

WORKFORCE DEVELOPMENT DIVISION
Workforce Policy and Service Delivery Branch
Technical Assistance Bulletin 211, Change 2

Keyword: ES; WorkInTexas.com

Topic: Determining Employing Entities' Access to WorkInTexas.com—
Update

Date: February 28, 2012

This Technical Assistance (TA) Bulletin provides Local Workforce Development Boards with desk aids to assist Workforce Solutions Office staff in determining whether to grant WorkInTexas.com job-posting access to employing entities that do not have or are in the process of obtaining a valid Texas Workforce Commission (TWC) tax identification number (tax ID), where the account status is liable-active. The desk aids are:

- Employer Definitions for Use with WorkInTexas.com—Definitions related to entity eligibility determination (Attachment 1)
- Entity Questionnaire Flowchart—A flowchart outlining the information necessary to determine entity eligibility (Attachment 2)
- Entity Authentication Resources—Resources for use in authenticating entity eligibility (Attachment 3)

This TA Bulletin updates Attachment 2 to reflect changes to the validation process used to determine if an employer/employee relationship exists, specifically:

- the issuance of W-2 forms is no longer a requirement for an employer/employee relationship; and
- the issuance of 1099 forms is no longer an automatic disqualification for an employer/employee relationship. If an entity provides a Form 1099, refer to the Internal Revenue Service *Employer's Supplemental Tax Guide* (<http://www.irs.gov/pub/irs-pdf/p15a.pdf>) to determine if the entity is an independent contractor or a contract labor employer.

Attachments 1 and 3 remain unchanged.

CHANGES TO TA BULLETIN 211, Change 2:

New information in this TA Bulletin is indicated by:

- a strikethrough of the original language, which indicates that language has been deleted; and
- **bold** typeface, which indicates new or clarifying language.

The ES Guide provides the complete requirements for determining the approval of new employer accounts in WorkInTexas.com for entities that do not have a TWC liable-active tax ID.

If an entity with no TWC liable-active tax ID contacts a Workforce Solutions Office, the entity can be approved as a new employer account if it:

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

When screening a potential new employer, diligence and follow-through on extra steps and additional questions are necessary to verify the eligibility of an entity.

To locate a possible preexisting account, conduct an employer name search as one of the first searches, which helps to eliminate duplicate employer accounts in WorkInTexas.com.

Note: The presence of a preexisting WorkInTexas.com account does not in any way guarantee an entity's legitimacy.

If an entity does not meet the established criteria, take the following required actions, as set out in the ES Guide:

- clearly communicate the reasons for ineligibility to the entity;
- provide the entity with alternatives for posting the job (e.g., other websites, print media, bulletin boards); and
- document the conversation and outcome using the Business Customer Management module in WorkInTexas.com, as set forth in TA Bulletin 158, Change 1.

Direct inquiries regarding this TA Bulletin to wfpolicy.clarifications@twc.state.tx.us.

RESCISSIONS:

TA Bulletin 211, Change 1