

TEXAS WORKFORCE COMMISSION LETTER

ID/No:	WD 19-10
Date:	April 19, 2010
Keyword:	ES; WorkInTexas.com
Effective:	Immediately

To: Local Workforce Development Board Executive Directors
Commission Executive Offices
Integrated Service Area Managers



From: Laurence M. Jones, Director, Workforce Development Division

Subject: **Employer Access to Workforce Systems and Services**

PURPOSE:

To provide Local Workforce Development Boards (Boards) with information and guidance on the following:

- Approval of new employer accounts in WorkInTexas.com for entities that do not have a Texas Workforce Commission (Commission) liable-active unemployment insurance tax account number (tax account number); and
- Provision of Texas Workforce Center employer services, including required employer approval processes to be conducted prior to providing services.

BACKGROUND:

The U.S. Department of Labor Employment and Training Administration defines *employer* (20 C.F.R. §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 employees. An association of employers shall be considered an employer if it has all of the indicia 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 indicia.

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

PROCEDURES:

Boards must be aware of the following:

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To self-register a new employer account in WorkInTexas.com, an entity is required to have one of the following:

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

Note: Boards must ensure that Texas Workforce Center staff with access to the mainframe system through the Resource Access Control Facility (RACF) provides employers with their tax account number if they request it. (However, before providing the tax account number, Texas Workforce Center staff must confirm the employer’s identity by requesting information that only the employer would know.)

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Approval of New Employer Accounts

Boards must be aware that entities lacking either the tax account number or FEIN necessary to self-register with WorkInTexas.com will be:

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

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

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- meets the definition of employer, as set forth in 20 C.F.R. §651.10; and
- agrees to comply with the job posting requirements in the Employer Use Agreement. The Employer Use Agreement is located on WorkInTexas.com: https://wit.twc.state.tx.us/WORKINTEXAS/wtx?pageid=EV_REG_AGRMNT&lang=en

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

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

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

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

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- if the job is *in Texas*, appropriate staff follows the same procedures used for Texas employers that do not have a tax account number; and

- if the job is *out-of-state*, appropriate staff refers the out-of-state employer to the Employment Service agency in the employer’s home state.

Ineligible Employers and Entities

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

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- clearly communicates the reasons for ineligibility to the entity;
- provides the entity with alternatives for posting the job (e.g., other Web sites, print media, bulletin boards); and
- documents the conversation and outcome using the Business Customer management module in WorkInTexas.com, if an account exists.

Employer Services

Boards must ensure that Texas Workforce Center staff applies the employer approval process outlined in this WD Letter before entering into any cooperative agreement to provide Texas Workforce Center employer services including, but not limited to, the following:

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- Employer Outreach (in person or by telephone)
- Workforce Center Orientation
- Employer Site Recruiting
- Interview Rooms
- Job Fairs
- Customized Employer Training

Technical Assistance Bulletin 211, issued August 10, 2009, and entitled “Determining Employing Entities’ Access to WorkInTexas.com,” provides desk aids to assist Texas Workforce Center staff in screening potential employers.

INQUIRIES:

Direct inquiries regarding this WD Letter to wfpolicy.clarifications@twc.state.tx.us.

RESCISSIONS:

WD Letter 30-07
WD Letter 30-07, Change 1

REFERENCE:

Wagner-Peyser Act of 1933, as amended by the Workforce Investment Act of 1998
United States Department of Labor Employment and Training Administration, General Provisions Governing the Federal-State Employment Service System (20 C.F.R., Chapter V, Part 651-Part 658)
Technical Assistance Bulletin 211, issued August 10, 2009, and entitled “Determining Employing Entities’ Access to WorkInTexas.com”

FLEXIBILITY RATINGS:

No Local Flexibility (NLF): This rating indicates that Boards must comply with the federal and state laws, rules, policies, and required procedures set forth in this WD Letter and have no local

flexibility in determining whether and/or how to comply. All information with an NLF rating is indicated by “must” or “shall.”

Local Flexibility (LF): This rating indicates that Boards have local flexibility in determining whether and/or how to implement guidance or recommended practices set forth in this WD Letter. All information with an LF rating is indicated by “may” or “recommend.”