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STATE EMPLOYMENT SERVICES INSTRUCTION NUMBER: 13-01

TO: ES Area Directors
ES Regional Managers
WIA Administrators
SC Works Center Operators

SUBJECT: Employer Accounts and Job Posting Policy

ISSUANCE DATE: October 3, 2013

EFFECTIVE DATE: Immediately

PURPOSE: To provide guidance on employer account access and service management through the SC Works Online Services (SCWOS) system.

BACKGROUND: The Wagner-Peyser Act of 1933 established a nationwide system of public employment offices known as the Employment Service. Federal regulations require each state to administer a labor exchange program that assists job candidates in finding employment, assists employers in filling jobs, facilitates the match between job candidates and employers, and participates in a system for clearing labor between the states. The South Carolina Department of Employment and Workforce (DEW) uses an Internet based software, SC Works Online Services (SCWOS), to fulfill this responsibility.

POLICY: It is the policy of the South Carolina Department of Employment and Workforce (SCDEW) to adhere to all Federal and State laws related to the provision of labor exchange activities within the state through the SC Works Online Services system.

ACTION: Staff providing labor exchange services to employers will follow the employer accounts and job posting policy.

INQUIRIES: Questions may be directed to William Pendleton at 803-737-2591 or wpendleton@dew.sc.gov.

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South Carolina Department of Employment and Workforce Employer Accounts and Job Posting Policy

Purpose

The purpose of this policy is to provide guidance on employer account access through the SC Works Online Services (SCWOS) system.

Scope

The Wagner-Peyser Act of 1933 established a nationwide system of public employment offices known as the Employment Service. The Act was amended in 1998 to make the Employment Service part of the One-Stop delivery system. Changes have occurred as a result of amendments to the Wagner-Peyser Act, but labor exchange services (bringing together qualified job candidates and employers) continue as the basic purpose and mandate of the Wagner-Peyser Act. The Federal Unemployment Tax Act (FUTA) paid by employers supports the administration of Wagner-Peyser funded services.

Federal regulations require each state to administer a labor exchange program that assists job candidates in finding employment, assists employers in filling jobs, facilitates the match between job candidates and employers; and participates in a system for clearing labor between the states. The South Carolina Department of Employment and Workforce (DEW) uses an Internet based software, SC Works Online Services (SCWOS), to fulfill this responsibility. The purpose of the document is to set forth DEW's policies and expectations concerning employer access and the use of the SCWOS system.

Please note: DEW uses a variety of means to refer qualified candidates to positions posted by employers. DEW does not have access to criminal history records. Our review of candidates' backgrounds is limited to work and educational history. We do not conduct any further investigations, such as criminal background checks, before referring a candidate.

Definition of Employer

For the purposes of this policy, an employer is a person, firm, corporation or other association or organization that:

- is located in the United States;
- proposes to employ a worker within the United States;
- hires, pays, fires, supervises and otherwise controls the employee's work, and when applicable thresholds are met, withholds and submits quarterly payroll taxes, and
- issues (or intends to issue) IRS Forms W-2 showing the employee's wages, tips and other compensation earned and taxes withheld while the employee is in the employer's employ.

Establishing an Employer Account in the SC Works Online Services (SCWOS) System

Entities meeting the definition of employer given above may establish an account in the SCWOS system for the purpose of posting employment opportunities and receiving applicant self-referrals and staff-assisted referrals of qualified applicants. Employers are encouraged to use the “self-service” method to complete and submit their registration; however, assistance with the registration process is available via e-mail to scwosadmin@dew.sc.gov.

When a SCWOS employer registration is received, DEW will review the registration information and take reasonable steps to determine if the registrant meets the definition of employer given above. These steps may include, but are not limited to: (1) corresponding with the registrant by telephone or e-mail; (2) reviewing the registrant company’s web site, using various Internet search systems to corroborate the information given in the registration; and, (3) cross-referencing the FEIN and/or South Carolina Unemployment Insurance (UI) tax account information provided in the registration with existing DEW records, and/or reviewing the registrant company in the similar state system if the registrant is an out-of-state employer. The criteria used to establish an employer account are found in the Procedure for Completing the Employer Account Access Request Form.

Registrant information to be verified will include:

- FEIN or Social Security Number;
- SC UI tax account number;
- company telephone number, address, corporate address if applicable; and
- Human Resources contact name, telephone number, and email address.

Normally this review will be accomplished within three (3) to five (5) business days of receiving the registration. The employer will be notified via email or postal mail.

Federal Employer Identification Number (FEIN) versus Social Security Number (SSN)

Generally, an employer account requires entry of the Federal Employer Identification Number (FEIN); however, there are two exceptions to this general rule.

- If an employer uses his/her SSN rather than a FEIN because the employer operates a business as a sole proprietor or is employing individuals to work in his/her household, the SSN can be used.
- If a new business is in the process of obtaining a FEIN, the employer’s SSN may be used temporarily, with the expectation that the employer will update the account to provide FEIN when it is obtained.

Third-Parties Acting on the Employer's Behalf

Third-parties acting on the employer's behalf should register the account in the employer's name and:

- use the employer's FEIN, South Carolina Unemployment Insurance (UI) account number and mailing address,
- show the third-party as the primary contact, and
- include the employer's contact name, address, phone number, and email address as an additional contact.

An account by a third party acting on an employer's behalf will not be established without the employer's written consent. Use of a third party does not relieve the employer from its responsibility of ensuring the account will be used appropriately.

Note: Several options are available for employers who wish to prevent the primary and additional contact names and phone numbers from displaying to the job seeker; staff will be glad to assist in helping the employer determine which option(s) will best meet the employer's needs.

Account Pending Verification

While Wagner-Peyser staff is reviewing the registration information of new accounts, the account will remain in Pending Verification status.

Job Postings

Employers may enter job postings at any time after submitting the account registration; however, the account must be approved before job orders display to the general public.

Once the account is approved, upon receipt of a job posting, designated SC Works system staff:

- will review the posting for clarity and completeness,
- may make minor technical adjustments or edits needed for the job order to display properly,
- will contact the employer to review the recruitment plan and/or to review changes for the job order to conform to Federal/State laws and regulations and DEW/SCWOS job posting policy (if needed),
- will match the job order against qualified veterans in the SCWOS active job seeker database and notify Veterans about the opportunity, as required by the Wagner-Peyser Act Veteran's Priority of Service provisions,
- will match the job order against qualified general public individuals in the SCWOS active job seeker database and notify them about the opportunity, and
- will refer qualified candidates per the employer's instructions in the job order.

Salary Information In The Job Order

Employers are encouraged to provide minimum and maximum salary data in the job posting. Including this data improves the precision of the match process, helps attract potential applicants, and aids staff in making appropriate referrals. The narrative field can be used for further explanations. Employers concerned about providing a figure for the maximum salary are encouraged to at least list the minimum in both spaces (\$15,080 to \$15,080). If the employer leaves the salary data blank, the employer is acknowledging that the quality of the matches and referrals may be inferior to the matches and referrals that could be made if the data were available.

When The Job Order Is Visible

For employer accounts that have been approved, job orders display to:

- Veterans as soon as the job order is submitted, and
- the general public after staff has completed the Veterans matching and notification process. Generally the Veterans matching and notification process will be completed within 48 hours or less.

Note: During the Veterans matching and notification process, the job order status will display as "On Vet Hold."

How Long the Job Order Stays Visible

The default setting for displaying job orders is 60 days. Employers may adjust the dates for less than 60 days of display, if needed. Should the recruitment period extend beyond 60 days, staff will assist in creating a new posting, as required by the U.S. Department of Labor reporting requirements.

Employers who are posting jobs for Foreign Labor Certification visas are required to recruit for the specified time outlined by the U.S. Department of Labor. Program requirements, summarized below, are subject to change and exemptions may apply in certain cases. For additional information, see: <http://www.foreignlaborcert.doleta.gov/>.

Permanent and H1B Specialty Workers	H-2A Agricultural Guest Worker Program	H-2B Non-agricultural Guest Worker Program
Post/recruit for 30 consecutive days	Post/recruit for 50% of the contract period	Post/recruit for 10 consecutive days

Refusing or Removing a Job Posting

DEW/SCWOS administrator(s) reserve the right to refuse or remove job postings that are in conflict with this policy or Federal or State laws and regulations.

❖ Discriminatory Language, Discriminatory Practices

DEW/SCWOS administrator(s) do not accept job postings with discriminatory language and do not participate in referral practices that discriminate on the basis of race, color, religion, sex, national origin, age, disability, veteran status, genetics or other protected bases.

❖ Pre-Designation

DEW/SCWOS administrator(s) cannot accept a job posting for which the employer has given DEW a list of names of the candidates to be referred and refuses to consider other qualified candidates whose names do not appear on the employer's list.

❖ Conflict with State and Federal Laws

DEW/SCWOS administrator(s) do not accept job postings describing work situations that conflict with Federal and State compensation laws such as, but not limited to, the Fair Labor Standards Act (29 U.S.C. Chapter 8), or Title 41 of the South Carolina Code.

Fees for Consideration

The Wagner-Peyser Act and associated regulations [Section 13(b) (1)] prohibit DEW from accepting postings for positions for which the individual must:

- pay a fee in order to be considered for employment (agency or employer fee), pay for employer-provided training in order to be considered for employment (training fee),
- make an investment in materials, goods, services or equipment and/or go into business (franchise fees, licensing fees, purchase of Direct Selling "kits"), and/or any similar arrangement that requires an individual to pay the advertising employer or third-party acting on behalf of the employer.

If a job seeker, responding to a posting, reports to DEW/SCWOS administrator(s) that the employer has asked for money or payment of any type of fee similar to the fees/payments described above, DEW/SCWOS administrator(s) reserve the right to cease referrals and not display the posting while investigating the matter.

Union or Non-Union Specifications

DEW/SCWOS administrator(s) do not accept job orders with language that conflicts with the South Carolina Right to Work law (S.C. Code Ann. § 41-7-10 et seq.).

Locking an Employer Account

Should an employer have repeated violations of this policy, DEW/SCWOS administrator(s) reserve the right to remove non-conforming job postings and/or change the status of the Employer's account from "Enabled" to "Locked Out."

Employer accounts established by individuals or organizations found to be posing as an employer for the purpose of "phishing" for e-mail addresses will be placed in "Locked Out" status.

Account Password Reset/Deactivation

Active employer accounts will require a password reset every 90 days in order to remain active. DEW reserves the right to deactivate employer accounts if they are inactive for more than 90 days. Employers may reactivate accounts made inactive by contacting scwosadmin@dew.sc.gov.