tx.us/boards/tabull/ta115.pdf
- TA Bulletin 113, issued February 27, 2006, and entitled “UI Claimant Requirements Desk Aid,” available at www.twc.state.tx.us/boards/tabull/ta113.pdf

B-405: Rapid Reemployment Services

Federal law requires that states maintain a Worker Profiling and Reemployment Services (WPRS) system to identify and prioritize UI claimants who are likely to exhaust their UI benefits. TWC’s WPRS system is the Rapid Reemployment Services (RRES) program.

Individuals who file for UI benefits, receive a first payment of benefits, and are required to seek work are placed in an outreach pool and ranked using an RRES score that reflects the likelihood that they will exhaust their UI benefits before securing employment. RRES is one means of maintaining the link between UI claimants and services in Workforce Solutions Offices.

Claimant Profiling Cutoff Score

Boards must be aware of the following:

- Identification of UI claimants likely to exhaust benefits is accomplished by assigning the claimant a score of 0.00–1.00 through the RRES statistical modeling application. A higher score indicates a greater risk of exhausting UI benefits.

- TWC established an individual cutoff score for each Board directly related to the Board's exhaustion rate.
- TWC reviews exhaustion rates quarterly and redetermines, as necessary, each Board's cutoff score.
- Only those claimants with profiling scores equal to or higher than their individual Board's cutoff score are eligible for RRES call-in and are subject to ineligibility for UI benefits for failure to respond to this outreach.

When determining how many claimants to call in under RRES, Boards must consider available funding and other resources. Additionally, Boards must ensure that the number of claimants called in does not exceed the available resources, which must be sufficient to provide required staff-assisted services.

A Board may outreach claimants whose scores are below its individual cutoff score. A claimant whose score is below the Board's individual cutoff score and who does not respond to outreach communications from a Board is not subject to ineligibility for UI benefits for failure to respond to this outreach.

Staff-Assisted Services for RRES Claimants

Boards must ensure that, in addition to an RRES orientation, claimants called in through the RRES system receive staff assistance with developing an individualized Employment Plan (EP). Boards must ensure that, at a minimum, the EP consists of:

- a specific employment goal;
- a list of challenges or barriers to employment specific to the claimant;
- detailed step-by-step activities the claimant will perform and or participate in;
- timelines to start and complete each activity;
- specific dates for staff follow-up to evaluate each activity, provide additional assistance, and make adjustments, if necessary; and
- the next scheduled contact date with staff.

Boards may develop the EP using:

- the WorkInTexas.com EP function;
- the TWIST *Employability Development Plan* function; or
- a locally developed paper or electronic plan.

Boards must ensure that Workforce Solutions Office staff retains a paper or electronic copy in the participant's file or a locally maintained program file.

As a best practice, it is recommended that Boards coenroll RRES participants in WIA dislocated worker services to further assist harder-to-serve claimants in returning to meaningful, sustained employment as quickly as possible.

B-500: Operational Requirements

B-501: Complaint Procedures

Boards must be aware of the following:

Under 20 CFR, Part 658, Subpart E, each state must establish and maintain an ES complaint system, which includes maintaining a log of all complaints received and prominently displaying approved ES complaint system posters.

Additionally, Boards' Wagner-Peyser ES contracts mandate that Boards design, implement, and maintain a complaint system and related processes with contracted providers to ensure that each Workforce Solutions Office:

- designates a “complaint taker” to handle ES complaints; and
- maintains a log for recording all complaints received.

At a minimum, the complaint log must include the:

- date of complaint;
- name of complainant;
- address of complainant;
- type of complainant (employee, job seeker, MSFW, WIA participant, etc.);
- grounds for or basis of the complaint (age, sex, race, etc.);
- description of the complaint;
- disposition/outcome (settled, forwarded to proper enforcement agency, etc.); and
- date of outcome.

Boards must be aware of the following suggested practices for the complaint-handling process:

- Complaints do not always need to be taken in writing. If a situation can be addressed immediately and without formality, that is recommended. However, it is the customer's choice.
- Do not attempt to provide legal advice or interpret the law.
- Inform customers that they have the right to file a complaint directly with the proper enforcement agency, as that may lead to quicker resolution.

B-501.a: ES Complaints Related to Discrimination

Boards must be aware of the following:

Any person who believes that TWC, or an entity that receives federal funding from or through TWC, has subjected him or her or any specific class of

individuals to unlawful discrimination can file a charge of discrimination. To be processed, a complaint must be:

- in writing; and
- contain the information required by 29 CFR §37.73.

Complaints can be filed personally or through an authorized representative:

- at the local or state level by completing and submitting a Discrimination Complaint Form (EO-13/EO-13S), available from:
 - TWC's Subrecipient and Equal Opportunity (EO) Monitoring Department; or
 - the Board's EO officer; or
- with DOL's Civil Rights Center (CRC) by completing and submitting a CRC Complaint Information and Privacy Act Consent Form, available from:
 - the state-level EO officer; or
 - CRC; or
- via a written and signed complaint narrative containing:
 - a description of the complainant's allegations;
 - the complainant's contact information; and
 - any other pertinent information.

A charge of discrimination must be filed within 180 days of the alleged act of discrimination.

B-501.b: ES Complaints Not Related to Discrimination

Boards and Workforce Solutions Offices must have a written policy on complaint resolution for complaints not based on discrimination, as set forth in 20 CFR §667.600.

If a complaint is not based on discrimination but on program or customer service issues, Boards must ensure the complaint is processed in accordance with local policies and procedures.

Examples of complaints not based on discrimination include:

- complaints alleging discourteous treatment by Workforce Solutions Office staff; and
- violations of the terms and conditions of a job posting in WorkInTexas.com.

Once a complaint is received, Boards must ensure that there is an attempt to resolve the complaint at the Workforce Solutions Office level. If this attempt is unsuccessful, the complaint can be referred to the Board for resolution. If complaints are not resolved satisfactorily at the Workforce Solutions Office or Board level, the next step is to file an appeal with TWC's Appeals Department.

B-501.c: Non-ES–Related Complaints

Boards must ensure that non-ES–related complaints are referred as follows:

Refer complaints alleging violations of employment-related laws, such as the Fair Labor Standards Act and wage and hour issues, to DOL’s Wage and Hour Division (www.dol.gov/whd/).

Refer complaints alleging unsafe working conditions to DOL’s Occupational Safety and Health Administration (www.osha.gov/).

Refer complaints alleging discrimination by an employer that did not have a job posting in WorkInTexas.com to TWC’s Civil Rights Division (www.twc.state.tx.us/customers/jsemp/jsempsubcrd.html).

For additional information, see www.texasworkforce.org.

B-501.d: Required Posters

Boards must ensure that all Workforce Solutions Offices prominently display approved ES complaint system posters, including the following:

- *Equal Opportunity is the Law* poster (EEO-8) in English and Spanish
- *Job Service Complaint System* poster in English and Spanish

These and other posters are available on the TWC Website at <http://www.twc.state.tx.us/ui/lablaw/posters.html>, and on the DOL Website at www.dol.gov/compliance/topics/posters.htm.

B-501.e: Security of Personal Identity Data

Boards and other TWC grantees must ensure the security and confidentiality of customers’ personal identity data by adhering to the following guidelines:

- Physical Security
 - Limit access to sensitive printed materials.
 - Use proper storage for materials that include personal identity data.
 - When possible, after use, shred documents that include personal identity data.
 - Secure laptop computers when not in use.
 - Do not leave documents that include personal identity data in plain view.

- Electronic Security
 - Do not share passwords, personal identification numbers, security tokens (e.g., smartcards), or any data or equipment used for authentication and identification purposes.
 - Log off of computers when leaving them unattended, no matter for how short a time.
 - Do not send any personal identity data in the subject or body of an e-mail; instead, save the data to a secure document using the password protection option, e-mail the password to the recipient, and send the document as an attachment in a separate e-mail.
 - Use password protection when saving personal identity data in a document that will be transported on a laptop computer or portable storage device.

Additionally, Boards and other TWC grantees must ensure that a customer's confidential personal identity data is not provided to anyone other than that customer, and then only after the customer provides enough information to establish his or her identity.

B-502: Request for Information

Boards must be aware of the following:

TWC and Boards must comply with Texas Government Code §552.001 relating to the Public Information Act and disclosure of information.

Individuals or entities requesting information may include:

- employers;
- job seekers;
- the media in any form (TV, radio, newspapers, etc.);
- other government agencies; and
- private sector entities such as banks and schools.

Additionally, Workforce Solutions Office staff may receive requests from UI claimants to complete or sign various documents regarding student loan deferments, insurance for a period of unemployment, or inquiries from a creditor.

In all cases, requests must be:

- immediately directed to the TWC Open Records Coordinator; and
- submitted by the requestor in writing.

A written request is one submitted in almost any form that can be read, including an e-mail, letter, memo, or handwritten note. Requests must include:

- specifics regarding what information is needed;

- the name and contact information of the requestor; and
- in the case of UI claimants, the claimant's SSN and a copy of the claimant's photo ID (for identification verification purposes).

With the exception of UI claims, virtually all recorded information maintained by TWC is subject to disclosure under the Public Information Act. TWC has 10 business days to respond to any written request.

Direct all requests for information to:

Texas Workforce Commission
Open Records Department
101 East 15th Street
Austin, Texas 78778-0001
(512) 463-2422
open.records@twc.state.tx.us
Fax: (512) 463-2990

Note: If the requesting party indicates an immediate need to prevent extreme hardship, Boards must ensure that the requestor is advised to fax the request to the Open Records Department and indicate that the matter is urgent.

B-503: Financial Literacy

Boards must be aware of the following:

As set forth in Texas Labor Code §302.0027, TWC and Boards must ensure that all workforce development programs offered in the state includes training in financial literacy.

Boards may use the Money Smart curriculum—available in English, Spanish, Chinese, Korean, and Vietnamese—to ensure that financial literacy training is available to Workforce Solutions Office customers.

Information on the Money Smart curriculum, including instructions on how to order free copies, is available through FDIC's Website at www.fdic.gov/consumers/consumer/moneysmart.

Check your local policies to learn more about the financial literacy programs in your workforce area.

Employment Service Guide

Part C – Oversight

C-100: Performance Measures

Performance measures are indicators of progress in administering effective services to employers and job seekers. The Texas Workforce Commission (TWC) is responsible for developing the system of performance accountability for Local Workforce Development Boards (Boards).

The Wagner-Peyser Act requires delivery and oversight of five Employment Service (ES) activities:

- Assisting job seekers in finding employment
- Assisting employers in filling jobs
- Facilitating the match between job seekers and employers
- Participating in a system for clearing labor between the states
- Administering the work test requirements of the state unemployment insurance (UI) compensation system

The U.S. Department of Labor (DOL) measures each state's success in delivering employment services, based on the five activities listed above, by instituting performance measures relating to:

- ES;
- services to veterans; and
- services to migrant and seasonal farmworkers (MSFWs).

TWC measures each Board's success in delivering services based on Reemployment and Employment Engagement Measures (REEMs) and integrated common measures that are included in the Board's contract with TWC.

Boards' ES performance is reported monthly through TWC's monthly performance report.

C-101: Services to Eligible Veterans

Federal law requires that Workforce Solutions Office staff provides the maximum level of services to veterans.

Veterans are included in the calculation of Boards' ES performance measures.

C-102: Migrant Indicators of Compliance

The Migrant Indicators of Compliance report (TWIST Web Report #219) helps Boards and Workforce Solutions Offices determine if they are meeting federal standards for services to MSFWs. This is accomplished by tracking services provided to MSFWs compared to services provided to non-MSFWs, to ensure that MSFWs are receiving services that are qualitatively equivalent and quantitatively proportionate to services provided to non-MSFWs.

This report is one of many management tools that help ensure that Workforce Solutions Offices comply with DOL regulations.

Boards must ensure that Workforce Solutions Office staff:

- identifies job seekers who are MSFWs;
- indicates in WorkInTexas.com that a job seeker is an MSFW; and
- provides and records services to MSFWs.

The statewide target consists of the total number of job seekers identified as MSFWs. The number varies from year to year.

Employment Service Guide

Part D – List of Revisions

Note: Minor, nonsubstantive editorial revisions may be made to the guide that are not included on the List of Revisions.

DATE	SECTION	COMMENTS
3/3/11	B-301	Updated issuance dates for TA Bulletin 158, Ch. 1, and 211, Ch. 1
	B-404	Updated issuance date for TA Bulletin 196, Ch. 1