

Employment Service Guide

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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 United States Code \(USC\), 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 \(WIA\) of 1998](#) and its establishment of the one-stop service delivery system.

The one-stop service delivery system is intended to provide universal access, through self-service or with staff assistance, to an integrated array of labor exchange (job matching) 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 (for example, 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
- 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
- Referral to training

Employer services include:

- 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
- 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
- Older workers

The core principles of the ES program are to:

- Assist employers in filling jobs by recruiting, screening and referring qualified job seekers who 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 that UI claimants meet the work test requirement by registering with the state ES system
- Provide information regarding labor market conditions
- Address or assist in addressing labor issues in regard to state and federal laws

The purpose of this guide is to:

- Provide information about ES policies and procedures
- Highlight how ES supports the primary mission of TWC and Local Workforce Development Boards (Boards)

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
- Ensure a consistent level of service

List of Revisions

This guide was last updated on April 10, 2015. The [List of Revisions](#) includes a comprehensive list of changes made to this guide, including the revision date, the section revised and a brief explanation of the specific revision.

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
- 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.

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 direct 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 direct 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](#) 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, 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 [C-507: Job Postings 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. For additional information, see the following:

- [C-303: Job Posting Maintenance](#)
- [C-401: About Job Postings That Violate Federal or State 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 include:
 - Violations of the terms and conditions of the job posting
 - Violations of employment-related law (employer related)
- 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 [E-101: 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 [C-408: 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 or direct reimbursements by certain employers. 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 full-time work if required to do so.

The TWC Unemployment Insurance Division determines if a job is suitable based on:

- UI claimant's experience, qualifications and training
- Working conditions and pay for similar work in the claimant's local workforce development area (workforce area)
- Any risks to claimant's health, safety or morals
- Distance to work from the claimant's home with consideration of local commuting patterns
- How long claimant has been unemployed

During UI claimants' first eight weeks of unemployment, claimants must be willing to accept a suitable job that pays at least 90 percent of their normal wage. After claimants have been unemployed for eight weeks, claimants must be willing to accept a suitable job that pays at least 75 percent of their normal wage.

Boards must ensure that when Workforce Solutions office staff become aware that a UI claimant has failed to comply with the work test, staff report 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:

- [D-401: About Employment Service/Unemployment Insurance Coordination](#)
- 20 CFR §652.210
- Texas Unemployment Compensation Act §207.008 and §207.021(a)(1), (3), (4), and (5)
- TWC's UI rules at [40 Texas Administrative Code \(TAC\), Chapter 815, §815.20 and §815.28](#)
- [WD Letter 17-05](#), issued July 14, 2005, entitled New Unemployment Insurance Minimum Pay Reduction Requirements in WorkInTexas.com, and subsequent updates

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
- 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 United States Code \(USC\) §4215](#)
- [20 CFR Part 1010, Priority of Service for Covered Persons](#)
- [Training and Employment Guidance Letter No. 10-09](#), issued November 10, 2009, 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 35-11](#), issued November 3, 2011, entitled Priority of Service for Eligible Veterans—Update, and subsequent updates

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. For additional information on providing reasonable accommodations, see the following:

- [WD Letter 24-01](#), issued June 22, 2001, entitled Prohibition Against Discrimination Based on Disability or Limited English Proficiency in the Administration of Workforce Services
- [WD Letter 42-00](#), issued May 16, 2000, entitled Accessibility at Texas Workforce Centers for Individuals with Disabilities

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

To ensure accessibility for deaf, hard-of-hearing, or speech-disabled individuals, the use of relay services for communication is sometimes required. For a list of relay services and providers, see [TA Bulletin 225](#), issued July 9, 2010, entitled Customers Requiring Relay Services, and subsequent updates.

A-110: Equality of Service to Migrant & 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:

- [D-201: About Migrant and Seasonal Farmworkers](#)

- [20 CFR, Chapter V, §653.101](#)

A-111: Open Records

Boards must be aware that all general ES program information—for example, performance measures, budget, and strategic planning—is public information. However, information identifying any individual or past or present employer or employing unit, and information that could be combined with other publicly available information to reveal information identifying any individual or past or present employer or employing unit, is confidential under [Texas Labor Code §301.085](#) and can be disclosed only for the purpose of job matching. Unemployment compensation information (including wage records) and job matching services information is not public information for purposes of the Public Information Act.

Boards must be aware that unauthorized release of confidential unemployment compensation and job matching services information is a Class A misdemeanor.

See TWC’s Job Matching Services rule [§843.1](#) and TWC’s Unemployment Insurance rule [§§815.161–168](#) for more information on confidentiality and disclosure of confidential information.

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, 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 updates.

For additional information on requests for wage records and other information, see [E-300: Requests 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:

- [E-400: Financial Literacy](#)
- [WD Letter 60-05](#), issued October 28, 2005, entitled Implementation of Financial Literacy Training in Workforce Development Services, and subsequent updates

A-113: Professional Standards

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

- Completing, updating, or keying in a job seeker account for themselves, a coworker, a relative or a friend using their WorkInTexas.com staff logon
- 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 do 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 report the incident to their supervisor.

Boards also must ensure that Workforce Solutions office staff:

- Do not access or monitor any records except those that are absolutely necessary to complete assigned job duties
- Are aware that certain information is of a personal nature, is sensitive and confidential under law, and will be disclosed only in compliance with Texas Labor Code §301.085, TWC guidelines and the Public Information Act

For additional information, see:

- [E-200: Security of Personal Identity Data](#)
- [E-300: Requests for Information](#)

Part B – Delivery of Services

B-100: EMPLOYMENT SERVICE

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
- 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

B-201: About 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 résumés.

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
- Email notification of matches, if requested
- Current labor market information
- 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
- Email notification of matches, if requested
- Current labor market information
- Access to career tools and training resources
- Access to job notices from other sources (for example, US.jobs)

B-202: WorkInTexas.com Support & Use

Boards must ensure that appropriate staff:

- Are trained to use WorkInTexas.com as the job matching and public labor exchange tracking system
- Are assigned suitable levels of access to WorkInTexas.com

B-202.a: WorkInTexas.com Forms

Boards must:

- Be aware that [hard-copy forms](#) are available on the Intranet (the Intranet is not available to the general public) for use in collecting required information for WorkInTexas.com

- Ensure that the information recorded on hard-copy forms is entered into WorkInTexas.com in accordance with timelines established by Board contracts

B-202.b: WorkInTexas.com Support Network

Boards must be aware of the following two-tiered WorkInTexas.com support network.

1. WorkInTexas.com—Local Workforce Development Area Support

Boards must ensure that:

- At least two staff members in each workforce area are designated as WorkInTexas.com liaisons to provide support and up-to-date system information to appropriate staff in the workforce area
- Up-to-date and correct contact information for WorkInTexas.com liaisons is maintained
- A process for distributing information, routing questions and addressing issues concerning WorkInTexas.com is established
- Resolution of all questions and problems regarding WorkInTexas.com is attempted first through WorkInTexas.com liaisons

2. Workforce Systems Support Desk

Boards must be aware that TWC’s Workforce Systems Support Desk:

- Provides technical support on issues that WorkInTexas.com liaisons are unable to resolve
- Operates Monday through Friday during standard [TWC business hours](#)

B-202.c: Procedures for Contacting the Workforce Systems Support Desk

Boards must ensure that:

- Appropriate staff first contact the workforce area’s WorkInTexas.com liaison for resolution of system problems
- Only WorkInTexas.com liaisons contact the Workforce Systems Support Desk regarding unresolved system problems

Boards must ensure that WorkInTexas.com liaisons report problems and request assistance by:

- Completing the [Workforce Systems Support Desk: Problems and/or Questions email template](#) (Form TWN-027), available on TWC’s Intranet (the Intranet is not available to the general public)
- Emailing the form to the Workforce Systems Support Desk at the address listed in the form’s instructions

Boards must ensure that Workforce Systems Support Desk contact information is not provided to employers or job seekers.

B-203: Went to Work

Boards must be aware that Went to Work in WorkInTexas.com allows Workforce Solutions office staff to track when job seekers find work on their own. Boards must ensure that when Workforce Solutions office staff record a Went to Work in WorkInTexas.com, they enter the following service elements:

- Service Category—select Job Search Services
- Service—select Went to Work
- Service Date—defaults to present date
- Staff—select name of staff member entering service from the drop-down box
- For Went to Work only—in this section, enter the following additional elements:
 - Required:
 - Employer Name—enter name of employer that hired the job seeker
 - Job Title—enter title of job for which job seeker has been hired
 - Start Date—enter date job seeker started work
 - Optional:
 - Pay—enter pay rate, if provided

Boards must be aware that this information is automatically transmitted to The Workforce Information System of Texas (TWIST) upon entry, with no additional Workforce Solutions office staff action required.

Part C – Services to Employers

C-100: EMPLOYER SERVICES

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
- Obtaining and maintaining current information from local employers concerning their:
 - Labor needs
 - Employment and training opportunities
 - 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
- Work Opportunity Tax Credit (WOTC)

For information and technical assistance on identifying employers that need help finding and retaining qualified employees and would benefit from enhanced engagement with the Texas workforce system, see [TA Bulletin 239](#), issued September 26, 2011, entitled Developing an Employer Services Plan, and subsequent updates.

C-200: EMPLOYER ACCESS TO SYSTEMS & SERVICES

C-201: Employer Access

For the purposes of ES, an employer is defined by the U.S. Department of Labor (DOL) ([20 Code of Regulations \(CFR\) §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 follow 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
- Customized employer training

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

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

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

C-202: Approval of New Employer Accounts

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

- Unable to access the system at that time
- Directed to contact a Workforce Solutions office for assistance with account registration

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

- Meets the definition of employer, as set forth in [20 CFR §651.10](#)
- Agrees to comply with the job posting requirements in the [Employer Use Agreement](#)

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

- Establishing a WorkInTexas.com employer account and setting the approved status of the new employer account to Yes
- Offering assistance with entering job postings
- Providing the employer with workforce services, as appropriate

Boards must ensure that only employers that have paid wages and request to establish a tax account number are referred to the [Unemployment Tax Registration page](#).

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 follow the same procedures used for Texas employers that do not have a tax account number and FEIN.
- If the job is out-of-state, appropriate staff refer 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 direct the employer to the Texas Workforce Commission's (TWC) Agricultural Services Unit.

C-203: Ineligible Employer Accounts

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

- Clearly communicate the reasons for ineligibility to the entity
- Document the conversation and outcome using the 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, entitled Documenting Ineligible Employers and Entities in the Business Customer Management Module of WorkInTexas.com—Update, and subsequent updates, provide detailed instructions on documenting ineligible employers and entities in WorkInTexas.com.

[TA Bulletin 211, Change 2](#), issued February 28, 2012, entitled Determining Employing Entities’ Access to WorkInTexas.com—Update, and subsequent updates, provide detailed information on how to determine whether an employing entity should be granted access to WorkInTexas.com.

C-204: 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 random, unannounced field checks to agricultural worksites conducted by integrated service area manager staff or otherwise, to have either misrepresented the terms or conditions of employment specified on agricultural intra/interstate 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
- Refuse to cooperate in agricultural worksite visits conducted as set forth in 20 CFR §653.503

In any of these situations, Boards must document the following information in the 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, the Board must send a written discontinuation of services request—by letter or email—to TWC’s Workforce Program Policy and Services for Dislocated Workers 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
- Expect the Board to notify the employer of such action

C-300: JOB POSTINGS IN WORKINTEXAS.COM

C-301: General Information

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 email notification of matches
- Receive a list of qualified job seekers
- 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
- 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 jobsite 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 [C-601: 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 (for example, 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 posting 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:

- Review the job posting for illegal or discriminatory questions or statements
- Direct concerns regarding potentially illegal or discriminatory statements in an employer’s job posting 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 create 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.

C-302: Job Postings in Workforce Development Areas Served by Other Workforce Solutions Offices

Workforce Solutions office staff sometimes receive job posting requests that:

- Are from an employer located in a workforce area served by another Workforce Solutions office
- Specify the work is to be performed in another workforce area
- Recruit workers from another workforce area

In these cases, Boards must ensure that:

- Workforce Solutions office staff encourage 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
- 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 notify staff at a Workforce Solutions office that does serve that workforce area of the job posting either by telephone or email.

C-303: 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 review new job postings in WorkInTexas.com on a daily basis to ensure that the job postings:

- Are associated with valid employer accounts
- Do contain:
 - Descriptions of immediate openings
 - Correct occupational categories
 - Appropriate job requirements
 - Documentation of the employer's claim of a BFOQ
 - Complete descriptions of the terms and conditions of employment (for example, drug screening, proficiency tests or assessments, credit checks)

- 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
 - Openings for business opportunities or contract bids (Request for Proposals)
 - Recruitments for training
 - Discriminatory remarks or improper conditions
 - Inappropriate language
 - Requirements that the job seeker provide credit card or bank account information in order to apply
 - Fees charged to the job seeker in order to apply for or fill the job

Boards must ensure that when professional employer organizations (PEOs) enter job postings into WorkInTexas.com, appropriate staff check the [Texas Department of Licensing and Regulation](#) (TDLR) to ensure that the PEO has been licensed.

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

- Contact the employer before making any modifications to a job posting, including modifications to the number of job openings within a job posting
- Place the job posting on hold until the employer is contacted, if employer contact is necessary

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 do 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
- 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)
- If the posting is not assigned to the Workforce Solutions office that staff have 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:

- Enter all contacts and hires (if applicable)
- Close job postings in a timely manner using WorkInTexas.com

Contact the workforce area's WorkInTexas.com liaison 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
- 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 receive 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
 - 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
 - Notations of employer exceptions to quality referral/contact standards
- Job posting status (for example, 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 [Texas Labor Code §301.085](#), TWC guidelines, and the Public Information Act.

C-304: US.jobs Job Postings in WorkInTexas.com

WorkInTexas.com and US.jobs continue to work together to increase the number of job postings available to job seekers and to introduce WorkInTexas.com to employers that may not have previously used the system. Boards must be aware of the following.

Texas-based job postings in US.jobs are automatically:

- Downloaded into WorkInTexas.com through a nightly batch
- Assigned a WorkInTexas.com Job Posting ID in addition to a US.jobs employer posting number
- Marked with a US.jobs icon
- Displayed as view only to job seekers and appropriate staff

US.jobs job postings in WorkInTexas.com:

- Are associated with a WorkInTexas.com employer account—they are listed under Indexing accounts and are marked with a US.jobs icon. These accounts can be found by searching for the employer by name; however, the accounts (and all associated job postings) will appear as View Only
- Include job matching criteria such as [O*NET](#) occupation codes, but generally do not contain as much information as those jobs entered directly into WorkInTexas.com
- Are automatically closed in WorkInTexas.com
- Are tracked and will count toward Board job posting–related performance measures if the contact results in a hire (US.jobs contacts can only be updated to “hired” via delayed verification wage sweeps)

C-400: JOB POSTINGS THAT VIOLATE FEDERAL OR STATE LAW

C-401: About 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 be referred
- 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
- Fill a job vacated due to a strike or lockout

C-402: 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 Texas Right to Work laws, which make 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
- Work performed outside the state of Texas

For additional information, refer to:

- [Texas Labor Code, Chapter 101, Labor Organizations](#)
- [Texas Business and Commerce Code, Title 2, §§15.05\(e\)\(1\)–\(2\)](#)
- [National Labor Relations Act, 29 United States Code \(USC\), Chapter 7, Subchapter II, §158\(a\)\(3\) and §164\(b\)](#)

C-403: Predesignating the Job Seeker

Boards must ensure that Workforce Solutions office staff do not take action on a job posting in which the employer requests that Workforce Solutions office staff refer a certain job seeker. The only exceptions to this are agricultural and agricultural-related job postings for a specific crew leader or worker ([20 Code of Federal Regulations Part 651](#)).

C-404: Discriminatory Specifications

Boards must be aware that federal law and Employment Service 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.)

C-405: Charge for Filling a Job

Boards must ensure that Workforce Solutions office staff do 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 Americans with Disabilities Act guidelines, this examination may only be performed after an offer of employment is made)
- 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
- 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.

C-406: Referring Youth

Boards must ensure that Workforce Solutions office staff make 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 \(Texas Child Labor Law\)](#).]

C-407: Substandard Job Postings

Boards must ensure that Workforce Solutions office staff do 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 a change to the job posting, Boards must ensure that Workforce Solutions office staff

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

C-408: Labor Disputes

Each Board must designate a local workforce/unemployment insurance (WF/UI) coordinator to be responsible for communicating with the state WF/UI coordinator when Workforce Solutions office staff become aware of a labor dispute.

To notify the U.S. Department of Labor (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 become 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
- Workforce Solutions office staff assist 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 do not make job contacts (referrals) on job postings or job develop job seekers in a manner—with contacts to temporary help firms, professional employer organizations (PEOs) or staff leasing companies—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
- The job opening is otherwise at issue in a labor dispute involving work stoppage

Boards must ensure that Workforce Solutions office staff:

- Provide 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
 - The job opening to which the job seeker was referred is not at issue in the dispute
- Retain a signed copy of the Job Seeker Notice of Labor Dispute form

Boards must ensure that Workforce Solutions office staff do not accept or work existing job postings from temporary help firms, staff leasing companies or PEOs for positions at issue in a labor dispute.

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

- Verify the existence of the labor dispute
- 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 (the Intranet is not available to the general public) under [Employment Services Forms](#).

C-409: Employment Scams

Boards must be aware of the potential for fraudulent employment scams in WorkInTexas.com, disguised as legitimate employer-posted job opportunities that are usually entered by self-service users. Boards must be diligent in their review of all new job postings, looking for indicators of potential fraudulent activity. Indicators include, but are not limited to, employers or postings that:

- Require a job seeker to create an Instant Message account to conduct an interview
- Require a job seeker to provide bank account/check routing information before starting work
- Require a job seeker to cash a check from the employer before starting work
- Require a job seeker to contact the employer at an email address from a free email provider, such as Gmail, Yahoo, AOL
- Require a job seeker to submit any kind of payment for equipment, licenses, certifications, starter kits, software packages, etc., before starting work or before the employer's legitimacy has been validated
- Claim to hire a job seeker sight unseen or without validating credentials

C-500: SPECIAL TYPES OF JOB POSTINGS

C-501: About 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 temporary help firms and professional employer organizations (PEOs)
- Federal contractor job listings
- Military recruiting job postings
- On-the-job training job postings
- Job postings with a bona fide occupational qualification (BFOQ)

C-502: 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 (for example, women only or Hispanics only). In some cases, the U.S. Department of Labor'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 do not take an affirmative action job posting unless the employer supplies a copy of the federal letters or documents requiring that type of recruitment
- 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:

- Inform the employer that job seekers cannot be referred exclusively from targeted populations
- Assure the employer that any qualified individuals from targeted populations will be referred

C-503: Job Postings from Temporary Help Firms & Professional Employer Organizations

Temporary help firms employ workers and assign them to client companies to support or supplement the client's workforce during employee absences, temporary skills shortages, seasonal workloads, special assignments and projects, and other similar work situations. A temporary help firm is the employer of record for workers provided to its clients.

A PEO provides services to a client company, such as employee benefits management, payroll and workers' compensation, recruiting, risk/safety management and training and development. Businesses that provide professional employer services in Texas must be licensed by the Texas Department of Licensing and Regulation (TDLR). A licensed PEO is the employer of record for workers provided to its clients.

Boards must ensure that Workforce Solutions office staff accept job postings from temporary help firms and PEOs provided that:

- The PEO is licensed by TDLR
- They have a current and available job vacancy with their client employer
- The temporary help firm or PEO will not charge the job seeker a fee to secure or keep the job

Boards must ensure that Workforce Solutions office staff advise job seekers who are referred on these job postings—including UI claimants—that the positions are being filled through a temporary help firm or PEO. Staff must also advise job seekers that unemployment benefits may be denied if the worker does not follow the written procedures established by the temporary help firm or PEO on reporting for reassignment when an assignment to a client is concluded.

For additional information, refer to:

- [Texas Labor Code, Chapter 91, Professional Employer Organizations](#)
- Texas Workforce Commission Rule 815.133, Professional Employer Organizations and Temporary Help Firms
- [TDLR License Data Search, License Type: Professional Employer Organization](#)

C-504: Federal Contractor Job Listings Job Postings

The affirmative action provision of the [Vietnam Era Veterans' Readjustment Act of 1972 \(VEVRAA\)](#) requires employers (and their subcontractors) with government contracts of \$100,000 or more to list 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.

WorkInTexas.com can help federal contractors comply with many of the requirements of VEVRAA and Section 503 of the Rehabilitation Act. For more information, see [How](#)

[WorkInTexas.com Helps Federal Contractors Comply with OFCCP's Final Rules on VEVRAA and Section B-503.](#)

When entering a new job posting in WorkInTexas.com, Boards must ensure that appropriate staff indicate whether it is an FCJL job posting. To find an FCJL job, go to Job Posting Browse – For Veterans and then select Federal Contractor.

C-505: 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
- 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

C-506: On-the-Job Training Job Postings

Boards must be aware that, when Workforce Solutions office staff refer 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
- The job posting is placed on Service Level 3

C-507: Job Postings with a Bona Fide Occupational Qualification

A 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 United States Code §2000\(e\)–2\(e\)](#) and in [29 Code of Federal Regulations, 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:

- Consult with management prior to including the BFOQ on a job posting
- Indicate the BFOQ status on the Job Posting Notes page

C-600: RECRUITMENT ASSISTANCE

C-601: About 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
- Labor market information

Boards must ensure that before providing an employer workforce services, Workforce Solutions office staff verify that the employer has an account in WorkInTexas.com or is eligible to establish an account in WorkInTexas.com. See [C-200: Employer Access to Systems and Services](#).

C-602: Making Contacts & 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 adhere 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 the U.S. Department of Labor, in accordance with 38 United States Code §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, entitled Improving WorkInTexas.com Job Match Quality, and subsequent updates provide information and assistance for ensuring better quality job seeker and employer job matches in WorkInTexas.com.

C-602.a: Definition of Job Development

A Job Development occurs when Workforce Solutions office staff contact an employer and secure 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 discover that the job seeker is working and asks for the job seeker's start date and the name of the employer.
- Staff search other job search websites (for example, Monster, CareerBuilder) and find a job for a job seeker.
- Staff note 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 give the job seeker a copy of the ad.
- At a local mall, staff see a Now Hiring sign in a store window and tell 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 obtain a list of the job seekers who spoke with the employer.
- Staff receive a Hired list from an employer, but cannot find a matching job posting for this employer or a Contact listing in WorkInTexas.com.
- Staff use the unemployment insurance 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 consult with the employer to determine if a job posting is appropriate.

C-602.b: 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](#)
- [TA Bulletin 210](#), issued August 19, 2009, entitled Recording Hires in WorkInTexas.com, and subsequent updates

C-602.c: 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 (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.

C-603: Provision of Interview Rooms

Boards must ensure that, on request and availability, Workforce Solutions office staff provide 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 [C-605: 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
- A jobsite may lack appropriate office space and equipment

C-604: 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
- 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.

Boards must be aware that a job fair employer service can be entered into WorkInTexas.com only if:

- The employer attends a Board-sponsored job fair

or

- The Board cosponsors the job fair and performs one of the following activities:
 - Secures or helps with venue setup
 - Assists with registering job fair attendees (job seekers)
 - Staffs the booth for employer breaks, etc.

Boards also must be aware that a job fair employer service can be entered into WorkInTexas.com only after an employer has participated in the job fair. To document preplanning activities such as recruiting and registering employers, Boards must ensure that Workforce Solutions office staff use one of the Employer Outreach services in WorkInTexas.com and enter the employer's request to participate in the Notes section.

For additional information on job fairs, see [TA Bulletin 192, Change 1](#), issued December 12, 2011, entitled Job Fairs—Update, and subsequent updates.

C-605: 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 (for example, 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)
- 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 are 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
- 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
- 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:

- Follow appropriate manufacturer guidance to understand the tests and learn how to use the corresponding materials (such as software, scoring guidelines)
- Coordinate with the employer to properly document the skill sets required to perform the responsibilities specified in the job description
- Ensure 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
- Consult 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
- Provide 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 maintain confidentiality of all records relating to the selection and referral of job seekers to employment opportunities.

C-606: 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 [C-605: Specialized Testing](#))
- Schedule interviews

C-700: PROVISION OF INFORMATION ON EMPLOYMENT-RELATED ISSUES

C-701: Provision of Information

Boards must ensure that Workforce Solutions office staff assist 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
- Resources for unemployment compensation claims appeals

C-702: 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 FEIN (if unknown or not available)
- Discussing WorkInTexas.com
- Providing advice regarding wages based on previous job postings
- Discussing Workforce Solutions office programs and services
- Providing general information regarding the labor market as described above

C-703: Providing the Labor Market Information Service to Employers

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

- Determine the employer's specific needs
- Prepare 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
- Provide 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](#)
- [Texas Industry Profiles](#)
- [Texas Labor Market Information \(Tracer 2\)](#)
- [WorkInTexas.com](#)
- [TWIST Web Reports](#)
- [SitesOnTexas](#)

C-704: Documenting an LMI Service in WorkInTexas.com

Boards must ensure that appropriate staff record 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 (the Intranet is not available to the general public).

C-800: EMPLOYER TRAINING SERVICES

C-801: About 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:

- On-the-Job (OJT) training
- Customized training
- Skills Development Fund
- Self-Sufficiency Fund
- Work experience
- Internships

C-802: On-the-Job Training

Boards must be aware of the following:

Employers benefit from OJT by receiving a sliding scale reimbursement percentage (based on the size of the employer) 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
- 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.

For more information, see [WD Letter 06-14](#) and its five attachments, issued on August 21, 2014, and On-the-Job Training.

C-803: 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)
- Conducted with a commitment by the employer to employ the individual on successful completion of the training

On November 10, 2009, the Department of Labor extended and modified a waiver that allows TWC to replace the Workforce Investment Act (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.

C-804: 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)
- A private, nonprofit, community-based organization (CBO) in partnership with one of the institutions listed above

Businesses and eligible applicants access these funds by submitting a project proposal. See [Skills Development Fund](#) for the submission form, program description and links to the rules governing the program.

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 SDF rules at 40 Texas Administrative Code \(TAC\), Chapter 803](#).

C-805: Self-Sufficiency Fund

Boards must be aware of the following:

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

The purpose of SSF 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 SSF project must partner with one of the following eligible applicants:

- A public community college
- A public technical college
- A statewide extension service
- TEEX
- A private, nonprofit CBO

Businesses and eligible applicants access these funds by submitting a project proposal. See [Self Sufficiency Fund for Employers](#) for the submission form, program description and links to the rules governing the program.

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 SSF rules at [40 TAC, Chapter 835](#).

C-806: Work Experience

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
- Public

Work experience benefits employers by providing:

- Job seeker screening
- Training assistance
- 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 skills development.

Boards must ensure that work experience jobs are not entered into WorkInTexas.com.

C-900: 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 unemployment insurance (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.

Boards must make rapid response services available to employers:

- In the event of mass layoffs and plant closings involving 50 or more workers
- If a Trade Adjustment Assistance petition has been filed

In the event that a layoff involves fewer than 50 employees, Boards may offer rapid response services 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
- Seminars on change management

For larger numbers of affected workers, on-site services are available. If the number of affected workers is small, employers can direct workers to a Workforce Solutions office where they can receive rapid response services.

C-1000: FOREIGN LABOR CERTIFICATION

C-1001: About Foreign Labor Certification

Boards must be aware of the following.

The Department of Labor's (DOL) 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 the following:

- 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.
- 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 that have job opportunities in Texas to 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
- Prevailing wage and prevailing practice surveys

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

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

C-1002: H-2A Job Postings

Boards must be aware that as of March 15, 2010, Workforce Solutions office staff were no longer required to verify the employment eligibility of job seekers referred to H-2A job postings. Boards must ensure the following:

- No referrals are made for H-2A job postings unless the posting has been accepted by TWC's FLC Unit for WorkInTexas.com.
- Workforce Solutions office staff conduct an employer name search in WorkInTexas.com to determine if the employer's National Electronic Job Registry (Job Registry) posting has been accepted for recruitment in Texas by the FLC Unit.

Note: If the employer is located in Texas, assignment of the WorkInTexas.com posting is based on the employer's zip code; if the employer is located outside of Texas, the posting is assigned to the WorkInTexas.com Office 9001, Agricultural Services Unit.

If the Job Registry posting has been accepted by the FLC Unit and entered into WorkInTexas.com, Boards must ensure that Workforce Solutions office staff:

- Verify that the job seeker is qualified and interested in traveling to the job opportunity
- Verify that the Workforce Solutions office is in receipt of the hard copy of the clearance order (Form ETA-790 and a copy of the employer's attachment of assurances)
- Request a hard copy of the clearance order from the FLC Unit—if it has not been received
- Explain in detail—and in a language readily understood by the job seeker—the terms and conditions of employment
- Follow all contact instructions issued by the FLC Unit and listed in the WorkInTexas.com posting
- Provide to each job seeker a copy of [TWC Form E-50 \(Job Seeker Agricultural Checklist\)](#) and [Form E-83 \(Protection for Farmworkers\)](#) for review, both available on the Intranet (the Intranet is not available to the general public)
- Ensure that the job seeker signs and dates the completed forms upon acceptance of the terms and conditions
- Call the contact person on the clearance order/WorkInTexas.com posting—with the job seeker present—to coordinate and arrange the interview process
- Enter the following information—after the job seeker is referred—into WorkInTexas.com Job Posting Notes:
 - Date the E-50 and E-83 forms were given to job seeker
 - Date the E-50 form was completed

If the H-2A job posting is not in WorkInTexas.com and the employer's job order has not been cleared by the FLC Unit, Boards must ensure that Workforce Solutions office staff:

- Notify the FLC Unit at 512-475-2571 or alienlabor@twc.state.tx.us of a job seeker's interest in referral to the employer, if the job order can be accepted for recruitment
- Refer the job seeker to other temporary or permanent agricultural job postings in WorkInTexas.com

Boards must ensure that Form E-83 is provided to all job seekers who are farmworkers whether or not the WorkInTexas.com job posting to which the job seeker is referred is an H-2A job posting.

Boards must ensure that Workforce Solutions office staff maintain all forms for the appropriate retention period (current year plus three).

C-1003: H-2B Job Postings

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:

- Verify the job seeker's employment eligibility for all staff referrals on H-2B job postings
- Document the job seeker's employment eligibility using Form I-9
- Do 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:

- Use the most current [Form I-9](#)
- Follow the requirements in the [USCIS Handbook for Employers: Guidance for Completing Form I-9](#)
- Submit all forms in English (Spanish versions of forms are only a guide for completing English versions)
- Record the completion date of Form I-9 in WorkInTexas.com Job Posting Notes

Section 1

The job seeker must complete section 1 of Form I-9 before Workforce Solutions office staff can refer the job seeker to an employer for H-2B job postings.

Preparer or Translator Certification

This section is required only if section 1 is completed by someone other than the job seeker. A preparer/translator can be used only when the job seeker is unable to complete section 1.

Section 2

Boards must ensure that Workforce Solutions office staff:

- Complete section 2 by examining documents that establish the job seeker's identity and employment eligibility
- Sign and date section 2
- Do not complete the beginning employment date in the certification statement

Boards must ensure that when examining documents that establish a job seeker's identity and employment eligibility, Workforce Solutions office staff:

- Accept only original documents that appear genuine
- Allow job seekers to present any approved documents included on Form I-9 (do not specify which documents from the lists are acceptable)
- Do not accept laminated Social Security number (SSN) cards marked on the back with the statement "not valid if laminated"
- Do not accept SSN cards marked with the statement "NOT VALID FOR EMPLOYMENT" (job seekers are not required to provide their SSNs, but can do so voluntarily)
- Only accept birth certificates authorized by a governmental entity (birth certificates issued by hospitals are not valid)

Form I-9 contains the following lists of documents for use in verifying a job seeker's identity and employment eligibility:

- List A: Documents that establish both identity and employment eligibility
- List B: Documents that establish identity only
- List C: Documents that establish employment eligibility only

A job seeker can provide one of the following:

- One document from List A
- One document each from List B and List C

In section 2, Boards must ensure that Workforce Solutions office staff record the following:

- Document title
- Issuing authority
- Document number
- Expiration date

Completion of the Employment Eligibility Verification Certificate

Wagner-Peyser-funded ES staff are designated as TWC's officials authorized to sign the Employment Eligibility Verification Certificate (E-106). Boards must ensure that ES staff do the following:

- Use the information in Form I-9 to complete the [Employment Eligibility Verification Certificate](#), available on the Intranet (the Intranet is not available to the general public).
- Provide 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 provide 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.

C-1004: 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:

- [TWC's Foreign Labor Certification](#) Web page
- [DOL's Labor Certification](#) Web page
- The [U.S. Citizenship and Immigration Services](#) website
- 20 CFR Part 655, Subparts A, B and H, and Part 656

C-1100: 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
- coordinate recruitment with Workforce Solutions office staff for out-of-state job postings through the Agricultural Recruitment System (the clearance system)

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

C-1200: WORK OPPORTUNITY TAX CREDIT

Boards must ensure that appropriate staff issue 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
- Unemployed veterans
- Ex-offenders
- Vocational rehabilitation referrals

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

- Disabled veterans must provide the following:
 - A US Department of Veterans Affairs (VA) rating letter verifying the job seeker's disabled veteran service-connected disability status
 - Form DD-214 (Certificate of Release or Discharge from Active Duty), which verifies active military service
- Unemployed veterans must provide the following:
 - Form DD-214
 - Unemployment insurance documents that verify the receipt of unemployment benefits for four weeks. To verify receipt of unemployment benefits, use the UI Benefits System. An electronic or paper copy must be retained.
- Ex-offenders must provide appropriate court documents.
- Vocational rehabilitation referrals must provide an Individualized Plan of Employment.

Boards must ensure that appropriate staff assist 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.

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
- Form 9062
- [Blank IRS Form 8850](#)

Boards must ensure that appropriate staff:

- Inform job seekers that ETA Form 9062 and IRS Form 8850 will be delivered to the job seeker by mail
- Advise 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
- 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 800-695-6879:

- Temporary Assistance to Needy Families 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 enter 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 receive training prior to providing WOTC conditional certifications to eligible job seekers. For training or assistance, contact the WOTC Unit at 800-695-6879.

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

- [WOTC forms](#)

Part D – Services to Job Seekers

D-100: JOB SEEKER SERVICES

D-101: About Job Seeker Services

Boards must be aware of the following.

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

- Finding employment
- Meeting the work test requirements of the state unemployment insurance (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 unemployment benefits. Employment Service (ES) is one of the most important services available to help all job seekers, including UI claimants, achieve their employment goals.

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
- Services through community-based organizations (CBOs) and faith-based organizations (FBOs)
- Referral to support services

D-102: 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
- A paper application

The paper application allows job seekers to provide information offline, 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\(English version\)](#) (The Intranet is not available to the general public.)
2. [Form TWN-001S \(Spanish version\)](#) (The Intranet is not available to the general public.)
3. A 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
- 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 email 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
 - Workforce Investment Act dislocated worker services
 - 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
- SSN (if not filing for UI)
- Date of birth
- Disability

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

D-103: Referral to a Job Posting

Once a job seeker completes registration in WorkInTexas.com, the job matching and contact process begins. In accordance with Department of Labor regulations and TWC rules and policies, Boards must ensure that Workforce Solutions office staff select and refer equally qualified job seekers to job postings in the following order:

1. Eligible veterans
2. Eligible foster youth
3. Noneligible individuals (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 one of the following:

- Yes, indicating that, for the life of the posting or until the status is changed, only veterans will match or be referred
- 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 continue 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:

- Give a referral only when the job seeker's work experience, skill sets and education match the job posting requirements
- Do not make a job posting contact that results in a fee being charged to the job seeker
- Do not make a job posting contact to fill a job where a labor dispute exists, such as a strike or lockout
- Do 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, entitled Improving WorkInTexas.com Job Match Quality, and subsequent updates, provide information and assistance for ensuring better quality job seeker and employer job matches in WorkInTexas.com.

D-104: Labor Market Information

Boards must ensure that Workforce Solutions office staff provide 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](#)—includes economic and labor market data
- [TRACER](#)—includes economic and labor market data
- [O*NET](#)—identifies skill sets needed and tasks performed in specific occupations
- [TEXAS CARES](#)—provides information on demand occupations and on colleges and universities that provide training
- [Reality Check](#)—relates desired lifestyle to occupations and career paths
- [mySkills myFuture](#)—aids previously employed job seekers in matching their occupational skills and experiences to the skills needed in other occupations
- [My Next Move](#)

D-105: Knowledge, Skills & Abilities Evaluation Assessment

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

- Ask the job seeker about additional experience or training not shown on the job seeker's work registration.
- Update and continually assess the job seeker's work registration.

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

- Job readiness classes (if available)
- Counseling
- Vocational guidance services
- Support services (for example, transportation, child care)
- Educational services
- Job service plan/assistance
- Job development
- Job training
- Training provider information
- Postemployment services
- Work experience
- Internships
- Relocation assistance
- Tutorial services
- Labor market information (see also [D-104: Labor Market Information](#))

D-106: Services through Community-Based Organizations, Faith-Based Organizations, Nonprofits & Private Organizations

Federal and state law allow states to administer and provide workforce development and support services through contracts with CBOs, FBOs, nonprofits and private organizations.

Boards must develop and implement strategies for involving CBOs, FBOs, nonprofits and private organizations in the delivery of services in their workforce areas, in accordance with federal and state laws. Boards must develop policies and procedures that foster cooperation, coordination and participation with these organizations in workforce development programs and services.

Boards' outreach, procurement and contracting efforts must include these organizations as potential providers of services to customers. Boards must become familiar with relevant federal and state provisions for contracting with CBOs, FBOs, nonprofits and private organizations.

Boards must share this information with staff; Workforce Solutions offices; service providers; customers; and CBOs, FBOs, nonprofits and private organizations within the workforce area.

Boards must promote and encourage cooperation with these organizations through financial and nonfinancial agreements. Workforce services that may be contracted by Boards to CBOs, FBOs, nonprofits and private organizations include, but are not limited to, activities provided under the following:

- Child Care
- Choices
- Supplemental Nutrition Assistance Program Employment and Training
- Workforce Investment Act

D-107: 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 enterprise-wide 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 CBOs, 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 [2-1-1 Texas website](#).

D-200: MIGRANT & SEASONAL FARMWORKERS

D-201: About Migrant & Seasonal Farmworkers

Boards must be aware of the following:

Services to Migrant and Seasonal Farmworkers (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 Code of Federal Regulations \(CFR\), Chapter V, Part 653](#)).

See the [Texas Workforce Migrant and Seasonal Farmworkers Self Study Guide](#) on the Intranet (the Intranet is not available to the general public) for additional information and referral requirements.

D-202: Migrant & 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 MSFW program-eligible adults and youth who are not being reached by Workforce Solutions offices' normal intake activities. The purpose of the outreach program is to:

- Enhance the employability of MSFWs
- 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
- Provide needed support services and referrals to other service providers

Boards must ensure that Workforce Solutions office staff document all outreach activities as follows:

- Complete and maintain Form MSFW-002 (Migrant and Seasonal Farmworker Daily Log of Outreach Activities) in accordance with guidelines at [20 CFR §653.107](#), documenting all outreach activities.
- Ensure that the total number of MSFW contacts and other required items documented on Form MSFW-002 are equivalent to the totals reported on Form MSFW-001 (Migrant and Seasonal Farmworker Monthly Outreach Summary Contact Report).

[Forms MSFW-001 and MSFW-002](#) are available on the Intranet (the Intranet is not available to the general public).

Boards also must ensure that:

- Full-time Workforce Solutions office staff members outreaching MSFW customers meet a standard of five contacts per day per employee, or 109 MSFW contacts per month
- Less than full-time Workforce Solutions office staff members outreaching MSFW customers meet a standard of contacts per day per employee based on the proportion of a full-time schedule (for example, a half-time staff member must make 55 MSFW contacts per month)

Boards must ensure that Form MSFW-002 is available for review upon request.

Boards receiving supplemental ES funding for MSFW outreach must:

- Develop an annual outreach activity plan detailing the use of the supplemental funds
- Make the plan available for review upon request

Additionally, if a Board's outreach activity plan includes using supplemental ES funds to hire full-time or part-time staff to conduct outreach activities, the Board must ensure that these staff members meet all of the requirements set out for Boards with MSFW-significant Workforce Solutions offices.

Boards with MSFW-significant Workforce Solutions offices and Boards receiving supplemental ES funding for MSFW outreach activities must submit Form MSFW-001, by the 10th business day after the close of the month, to TWC's Monitor Advocate at msfw.monitoradvocate@twc.state.tx.us.

Boards also must ensure that Workforce Solutions offices retain Form MSFW-001 and Form MSFW-002 for the current year plus two years.

D-202.a: MSFW Outreach Worker Roles & 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
- Assisting in the preparation of a worker complaint (see [E-100: 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](#).

D-300: PRIORITY OF SERVICE

D-301: About Priority of Service

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.

D-302: Eligible Veterans

Applicability of Priority of Service for Veterans

Boards must be aware that requirements for priority of service for veterans apply to all workforce service programs funded in whole or in part by the Department of Labor's Employment and Training Administration or state funds.

Specifically, priority of service for veterans applies to the following three categories of qualified job training programs:

1. Universal access programs (such as Wagner-Peyser–funded services) that deliver services as a whole and that do not target specific groups
2. Discretionary targeting programs (such as Workforce Investment Act–funded services) that focus on certain groups but do not specifically mandate that target groups be served before other eligible individuals
3. Statutory targeting programs (such as Temporary Assistance to Needy Families (TANF)–funded services) that are mandated by federal law to provide priority or preference to certain groups, spending requirements or limitations

Definitions

Boards must ensure that the following definitions are used when implementing priority of service for eligible veterans.

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 USC 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
 - 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

Boards must be aware that the spouse of a living veteran or service member (definitions 2 and 3 above) will lose his or her eligibility if the veteran or service member loses the status that is the basis for eligibility. For example, the spouse of a veteran with a total service-connected disability will not be eligible if the veteran's disability is revised to a lower level. Similarly, a spouse whose eligibility is derived from a living veteran or service member will lose his or her eligibility upon divorce from the veteran or service member.

- State qualified spouse—a spouse:
 1. Who meets the definition of federal qualified spouse
 2. Of any member of the armed forces who died while serving on active military, naval or air service

Noneligible 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.

Identifying and Informing Eligible Veterans

Boards must ensure that eligible veterans are:

- Identified at the point of entry
- Screened in order to determine evidence of any significant barrier to employment (SBE), as defined in [WD Letter 08-15](#), issued February 25, 2015, entitled Jobs for Veterans State Grants Program: Reforms and Responsibilities of Workforce Solutions Office Staff Serving Veterans—Update
- Informed of:
 - Their right to priority of service
 - The full array of employment, training and placement services available under priority of service
 - Any applicable eligibility requirements for those programs and services

Boards must ensure that Workforce Solutions office staff screen individuals seeking services to determine if they are eligible veterans identified as having an SBE or eligible spouses.

Boards may use the [Significant Barriers to Employment Triage Tool](#) (WD Letter 08-15, Attachment 1) or create a locally developed triage tool. Documentation of responses to the triage tool is not required.

Boards must ensure that when screening individuals to determine their status, Workforce Solutions office staff:

- Determine the purpose of the visit
- Explain that the purpose of the triage tool is to determine which staff are best suited to assist them
- Ensure that customers identify whether or not they are eligible veterans or eligible spouses
- Ensure that eligible veterans and eligible spouses confirm whether any of the SBE criteria or the Secretary's priority category apply

Boards must ensure that an eligible veteran or eligible spouse identified as having an SBE is immediately referred to Disabled Veterans Outreach Program (DVOP) staff.

Boards must ensure that ES staff, WIA staff or other Workforce Solutions office staff are available to provide services to eligible veterans and eligible spouses who have been determined either:

- To have an SBE, but for whom no DVOP staff are available to provide services
- Not to have an SBE

Boards must be aware that Senate Bill 431 amends the Texas Penal Code by adding §32.54, which makes it a Class C misdemeanor to falsely use or claim to hold a military record for the purpose of receiving priority of service.

Boards must ensure that eligible veterans are informed of the penalties associated with proclaiming eligible-veteran status that is fraudulent, fictitious or has been revoked.

Priority Order

Boards must determine each individual's eligible-veteran status and apply priority of service as follows:

1. Eligible veterans who meet the mandatory priorities, or spending requirements or limitations, must receive the highest priority for the program or service.
2. Noneligible individuals 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.

3. Eligible veterans outside the program-specific mandatory priority, or spending requirement or limitation, must receive priority for the program or service over noneligible persons outside the program-specific mandatory priority, or spending requirement or limitation.

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

Boards must be aware of the following:

- Priority of service means the right of eligible veterans to take precedence over noneligible persons in obtaining workforce services.
- Taking precedence can mean either of the following:
 - Eligible veterans receive access to workforce services before noneligible persons.
 - If workforce services are limited, eligible veterans receive access to workforce services instead of or before noneligible persons.

Boards also must ensure that noneligible 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 noneligible persons and there are several noneligible 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 noneligible 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
 - Accepted or enrolled in a training class

Therefore, once a noneligible 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 noneligible person from that training class.

Documentation Requirements

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. (Self-attestation is not required if a DD-214 is on file in the Workforce Solutions office, the veteran presents a DD-214 upon arrival or the veteran indicated veteran status in WorkInTexas.com.)

Boards may create their own self-attestation form or use the [TWC-developed Self-Attestation form](#).

Local Policies and Procedures

Boards must ensure that local procedures are implemented:

- To identify eligible veterans at point of entry by allowing individuals to self-identify as eligible veterans (such as 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)
- That do not require completion of a self-attestation form

Boards must ensure that written copies of local priority of service policies and procedures 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.

For information on available tools for improving the provision of services to veterans and veteran spouses, see [TA Bulletin 154](#), issued July 25, 2007, entitled Tools for Improving Services to Veterans, and subsequent updates.

D-303: Eligible Foster Youth

Definitions

Boards must ensure that the following definitions contained in [Chapter 801](#), TWC's Local Workforce Development Boards rules, are used when implementing priority of service for 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
- Former foster youth—A youth up to 23 years of age, who formerly was under the managing conservatorship of DFPS, until one of the following takes place:
 - A court transferred the conservatorship
 - The youth was legally emancipated (the youth's minority status was removed by a court)
 - The youth attained 18 years of age

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.

Priority Order

Boards must ensure the following:

- Eligible foster youth receive priority over all other equally qualified individuals—except eligible veterans—in the receipt of federal- and state-funded services.
- Workforce services are prioritized and targeted for youth transitioning out of the foster care system and for former foster youth.

D-304: Priority of Service for Support Services

Boards must be aware of the following:

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 (such as child care, transportation).

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 on 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
4. Transitional child care

TWC rule [§809.43\(a\)\(2\)](#) provides that Boards must ensure 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 parents on military deployment who are unable to enroll in military-funded child care assistance programs
5. Children of teen parents
6. Children with disabilities

D-400: EMPLOYMENT SERVICE/UNEMPLOYMENT INSURANCE COORDINATION

D-401: About Employment Service/Unemployment Insurance Coordination

Boards must be aware of the following.

Each Board must designate a local Workforce/Unemployment Insurance (WF/UI) coordinator to communicate with the state WF/UI coordinator on issues related to 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 submitting the initial UI claim
- Be able and available for full-time work
- 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
- Are participating in training approved by the Commission
- 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 unemployment benefits or is appealing a determination from TWC not to pay benefits. Additionally, 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 (for example, for Rapid Reemployment Services [RRES])

- Participate in required reemployment activities if determined likely to exhaust benefits
- 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.

Boards must ensure that Workforce Solutions office staff follow the requirements set forth in WD Letters, the ES Guide, Board-administered program contracts, and the TWC-Board Agreement 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 applying for unemployment benefits or requesting payment of unemployment benefits, emphasizing application 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. See [Unemployment Benefits Contact Information for Claimants](#) and [Unemployment Benefits Contact Information for Employers](#).
- Directing UI claimants to the [Unemployment Benefits Work Search Guidelines](#).

D-402: UI Texas Caller's Identity

If unsure of a Texas caller's identity, UI Tele-Center staff instruct the caller to go to a Workforce Solutions office and present a Social Security number (SSN) card and a current Texas driver's license or other photo identification. Workforce Solutions office staff then contact TWC using the Help Line number assigned to the workforce area and notify UI staff if the individual's identity can be verified by the documents provided. Identity can be confirmed only if a Tele-Center agent speaks directly with Workforce Solutions office staff.

Boards must ensure that the help line numbers are not given to claimants; they are available to Workforce Solutions office staff for use only when it is necessary to speak immediately with a Tele-Center agent about a pressing UI claims issue.

D-403: Work Search

Boards must set the required minimum number of weekly work search contacts for their workforce area, as set forth in TWC's UI rule [§815.28](#).

For additional information, see [WD Letter 01-12](#), issued January 12, 2012, entitled Unemployment Insurance Weekly Work Search Contact Requirements, and subsequent updates.

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

- Section 815.28 (Work Search Requirements) of TWC's UI rules
- The [list of acceptable work search activities](#)

Boards must ensure the following:

- 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 that they make a meaningful and realistic work search
- The local WF/UI coordinator notifies the state WF/UI coordinator if staff become aware that a UI claimant:
 - Is not able to, or available for, work
 - Refused work or a staff-generated job referral
 - 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
 - Does not investigate the issue
- Workforce Solutions office staff do not manually inactivate a UI claimant's work registration in WorkInTexas.com and do 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 benefits:

- Did not report to work
- Did not accept job

- Did not report for interview
- Did not accept WorkInTexas.com Contact generated by staff (refused referral)
- Did not respond to RRES call-in letter

Boards must ensure that Workforce Solutions office staff record 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 unemployment benefits
- RRES letter returned by the US Post Office
- Any other issue that impedes a UI claimant's ability to obtain employment

Boards must ensure that the local WF/UI coordinator uses the Potential UI Eligibility Reporting Template (WF-42) to inform the state WF/UI coordinator of potential issues.

To submit the Potential UI Eligibility Reporting form:

- Enter and save the appropriate service in WorkInTexas.com, which will cause the WF-42 to pop up.
- Complete the WF-42 using only the last four digits of the UI claimant's SSN.
- Save the WF-42 as a Word document.
- Email it as an attachment to wfui.coordinator@twc.state.tx.us.

The [WF-42 template](#) is also available on the Intranet (the Intranet is not available to the general public).

D-404: Suitable Work

Boards must ensure that prior to entering a UI claimant into education or training; staff test the labor market to determine if suitable work is available.

Boards must ensure that staff determine if a job is suitable based on the following:

- The job seeker's experience, qualifications and training
- Working conditions and pay for similar work in the local workforce development area
- Any risks to the job seeker's health, safety or morals
- Distance to work from the job seeker's home with consideration of local commuting patterns

D-405: TWC-Approved Training for UI Claimants

Boards must be aware of the following.

Generally, UI claimants can participate in any type of training and remain eligible for benefits; however, only certain training is recognized as TWC-approved training. Participation in TWC-approved training exempts claimants from their work search requirement and prevents denial of unemployment benefits based on:

- Availability for work
- Refusing an offer of suitable work

Under TWC's Unemployment Insurance rule [§815.25](#), training that includes the following is always considered approved:

- Workforce Investment Act–funded training
- Any training funded by one of the following entities:
 - Texas Department of Aging and Disability Services (DADS)
 - Texas Department of Assistive and Rehabilitative Services (DARS)
 - a federal or state veterans' agency (VA)
- A program specifically designated by the Texas Workforce Commission (TWC)

TWC rule [§815.25](#) specifies that, if the funding source does not qualify the training for automatic approval, training may be approved if the claimant's current occupation is not a high-demand occupation and the training is for an occupation that is in demand.

Boards must ensure that assessments of TWC-approved training are made in the following situations:

- UI Tele-Center staff advise the claimant to contact a Workforce Solutions office if questions arise regarding approval of training.
- While working with a claimant, Workforce Solutions office staff become aware that a claimant is already enrolled in training or needs training.

Boards must ensure that when making assessments in these situations, Workforce Solutions office staff do the following:

- Determine whether the training is funded by DADS, DARS, or a federal or state VA. If so, it is considered TWC-approved training and must be entered into TWIST, within two business days, under the Optional Question tab, which is accessible from the Intake Common screen. Since this training is automatically approved, the remaining assessment questions in TWIST do not need to be completed.
- Complete the rest of the assessment questions in TWIST to determine whether the training can be approved, if the training is not automatically considered approved based on the funding source.
- Consider the following when completing the assessment:

- Claimant’s current skills and occupation to determine the likelihood of reemployment within a reasonable time
- Quality of the claimant’s WorkInTexas.com registration to ensure that it is sufficient to result in quality matches
- Number and types of WorkInTexas.com matches the claimant is receiving—matching jobs must meet the minimum suitable work requirements in [Texas Unemployment Compensation Act §207.008](#) (if the claimant has no suitable job matches in WorkInTexas.com, he or she may be appropriate for participation in training)
- Assist the claimant in determining the appropriate type of occupational training, if an assessment finds that a claimant is appropriate for participation in training. Training in occupations on the Statewide Target Occupations List or a Board’s Target Occupations List meets the criteria for TWC-approved training.

Boards must ensure that training provided entirely through distance learning results in a nationally recognized degree or credential as set forth in [WD Letter 37-07, Change 1](#), issued January 2, 2008, entitled Workforce Investment Act: Application of Definitions of Credential, Degree/Diploma, and Certificate: Clarification, and subsequent updates.

Boards also must be aware of the following:

- Boards are not required to fund all claimant requests for training.
- Assessments can be conducted by phone or in person.
- Assessment information must be entered into TWIST, within two business days, under the Optional Question tab, which is accessible from the Intake Common screen.
- Entry of assessment information must not preclude other routine data entry required to track services or training in TWIST.
- UI Tele-Center staff make the final determination—based on the assessment provided by Workforce Solutions office staff—on whether training is recognized as TWC-approved.

D-406: 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 submits 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 submit 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:

Appeal Tribunal
Texas Workforce Commission
101 E 15th St, Rm 410
Austin, TX 78778-0001

2. When a UI claimant or an employer visits the Workforce Solutions office in person and requests to submit an appeal, give the appealing party the option of submitting the appeal by one of the following submission methods:

By fax:

- Provide a [Texas Workforce Commission Notice of Appeal](#) in English (Form A-4) or Spanish (Form A-4s), both available on the Intranet (the Intranet is not available to the general public).
- 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.
- Fax the form and determination, if attached (a copy of the determination is not required with submission), to TWC Appeals at 512-475-1135.
- Instruct the appealing party to keep the fax confirmation page.

Online:

- Guide the appealing party through the [Notice of Unemployment Benefits Appeal online form](#).
- Instruct the appealing party to keep the confirmation number provided online at the end of the appeal submission process.

3. When an employer requests the status of an appeal, direct the employer to the [Unemployment Benefits Services Appeals Data System](#), Under the Appeals Information and Resources menu

- The system allows employers to review current appeal activity and activity from the previous two years; it is available 24 hours a day, seven days a week. The employer appeal status pages are view-only and available only in English.
- Employers must continue to submit appeals online, in person at a Workforce Solutions office or by mail or fax to the Appeals Department at the address or fax number on the Determination Notice. Appeals cannot be submitted by email or over the telephone.

- Workforce Solutions office staff must advise employers or UI claimants that want to report errors on their appeal records to contact TWC's UI Appeals Department at appeals@twc.state.tx.us or the Appeals Status Line at 512-463-2807.
4. 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
 - 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 provide 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
- 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 submit an appeal immediately by mail, fax or the online appeal form.

D-407: UI Benefit Payment Methods

TWC pays unemployment benefits by direct deposit or through a debit card. For more information on these benefit payment options, please see the following TWC website pages:

- [Receiving Benefit Payments by Direct Deposit](#)
- [Receiving Benefit Payments by Debit Card](#)

D-408: Prohibited Activities

Boards must ensure that Workforce Solutions office staff do not engage in the following activities:

- Answering questions or making predictions about unemployment benefits eligibility and receipt. Workforce Solutions office staff must direct all persons with UI questions and problems to a UI Tele-Center (800-939-6631).
- 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:
 - Do not, for any reason, accept a returned debit card
 - Direct 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 submit a claim, participate in an appeal hearing or provide information requested by a Tele-Center.

The following WD Letter and TA Bulletins, and subsequent updates, provide UI-related technical assistance:

- [WD Letter 17-05](#), issued July 14, 2005, entitled New Unemployment Insurance Minimum Pay Reduction Requirements in WorkInTexas.com
- [TA Bulletin 208](#), issued June 10, 2009, entitled Updated Instructions for Resetting Unemployment Insurance Claimant Personal Identification Numbers
- [TA Bulletin 196, Change 1](#), issued March 1, 2011, entitled Serving Unemployment Insurance Claimants—Update
- [TA Bulletin 240](#), issued July 13, 2011, entitled Supporting Unemployment Insurance Appeals in Texas Workforce Solutions Offices
- [TA Bulletin 146, Change 1](#), issued March 29, 2012, entitled Online Payment Request System for Unemployment Insurance—Update

D-500: RAPID REEMPLOYMENT SERVICES

D-501: About Rapid Reemployment Services

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

Individuals who apply for unemployment 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 unemployment benefits before securing employment. RRES is one means of maintaining the link between UI claimants and services in Workforce Solutions offices.

D-502: Claimant RRES 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 unemployment 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 RRES scores equal to or higher than their individual Board's cutoff score are eligible for RRES call-in and are subject to ineligibility for unemployment benefits for failure to respond to this outreach.
- The RRES process runs on Friday nights. Claimants remain on the list until they have been scheduled to attend an RRES orientation or sent the nonmandatory outreach letter. Claimants can be scheduled up to three days prior to the RRES Respond by Date (orientation date or contact-by date).

For additional information, see [TA Bulletin 232](#), issued March 2, 2011, entitled WorkInTexas.com Rapid Reemployment Services Module, and subsequent updates.

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 unemployment benefits for failure to respond to this outreach.

D-503: 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
- The next scheduled contact date with staff

Boards may develop the EP using one of the following:

- The WorkInTexas.com EP function
- The TWIST Employability Development Plan function
- A locally developed paper or electronic plan

Boards must ensure that Workforce Solutions office staff:

- Enter a job seeker EP service in TWIST (EDP) or WorkInTexas.com (EP)
- Retain a paper or electronic copy in the participant's file or a locally maintained program file if a locally developed plan is used

Boards must ensure that Workforce Solutions office staff enter one of the following services into WorkInTexas.com within five calendar days of the RRES Respond by Date:

- RRES Orientation service—if the claimant attends the orientation
- RRES Exemption service—if the claimant is determined exempt

Boards must be aware that if after five calendar days (excluding weekends and holidays), neither service has been entered, a Failure to Respond notice is sent automatically to TWC's UI Division.

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.

Boards must be aware that RRES participants who have been prioritized and referred to Boards are considered to have met the eligibility criteria for dislocated worker services under Category 1, as outlined in the [WIA Eligibility Guidelines](#).

D-600: TEXAS PAYDAY WAGE CLAIM PROCESS

TWC's Labor Law Section enforces the [Texas Payday Law](#) (Texas Labor Code, Chapter 61), which:

- Protects employees who have not been paid earned wages
- Provides employers and employees with a method for resolving wage disputes without the necessity of court action

Boards must ensure that Workforce Solutions office staff assist individuals wishing to file a wage claim by providing the following information.

- See [How to Submit a Wage Claim Under Texas Payday Law](#) for more information and for the Texas Payday Law Wage Claim forms in English and Spanish.
- The entire wage claim form must be accurately and legibly completed.
- If using the current version of the wage claim form from the page linked above, the form must be signed by the wage claimant declaring that all information is true under penalty of perjury. If using an older version of the wage claim form, the form must be signed by the wage claimant and sworn to before a TWC employee, a Board-appointed designee or a notary public. See [TA Bulletin 271](#), issued April 6, 2015, entitled Texas Payday Wage Claim Process—Update, and its attachment, [Desk Aid on Texas Payday Wage Claim Process](#).
- Copies of any payroll checks or stubs, or any information to support the claim, must be submitted with the wage claim form.
- The completed wage claim form with attachments must be faxed to 512-475-3025 or mailed to:

Texas Workforce Commission
Labor Law Section
101 E 15th St, Rm 124T
Austin, TX 78778-0001

Boards must ensure that Workforce Solutions office staff do not:

- Pre-sign blank wage claims
- Give advice to individuals about the Texas Payday Law
- Accept, or swear to, copies of signed wage claims with non-original signatures

Boards also must ensure that Workforce Solutions office staff:

- Distribute the most recent [payday wage claim form](#)
- Are aware of current wage claim process procedures
- Instruct individuals to direct any questions to TWC's Labor Law Section at 800-832-9243 (within Texas only)

Part E – Operational Requirements

E-100: COMPLAINT PROCEDURES

E-101: About Complaint Procedures

Boards must be aware of the following:

Under [20 Code of Federal Regulation \(CFR\), Part 658](#), Subpart E, each state must establish and maintain an Employment Service (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
- Maintains a log for recording all complaints received

At a minimum, the complaint log must include the following:

- Date of complaint
- Name of complainant
- Address of complainant
- Type of complainant (employee, job seeker, Workforce Investment Act 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.)
- Date of outcome

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

- Keep in mind that 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.

E-102: 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
- Contain the information required by [29 CFR §37.73](#)

Complaints can be filed personally or through an authorized representative, in one of the following ways:

- 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
 - The Board’s EO officer
- 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
 - CRC
- Via a written and signed complaint narrative containing the following:
 - A description of the complainant’s allegations
 - The complainant’s contact information
 - Any other pertinent information

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

E-103: 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 §658.401–§658.416](#).

If a complaint is not based on discrimination but on program or customer service issues, Boards must ensure that 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
- 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 submit an appeal with TWC’s Appeals Department:

Mail:
 Appeal Tribunal
 Texas Workforce Commission
 101 E 15th St, Rm 410

Austin, TX 78778-0001
Email:
appeals@twc.state.tx.us

E-104: 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](#).

Refer complaints alleging unsafe working conditions to [DOL’s Occupational Safety and Health Administration](#).

Refer complaints alleging discrimination by an employer that did not have a job posting in WorkInTexas.com to [TWC’s Civil Rights Division](#).

For additional information, see the [TWC website](#).

E-105: 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 (EEO-8) in English and Spanish
- Job Service Complaint System in English and Spanish

These and other posters are available online from TWC or DOL:

- [Posters for the Workplace - TWC](#)
- [Posters - U.S. Department of Labor](#)

E-200: 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 (for example, 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 email; instead, save the data to a secure document using the password protection option, email the password to the recipient and send the document as an attachment in a separate email.
 - Use password protection when saving personal identity data in a document that will be transported on a laptop computer or portable storage device.
 - Require each WorkInTexas.com user to complete and sign the [TWC Information Resources Usage Agreement, Form P-41](#) on the Intranet. (The Intranet is not available to the general public.)

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.

For further information, see:

- TWC's [Information Security Standards and Guidelines](#) (the Intranet is not available to the general public)
- TWC's [Privacy Manual for Safeguarding Sensitive Personally Identifiable Information](#) (the Intranet is not available to the general public)
- [WD Letter 13-13](#), issued April 2, 2013, entitled Handling and Protection of Personally Identifiable Information and Other Sensitive Information, and subsequent updates
- [WD Letter 03-12, Change 1](#), issued May 15, 2012, entitled Access and Security in The Workforce Information System of Texas and WorkInTexas.com—Update, and subsequent updates
- [WD Letter 14-08](#), issued March 19, 2008, entitled Modifications to Unemployment Insurance Benefits System Access, and subsequent updates

E-300: REQUESTS FOR INFORMATION

E-301: General 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 include, but are not limited to:

- Employers
- Job seekers
- The media in any form (TV, radio, newspapers, etc.)
- Other government agencies
- Private sector entities such as banks and schools

E-302: Wage Record Requests

Boards must ensure that when an individual comes into the Workforce Solutions office requesting wage record information, Workforce Solutions office staff take the following actions:

- Verify the identity of the individual by:
 - Reviewing a state-issued photo identification card such as a driver’s license
 - Asking the individual to provide his or her Social Security number (SSN) via keypad/number pad, in writing or verbally (individuals who choose to provide their SSN verbally should do so in a secure location)
- Sign on to the TWC mainframe and access the WRIR screen to:
 - Verify that the SSN provided matches the SSN recorded
 - Check for any anomalies—for example, wages listed for a name that is not the individual’s name (anomalies do not include wages listed under an individual’s maiden name)

Note: If anomalies exist in the wage record, Workforce Solutions office staff should explain that when wages are listed for a name other than the individual, it is most likely due to a reporting error by the employer. When reporting employee wages, an employer can inadvertently transpose two digits in a SSN, or make some other error that results in another employee’s wages being reported under the requesting individual’s SSN.

- If there are no anomalies on the wage record, print the screen and provide the wage record to the requesting individual. Do not provide wage records that include wages belonging to another individual. Wage information reported under another name is considered Personally

Identifiable Information and cannot be released, even if the wages are incorrectly reported under the wrong SSN.

- If there are wage record anomalies that need correcting before the records can be released:
 - Verify the individual’s identity by:
 - Reviewing the individual’s state- or government-issued identification card
 - Reviewing the individual’s Social Security card or other correspondence from the Social Security Administration reflecting the individual’s name and full SSN (a verbal identification of the SSN is not acceptable)
 - Send an **ENCRYPTED** email to TaxWageRecordCorrection@twc.state.tx.us with:
 - The individual’s SSN
 - A statement detailing which wages the individual is requesting to have corrected or removed from association with the SSN
 - A statement from Workforce Solutions office staff indicating that staff confirmed the individual’s name on the Social Security card and state- or government-issued identification card, and that the photo on the identification card matches the individual requesting the wage correction—**DO NOT** send copies of the documents
 - Instruct the individual to return after seven days for an updated record. At that time, Workforce Solutions office staff will follow the same protocol as presented above to generate a wage record for the requester.

If the individual’s need for the wage record is urgent (for example, to prevent eviction or qualify for public assistance medical treatment), indicate the urgency in the tax wage record correction email and request to be notified when the correction has been made. Workforce Solutions office staff can then call to notify the individual that the wage record is ready.

Boards must be aware that TWC Tax Department staff will remove the identified wages by changing the SSN for the incorrect wages to a “pseudo SSN” based on the account number.

Boards must ensure that Workforce Solutions office staff with responsibility for handling wage records requests are provided with access to the WRIR screen in the TWC mainframe system through the Resource Access Control Facility (RACF).

E-303: Open Records Requests

Boards must be aware that requests for public information must be:

- Immediately directed to the TWC Open Records Coordinator
- Submitted by the requester in writing

An [open records request form and instructions](#) are available online.

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

- Specifics regarding what information is needed
- The name and contact information of the requester
- In the case of unemployment insurance (UI) claimants and other individuals seeking access to their confidential information, the individual’s Social Security number, a copy of the individual’s state- or government-issued photo ID (for identification verification purposes) and the individual’s signature

Boards must be aware that charges may apply to a request for records.

With the exception of information that is confidential by law or is defined in state statute as not being “public information” for purposes of the Public Information Act—including UI claimant information, employer tax information, identifying information of job seekers and employers in the job matching systems, and student records—nearly all recorded information maintained by TWC is subject to disclosure under the Public Information Act. TWC is required to respond to any written request as promptly as possible—but no later than 10 business days after the date the information is requested—with the following:

- Request for an Attorney General Ruling, if an exception to disclosure is being asserted
- Cost estimate if the request is over \$40
- Release of the information:
 - Without redactions or
 - With redactions with an explanation of authority for redacting the information
- A certification of the date the information will be released

A [one-hour training on the Public Information Act](#) is available online.

Boards must:

- Respond to requests for records collected from customers through the Boards (for example, child care and employment and training records)
- Direct all requests for information collected and maintained by TWC (for example, employer tax reports) to:

TWC Open Records
 101 E 15th St, Rm 266
 Austin, TX 78778-0001
 Call: 512-463-2422
 Fax: 512-463-2990
 Email: open.records@twc.state.tx.us

For additional information, see [A-111: Open Records](#)

E-304: Unemployment Insurance Benefit Information

Boards must be aware of the following:

- UI claimants can access information on their most recent UI claim, such as benefit amounts, remaining balance, and payment information, by logging into the [UI Benefits System](#).
- Other types of information are available through [self-service portals](#).

Boards must ensure that if, after searching online for specific UI information, individuals find that the information is not available, Workforce Solutions office staff instruct the individual to call the UI Tele-Center at 800-939-6631 and make a verbal request for the required information and documents. If the information the claimant requested is not available online or from the Tele-Center, the Tele-Center customer service representative will submit a request for a special written letter containing the necessary information.

E-400: 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 include 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 the Federal Deposit Insurance Corporation (FDIC) website, [Money Smart – A Financial Education Program](#).

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

Part F – Oversight

F-100: PERFORMANCE MEASURES

F-101: About 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
- 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.

F-102: Services to Eligible Veterans

Federal law requires that Workforce Solutions office staff provide the maximum level of services to veterans.

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

F-103: 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:

- Identify job seekers who are MSFWs
- Indicate in WorkInTexas.com that a job seeker is a MSFW
- Provide and record services to MSFWs

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

For additional information on the Migrant Indicators of Compliance report, see [TA Bulletin 248](#), issued June 8, 2012, entitled Migrant Indicators of Compliance Report, and subsequent updates.