



**NORTH CAROLINA DEPARTMENT OF COMMERCE
DIVISION OF WORKFORCE SOLUTIONS**

DWS Operational Guidance Number: OG 26-2021

Date: October 6, 2021

Subject: Employer Accounts and Job Order Procedures

From:

A handwritten signature in black ink, appearing to read "Chet Mottershead", written over a horizontal line.

Chet Mottershead
Assistant Secretary for Workforce

Purpose: To provide protocols and procedures regarding the Division of Workforce Solutions' (DWS) Employer Accounts and Job Orders and to rescind PS 02-2016.

This Operational Guidance has been converted from the previous DWS policy format and the procedures contained herein supersedes all previous policy, procedures, and guidelines. Minor edits have been made for clarification and consistency.

Background: The scope and process for managing employer accounts and job orders using NCWorks Online has been operable for several years. Review of policy and procedures has been conducted and the DWS, with assistance from Local Area Workforce Development Board staff, has developed updated employer accounts and job order procedures.

Action: NCWorks Career Center staff are required to operate the administration of all employer accounts and job orders as detailed in this DWS Operational Guidance.

Effective Date: Immediately

Expiration: Indefinite

Contact: DWS Applicant Services State Office Staff

Attachment: DWS Employer Accounts and Job Order Operational Guidance

NORTH CAROLINA DEPARTMENT OF COMMERCE

Division of Workforce Solutions

Employer Accounts and Job Order Operational Guidance



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NCWorks Online Employer Agreement

Welcome to NCWorks Online!

NCWorks Online (NCWO) is a one-stop online resource for job seekers and employers in North Carolina. Only employers posting job orders for worksites within the State of North Carolina or within a county that immediately borders the state will be granted access. **Federal law prohibits the use of these services for soliciting business opportunities.** You must accept the following terms for yourself, your staff, or an authorized agent to use NCWorks to list jobs and recruit qualified applicants:

- Equal Employment Opportunities must be provided to applicants without regard to age, race, color, religion, gender, national origin, credit history, or disability.
- There must be an employer/employee relationship whereby the employee will receive a W-2 at the end of the year (not a 1099 for doing work as an independent contractor).
- Employers **must** provide their Federal Employer Identification Number (FEIN) **and** their NC Unemployment Tax Number/Employer Account Number (EAN) in NCWO.
- Job seekers must **not** be charged a fee or be required to make any monetary payment or investment as a condition of hire, nor at the time of referral or application.
- Jobs listed may **not** be used to replace striking workers during a labor dispute (including temporary listings).
- Job orders must be for positions currently open (vacant) or expected to be filled/available within the next 90 days.
- Job orders must be posted/entered in English only. End users can translate the entire site into their own native language.
- Wages/earnings must meet or exceed state/federal minimum wage requirements unless exempted by law. Job orders **must** include minimum **and** maximum compensation, which can be hidden (suppressed) from staff/jobseekers if the employer desires.
- Worksites for positions **must** include full street addresses and be located within the State of North Carolina or within a county that immediately borders the state unless specifically exempted in this policy, including federally mandated interstate postings.
- Employers must **solely** use information from this system for the purpose of filling their own available (vacant) positions. **Employers may not compile, amass, sell, distribute, or re-post any job seeker data, or candidate information.** This prohibition includes using the resume database to solicit for a self-employment opportunity, product, service, or to provide referrals to an employer with whom no contractual agreement is in force to collect a hiring fee or solicit for business.

NCWO reserves the right to discontinue access to an employer violating any of these terms. *NCWO also reserves the right to remove any job order if it contains outdated, inaccurate, vague, or inappropriate information.*

Introduction

This document provides Operational Guidance from the NC Department of Commerce, Division of Workforce Solutions, (hereinafter referred to as DWS) concerning the procedures for employer accounts and job orders using the NCWO system. NCWO is a one-stop online resource for job seekers and employers in North Carolina. Job seekers can search for jobs, create resumes, research labor market information, and find educational and training opportunities. Employers can post jobs, find candidates, research labor market information, recruit workers, and report recruitment efforts and results.

Staff in the NCWorks Career Centers, also known as One-Stop Centers or American Job Centers, should use this Operational Guidance as the primary source of procedures and technical assistance when questions arise regarding official protocols for handling employer accounts or job orders. If this document does not seem to address a question or concern, Career Center staff should refer to *Section D* for additional direction.

The Wagner-Peyser Act (now part of the Workforce Innovation Opportunity Act (WIOA) Title III) established a national labor exchange system with states to provide universal access to basic career services at no cost to job seekers. In North Carolina, DWS uses NCWO to fulfill this responsibility. The purpose of this document is to set forth the DWS expectations for all NCWO users and to outline appropriate employer access. Only employers with worksites within the State of North Carolina or within a county that immediately borders the state will be granted full access to NCWO and permitted to post job vacancies and search for potential job candidates.

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

- operates in the State of North Carolina, or plans to employ one or more employees within the State of North Carolina or within a county that immediately borders the state, **and**,
- will have/has an employer-employee relationship with its workforce and will issue IRS Form W-2 documenting each employee's wages, tips, other compensation earned, and taxes withheld, **and**,
- hires, pays, dismisses, supervises, and otherwise controls the employee's work, **and**,
- withholds payroll taxes and submits taxes and quarterly reports per federal and state guidelines.

Entities meeting the definition of an employer may establish an account in NCWO to post employment opportunities and receive referrals of qualified applicants. When a new employer registration is received, the Career Center staff will review the registration information and take reasonable steps to verify that the registrant meets the definition of an employer. This review is expected to be initiated within three (3) business days following the new registration. An

employer registration review will include, but is not limited to:

- contacting the registrant by telephone, and
- reviewing the company's public website, and
- using various internet search systems to corroborate the registration information, and,
- cross referencing the Federal Employer Identification Number (FEIN) and the NC Unemployment Insurance (UI) tax account (Employer Account Number - EAN) information with existing DWS and Division of Employment Security (DES) records.

An employer registration requires listing an active FEIN and EAN; however, below are a few exceptions to this general rule:

1. If a new business is in the process of obtaining a FEIN, the employer's social security number may be used temporarily, with the expectation that the employer will update the account to provide the FEIN when it is received. Staff who create and/or enable an employer using a social security number must follow up with the employer within sixty (60) days to update their FEIN.
 - Employers obtain their FEIN by applying online at www.irs.gov.
 - The social security number used **must** be that of the owner/manager of the business. It cannot belong to anyone else including other family members or employees.
 - If a valid FEIN is not provided within **60 days**, the status of the account should be changed to Revoked/Suspended until such time as a valid FEIN is provided. A case note must also be entered in NCWO explaining the situation.
2. If the employer is in the process of obtaining an EAN from DES, staff will need to obtain a temporary EAN number from the Applicant Services Unit of DWS. Once the temporary number is issued, the employer will have **60 days** to obtain a valid EAN before the account is revoked.
 - The employer verification documentation should be completed and uploaded to NCWO before requesting a temporary EAN (along with adding case notes).
 - It is the responsibility of Career Center staff to follow up with the employer and make certain the EAN is updated timely. If a valid EAN is not provided within **60 days**, the status of the account should be changed to Revoked/Suspended until such time as a valid EAN is provided. A case note must also be entered in NCWO explaining the situation.
3. Employers in bordering states can post job orders to NCWO when the work will be performed in a bordering county, but they will have to provide their own state's unemployment tax number. DWS may also need to issue a permanent EAN to satisfy NCWO requirements. Staff must contact the Applicant Services Unit at DWS for assistance after uploading verification documentation and adding case notes.
4. Some non-profit employers (such as businesses/charities operating under 501(c)(3) rules of the IRS) may not be issued an EAN by DES; but they should have a FEIN from the IRS and documentation of their non-profit status. DWS will issue a permanent EAN to satisfy

NCWO requirements, **after** DES has determined the non-profit is also non-liable (current liable employer definitions can be found on des.nc.gov). Staff must contact the Applicant Services Unit at DWS for assistance after uploading verification documentation and adding case notes.

- Non-profit employers should apply to DES for an EAN to determine their non-liable status regarding Unemployment Insurance (UI) taxes. This application/documentation would be included by staff when requesting a permanent EAN from Applicant Services.
- 5. In the case of Foreign Labor Certificate (FLC) employers, the employer/representative should reach out to DWS Applicant Services for information about the process for getting the NCWO Employer Account verified and processed.
- 6. Federal/Military employers all share a common FEIN – given the NCWO requirements that each FEIN use a single NCWO account, federal/military employers will need an exception to make the list of locations/worksites manageable. Instead, staff will request a permanent FEIN from Applicant Services and use the employer’s 3-digit Federal Agency Code (FAC) as the EAN (92-00-FAC) on the NCWO account. The general rule is thus amended to one NCWO account per FAC for federal entities. *This 3-digit code might also be known as a Federal Identification Code (FIC).*
- 7. Lastly, an employer would use their own social security number rather than a FEIN when the employer operates a business as a sole proprietor or is only employing individuals to work in their household in domestic services (gardener, nanny, housekeeper, etcetera).

Most employers are liable for UI taxes in North Carolina. A summary of the requirements can be found at <https://des.nc.gov>. DWS staff are not responsible for determining whether an employer is considered to have covered wages. If staff need information concerning the tax liability of a specific employer, contact a Status Adjudicator within the DES Tax Status Unit (919) 707-1170. If staff have general employer questions, call the Employer Call Center (ECC) (919) 707-1150. For non-liable employer questions related to NCWO and EAN, staff should contact DWS Applicant Services.

An employer can apply for an EAN through the DES website.

- Go to <https://des.nc.gov/employers>.
- Follow the links to “Create or Update an Employer Account.”
- Use the link to **APPLY** for an EAN before attempting to create an account.
- Answer the questions completely and document the confirmation number.
- The EAN should be processed and mailed to the employer within 6-8 weeks. If the employer has immediate openings, contact Applicant Services for assistance to avoid further delay of the NCWO account verification.

The above process is for any employer where work will be performed in North Carolina. Please remember that certain employers will need to provide additional documentation to DES. One

such employer would be non-profit organizations (501(c)(3), 509(a), 527, etcetera); these employers will be required to submit an exemption letter from the IRS (or other non-profit documentation) to DES prior to their liability determination. This additional documentation could delay the employer's status determination as well as delay their access to NCWO.

If staff encounter any other situations with an employer and the FEIN/EAN, they should contact their Regional Analyst or Applicant Services for further guidance and assistance.

IMPORTANT NOTES:

- When staff enable a new employer, it is a best practice to alert the whole Business Services team for additional follow up and outreach.
- For third-party agents (TPAs) acting on an employer's behalf, see specific account details and requirements in *section C.2*.
- Employers can self-identify as *Older Worker Friendly, Veteran Friendly, Minority Owned, etcetera*. This status is self-attested and does not need to be verified.
- DWS reserves the right to *refuse* or *remove* job orders that conflict with this Operational Guidance or federal/state laws and regulations.
- DWS does not accept job orders with discriminatory language and does not participate in referral practices that violate federal and/or state non-discrimination statutes.
- DWS cannot accept a job order for which the employer has provided a list of names of candidates to be referred and refuses to consider other qualified candidates whose names do not appear on the employer's list.
- DWS does not have access to criminal history records. Our review of a candidate's background is limited to information provided by the individual.
- DWS does not conduct any investigations or screenings, such as background checks or drug tests, before referring candidates.
- DWS does not accept job orders for which the employer will use IRS Form 1099 to report compensation paid (e.g., independent contractors).
- DWS will not accept job orders for positions that are vacant due to work stoppage that involves a labor dispute, labor strike, or employer lockout (see *Code of Federal Regulations [CFR § 652.9]*).
- DWS does not accept job orders describing work situations that conflict with federal and/or state compensation laws such as, but not limited to, the Fair Labor Standards Act (*CFR § 29, Chapter 8*), Minimum Wage Act (*N.C.G.S. Chapter 95, Article 2A*), Payment of Wage Law (*N.C.G.S. 95-25.6*) or Child Labor Laws (*CFR § 29, Part 570*).

Section A. Job Orders

A job order is an advertisement, or posting, of an opening or job vacancy that an employer expects to fill within ninety (90) days. In addition to listing an employer's job opening, and providing job seeker referrals, the following services should be provided to employers by Career

Center Staff:

- Assistance in the development of job order requirements;
- Matching job seeker experience with job requirements, skills, and other attributes;
- Assisting with special recruitment needs;
- Arranging Job Fairs/Recruitment events;
- Assisting employers in the analysis of hard-to-fill job orders;
- Assisting with employer job descriptions;
- Assisting employers prior to, during, and after layoffs.

A.1. Employers Pending Verification

Employers using NCWO for the first time can self-register instead of being registered by staff; however, if the employer self-registers, access is limited until after the account is enabled by staff. If the employer created any job orders during self-registration, the job orders will not be available to the public until after the employer has been verified and their account enabled. *Employers' self-registrations that do not include new job orders should not initiate the verification process.*

While much of what follows is from the employer self-registration perspective, the rules and requirements still generally apply when staff create the employer account. Two key differences to keep in mind when staff create the employer registration/account are:

- 1) the account will be automatically enabled upon registration completion with employer access immediately possible and the account data being 'live' to all system users; and,
- 2) registrations should only be entered by staff **AFTER** a full verification of the employer is already completed and approved.

All employers using NCWO must be verified to determine if they are a compatible workforce partner as determined by factors included on the *Employer Verification* form. Employer verifications should be completed by the nearest Career Center to the employer's primary address. Further, the employer's primary address (both the physical and mailing) should reflect the main/corporate/headquarters location, whether in North Carolina or not, unless, there is a local (in-state) point of contact acting as the hiring authority for all worksites/locations used on the account – there are many possible scenarios regarding the primary location for an employer, contact your Regional Analyst or Applicant Services for assistance. Offices that receive a job order for an employer account outside their service area that is not yet verified, should coordinate the verification with the Career Center that would be responsible based upon the employer's primary location and work together to get the account verified and enabled if appropriate.

The *Employer Verification* form can be found on NCWO under *Staff Online Resources*. The form includes the following items for consideration by staff:

- No duplicate (older/existing) account(s) in NCWO – by name, FEIN/EAN, etcetera

- Registration Internet Protocol (IP) location proximity to main address/worksite
- Name/title of person contacted and their telephone number
- Active FEIN and EAN cross matched with DES Tax Records
- Include a *complete* corporate registration (General Information tab)
- Appropriate email account provided and is active
- Employer has an immediate job vacancy (expects to fill within 90 days):
 - Complete job order included
 - Job position(s) located within North Carolina, or within a county that immediately borders the state
 - Includes actual minimum/maximum salary range appropriate for occupation
 - Appropriate, non-discriminatory, language in the job order

The *Employer Verification* form is a guide to be used when verifying an employer. Scam employers often use real employer data to register but will specify a different email and/or telephone number when applying on the job order or will otherwise betray their true purposes in the profile information – staff should take the verification of all employers seriously as they have been entrusted as guardians of citizens’ private information. The verification process is intended to uncover inconsistencies and prevent inappropriate use of the system by preventing ‘live’ access. Once an employer’s account is approved, the employer has full access to the system and all live data.

Career Center management and/or designated staff will review employers who are **Pending Verification** in NCWO for their respective offices on a *daily basis*. **ONLY** verified, valid employers should be granted access. Any employer not already known to Career Center staff must be contacted and their account information verified within three (3) business days. Career Center staff **must** contact the **specific individual** who created the profile **by telephone** and verify they completed the new registration. Staff should use an internet search to verify the additional information (physical presence, business model, industry, etcetera) to further corroborate the request. Questionable or doubtful situations should be referred to Career Center management and/or DWS Regional Analysts for further review before access is granted. When enabling, staff must enter a case note of their process, and the verification form must be scanned and uploaded to NCWO. Business Services Representatives (BSRs) should contact these new employers within seven (7) business days to promote additional services for which they may qualify and to ensure appropriate customer service has been provided.

When verifying an employer, first determine ‘Is there an existing account?’ NCWO will not allow another employer profile to be created with the same FEIN and EAN if one already exists in the system. If multiple accounts exist for the same employer, update the master account, and merge the remaining account(s). **There should only be ONE NCWO account per FEIN**, regardless of multiple worksites/locations. If necessary, contact Career Center management or DWS Regional Analysts for action steps when merging employer accounts. The master account used for merging

should be the account with the most up-to-date information and data on the profile. In the rare circumstance of a company having multiple active EANs, or a necessity for multiple accounts even though the companies use a single FEIN, contact the appropriate DWS Regional Analyst or Applicant Services for guidance and assistance.

When verifying the FEIN/EAN, use the *Search Employer UI Tax Record link* on NCWO and search using the *Common Name/Legal Name* field.

It is also recommended that Career Center staff take the following actions to verify an employer:

- Use the Secretary of the State's website to verify a business/employer (www.sosnc.gov).
- Check with the local Chamber of Commerce regarding unfamiliar employers.
- Use the internet (web search) to find the employer's 'public' corporate account.

For example, incorrect spelling, capitalization, punctuation, are red flags. If the email address domain is Yahoo, Hotmail, or Gmail, these are also red flags. If the Internet Protocol (IP) address is not in the general vicinity of the employer's address, this is yet another red flag. Staff must notice these and work to eliminate any concerns/inconsistencies they raise by further investigation before the employer verification can be approved. Staff should use an internet search engine to verify the physical address provided by the employer. Physical signage should indicate the employer is occupying the space indicated in the profile. If the physical address cannot be verified, staff should document their findings in the case notes and NOT enable the employer. ***When in doubt, contact your DWS Regional Analyst for another opinion.***

The Employer Access status should be changed from **Pending Verification** to **Not Verified** when staff begin the verification process and a case note is to be entered explaining the attempt(s) to verify the employer. This status change is an indication to all staff that the verification process has begun; no accounts should stay in this status for a prolonged period, but (the time stamp on) case notes should indicate whether the investigation is active or stalled. After the review, the Employer Access status should be changed to **Revoked/Suspended** if there are reasons to doubt their validity. For successful verifications, all documentation should be uploaded, detailed case notes added recounting the process, and the Employer Access status updated to **Enabled**.

Once enabled, if an account raises staff suspicions or triggers an automated security alert, the status needs to be changed to **Under Investigation** when staff begin work to resolve any inconsistencies or concerns with the account. Again, this status used in conjunction with detailed case notes will make all staff aware of the account's active review. This status should not be used for a prolonged period. If the review stalls or does not fully resolve any concerns, the status should be updated to **Revoked/Suspended** or **Locked Out**.

Career Center staff should only use the following Employer Access Rights statuses, which are further explained and defined below:

Enabled – Employer has full access rights to NCWO.

Pending Verification – Employer may be prevented from searching for and viewing candidates or applicants. However, the employer can log into their account and view and/or reply to messages and post/update job orders. This is the default setting for registered employer accounts. (Note: staff should not enter this status as it is a system set status.)

Not Verified – This status should be used by staff to indicate the verification process has begun. Additional employer access will be very limited. Staff should note their progress and any discrepancies or findings in Employer case notes.

Revoked/Suspended – Employer is prevented from posting or viewing jobs, and searching for or viewing candidates/applicants, rendering any functions accessed through the Recruitment Plan Profile off limits. However, the employer can log into their account and view and/or reply to messages. Staff should case note reason(s) for suspending access.

Locked Out – The employer’s access to the system is completely removed, including the ability to log into their account. Staff should indicate by case note the reason(s) for changing the status.

Under Investigation – This status is used to indicate a concern was raised and an active, ongoing, review is being conducted. Staff should case note what they are researching and how they can be contacted for status updates. All employer inquiries should be directed to the investigating staff member. If the employer does not respond within fifteen (15) days to staff attempts to communicate with them, or in any way fails to comply with their requests, access should be revoked, the reason(s) why case noted, and the account status updated to “Revoked/Suspended.”

Failure to abide by the Employer Verification process could result in revocation of system privilege. If management determines staff are not taking the necessary precautions to prevent scam employer access to the system, removal of access could occur after the first or second occurrence. Per management discretion, this privilege could be granted again once the staff has completed re-training and provided documentation that it has been completed.

IMPORTANT NOTES:

- *Any modification of employer status (e.g., “Pending Verification” to “Enabled”) will result in an electronic message being sent to the employer.*
- *In addition to staff uploading the Employer Verification Form into NCWO, staff are required to make a case note when they make any changes to an employer status.*
- *Granting employers access to telephone numbers should never be permitted without approval from both the DWS Regional Analyst and DWS Applicant Services. Temporary/ Staffing/Recruitment agencies will **not** be considered for this privilege.*

A.2. Out-of-State Employers

Out-of-State (OOS) employers are defined as those who will be maintaining their NCWO account remotely (while being physically located in another state) – meaning there is no in-state, local contact, posting job orders, and managing the account. These accounts will be reviewed and approved at the DWS state or regional level **only**. *OOS employers who are utilizing a local in-state employee to post job orders will be reviewed by the nearest local Career Center to that North Carolina worksite/location.* Employers located in a bordering county will be approved by the local Career Center management where the zip code has been assigned. Employers who are **not** posting job orders for worksites within the State of North Carolina, or a border county, will **not** be granted access to NCWO, regardless of their primary business location.

A.3. Enterprise (Statewide) Employers

Enterprise employers are defined as those employers that have worksites in multiple workforce areas and would prefer a single point-of-contact (POC) to assist with their workforce needs. These accounts will only be reviewed/approved by the DWS state office.

Background

North Carolina's workforce programs are designed to meet the needs of employers in relation to the economic needs of their respective region, even if their region stretches all the way across the state. The central purpose of these workforce programs is to provide efficient, quality, and seamless workforce services and resources to new, existing, and expanding companies, even if those companies have multiple locations and employment needs around the state. Therefore, a standardized process is needed for engaging with 'national' employers who are seeking a primary POC to address their many statewide needs.

Process Flow

1. Commerce is made aware of an enterprise business seeking to expand across the state.
2. DWS reviews the company profile then forwards on to local area DWS staff for awareness.
3. DWS Enterprise Business Coordinator initiates a call with the enterprise employer representatives, WDB Director, BSRs, and local area staff.
4. A meeting is held with all stakeholders to administer an Employer Needs Assessment.
5. DWS Enterprise Business Coordinator and local area Business Services Team(s) determine Work-Based Learning (WBL) eligibility and strategy for addressing all other employer needs.
6. The project is handed off to local area Business Services team(s).
7. DWS Enterprise Business Coordinator conducts follow up with employer representatives regarding status of projects and customer satisfaction.
8. Continued support of project through TIMELY updates from Local Area WDB; state Business Services staff will assist Local Area WDB as needed.

9. All enterprise business projects are reviewed for employer satisfaction.
10. Close out projects upon completion or request of Local Area WDB and enterprise business.

A.4. Employment/Temporary/Staffing Agencies

Staffing services are employers who have a right to list job vacancies in NCWO, **if**, the agency is recruiting applicants who will be on the agency's payroll while performing work for a client business (the agency must be the incumbent's employer of record during its work assignment).

Job orders may be accepted from these agencies in the same manner as any other Job Order. Efforts should be made to ensure there is an actual job vacancy and the recruitment adheres to the procedures relating to labor disputes, federal contractors, independent contractors, and all other applicable requirements. Referrals to these agencies are permitted if the applicant is not charged a fee as a condition of employment.

Job orders posted by agencies without jobsite (client business) information should be closed and the agency contacted immediately. Once the agency provides the jobsite information, the job order can be reopened. Staff should utilize suppression options on the job order to allay confidentiality concerns between agents and client businesses, and, include the full worksite information in a case note on the job order. For additional information, see *section A.11*.

NOTE: *Career Center staff cannot accept job orders that would recruit for positions affected by a labor dispute. For this reason, job order procedures require staffing agencies to provide the company and worksite location for all job orders. This information can be placed in the job order's case notes to be kept confidential (case notes created within the job order will show only on the staff view of the job order).*

A.5. Military Recruitment

Military Services entities are legitimate employers, and DWS must apply the same rules as with any other employer, along with the addition of required military enlistment. All military services job orders must include the following mandatory statement:

"This position requires enlistment in the Armed Forces of the United States."

Each job order should be for a specific occupation or group of closely related assignments. There should be a real opening, vacant position. The O*NET code should reflect the occupation and duties of the job and not the military occupational code (MOC) even though the worker will be performing work in the military. MOC equivalents can easily be determined via O*Net, etcetera.

A.6. Federal Contractors and Subcontractors

Federal contractors are required to list all employment openings with their local state workforce agency except for executive or top management jobs, positions filled from within the organization, and jobs lasting three days or less.

Any business with a federal contract **or subcontract** (including private employment agencies who provide staff) of \$100,000 or more must take *Affirmative Action* to hire and promote protected veterans. Career Center staff who believe an employer should be listed as a federal contractor should contact the employer directly for verification. This website, www.usaspending.gov, can be used to search for federal contractors.

Protected veterans include those with a service connected disability and veterans who served on active duty in the United States military, ground, naval, or air service during a war or in a campaign or expedition for which a campaign badge/expeditionary medal has been authorized under the laws administered by the Department of Defense. Staff can assist the employer by creating a Virtual Recruiter (see *section A.14*) to search for applicants with veteran status. For more information visit: http://www.dol.gov/ofccp/regs/compliance/faqs/VEVRAA_faq.htm. (41 CFR 60-300.5(a)2)

A.7. Job Order Action

DWS will work with WDB Directors to ensure that:

- all Career Center partner agencies are made aware of this *Operational Guidance*.
- all Career Center partner agencies involved in writing and servicing job orders will provide *Operational Guidance* training to staff.
- all Career Center staff are held accountable to this *Operational Guidance*.

Failure to abide by these directives may result in suspension of NCWO employer access which may further require completion of additional *Employer Accounts and Job Order Operational Guidance* training at the discretion of Applicant Services.

All job orders must:

- **not** include discriminatory practices or offensive language;
- be posted in English – users can translate the entire site using Google Translate;
- include a full worksite location (including the street address, which can be suppressed);
- comply with federal and state laws and represent an actual, valid, and legal job opening;
- include Veterans' priority – e.g., "Vet Hold" (see *section A.14*);
- be reviewed by staff within 24-hours (next business day) of receipt to ensure compliance with *Operational Guidance*. (Note: file searches are no longer required. Instead, staff must assist or create *Virtual Recruiters* [see *section A.14*] for veterans seeking work and for

other job seekers who wish to receive those notifications.);

- clearly and accurately represent the employment situation including any *Bona Fide Occupational Qualification(s)* (BFOQ), if applicable.
 - BFOQ's are employment preferences that by law employers are allowed to consider when making hiring and retention decisions. The occupational qualification must relate to an essential job duty that is necessary for the operation of the business. According to Title VII of the Civil Rights Act of 1964, discrimination is acceptable, "in those certain instances where race, color, religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise."
 - Examples of BFOQs are:
 - mandatory age limits for bus drivers because of safety concerns,
 - male clothing designers could legally advertise for male models only,
 - churches can legally hire only members of their specific faith and practice and exclude those of other faiths or those with no faith association.

A.8. Closing Job Orders

If an employer contacts the Career Center to close a job order, there are several fields within the job order that must be updated. Edit the Staff Information section by clicking on the "Open and Available" link beside the "Staff Job Order Status" field. Update the Staff Status to "Closed by Staff," which will open the "Reason" field. Choose the appropriate reason from the dropdown options. After a job order is closed, if the employer desires to re-post the job order, Career Center staff must create a new job order or copy an existing job order. **DO NOT reopen a job order that has already been closed.**

A.9. Job Order Submission Form

The *Job Order Submission Form* has been standardized for use in North Carolina. It is designed to collect all the information needed to write a complete and comprehensive job order. The form is available on NCWO under *Staff Online Resources*. Employers may submit job orders in person, by telephone, by fax, via email, or through their own NCWO account. Although job orders may be taken using the standard format of the Job Order Submission form, employers are not required to complete this form to list a job order.

A.10. Job Order Quality and Quality Control

It is important that only appropriate and accurate job orders are listed with NCWO. All users of NCWO must be able to trust the information found within the system. When employers directly post job orders, they must be reviewed by Career Center staff for completeness, compliance, and accuracy to ensure they are high-quality, non-discriminatory, and appropriate

(employee/employer relationship, etcetera). Career Center staff must be proactive in reviewing **all** new job orders **daily**; doing so not only yields higher quality orders by finding and correcting problems, but also informs staff of positions in their local labor market which empowers better customer service toward job seekers and employers alike. All Career Center staff have a duty to ensure job orders reflect the highest standards of quality.

The *quality* of job orders refers to accuracy of the information, correct spelling and punctuation, use of proper grammar, and clarity in both job description and referral/contact procedure. Staff involved in taking, writing, screening, reviewing, or posting job orders must know, understand, and follow the Operational Guidance. An effective, high quality job order should inform the job seeker of the job's primary duties, worksite location, physical demands, minimum requirements, shift/hours, compensation, and application process. Maintenance of the job order includes initial review by staff, employer feedback, candidate referrals, referral status updates, and timely follow up (with employer and job seekers) as determined by Career Center management. High job order quality results in better perception of the workforce system as a whole, better referrals, and improved customer satisfaction of all Career Center customers.

It is also important that Career Center staff maintain regular contact with employers regarding their job orders and recruitment needs. When noticeable changes have been made to employer contacts, Career Center staff should verify with the employer the new contact. For instance, all previous communications with ABC Company were with Ms. Joy Jones; a new job order was posted by Mr. Dave Brown. Career Center staff should confirm that Mr. Brown is a new point of contact for Career Center staff. This is an opportunity to expand the network of the internal Business Services team and foster better communication between the employer and the Career Center.

Job Order Quality Reviews

All Career Centers must develop a process for monitoring internal job orders listed in their service area to ensure they meet quality standards established by DWS. The *Job Order Analysis Form* can be used as a standard tool for assessing job order quality and can be found in NCWO under *Staff Online Resources*. Quality control results should be shared with Career Center management, local leadership teams, and the DWS Regional Analyst(s). When appropriate, results should include recommendations to improve and enhance job order quality. Random analysis will be conducted at the discretion of regional and state office staff or by Career Center management.

Job orders that do not follow the customary format of the *Job Order Submission Form* or do not reflect DWS' standard of high quality must be corrected or removed. Changes to job orders (including status, number of referrals, application process, and other adjustments) should only be performed by the listing Career Center and with the knowledge/agreement of the employer. Generally, open job orders should not be closed or modified without first communicating with the employer, unless there are deficiencies such as spelling, grammar, or lack of clarity that staff

can easily ascertain how to correct, and, in the case of discriminatory language, or concerns related to possible scam issues that cannot wait for employer communication to resolve.

Career Center staff are not responsible for the quality of external or 'spidered' jobs which are imported into NCWO from a variety of national and local employer websites. Spidering makes it easy for job seekers to quickly search multiple sites using a single system. While Career Center staff are not responsible for the quality of spidered jobs, they should always be on the lookout and report questionable spidered jobs to management or a DWS Regional Analyst immediately.

NOTES:

- *Job orders expire after sixty (60) days, unless Career Center staff manually set a different expiration date. They can be extended **only once** for a total of 90 days (see section B.6 and B.14 for exceptions). After being open 90days, a new job order should be written.*
- **Job orders must be posted/entered in English only. End users have the option to translate the entire site into his or her own native language.**

A.11. Suppressed, Unsuppressed, and Confidential Job Orders

Employers have various expectations when they contact Career Center staff regarding job openings. When an employer lists a job that is **unsuppressed**, the expectation is that staff provide exposure and assist the employer in increasing the applicant pool. That expectation changes drastically if the job order is listed as **suppressed** (when not all employer information is made known to the public), or **confidential** (when no information is made known to the public). Then, the expectation from the employer is that professional staff will screen and refer the best qualified applicants.

NCWO is designed to require no staff interaction (if that is what the employer and job seeker chooses) and all interaction can happen directly between the employer and the individual. There are several alternatives concerning how much of the job order is publicly available in NCWO. Based upon the following job order options, all, part, or none of the job order will be shown to a job seeker and will result in varying levels of interaction with staff.

Suppression alternatives and options are listed below:

Display online to Job Seekers - YES/NO.

THIS OPTION ONLY AVAILABLE TO STAFF.

- If set to NO, no other suppression options will be available. A message in red will give you the warning that **only staff can view and make referrals to these jobs.**
- All information is suppressed, and staff must be made aware of this job order another way, as it will not populate in any job search results.
- Setting to NO is the least used (desired) option.

Display your Company Name - YES/NO.

- If set to NO, the employer name will not display in search results (to job seekers).
- Staff will see the posting with “Suppressed” along with the Company/Employer name in job search results. **Only if Career Center staff deem the individual qualified**, it is now okay to provide the employer’s name, along with any other application information.
- Individuals can still self-refer/apply online (employer name displays as “Confidential”) - they may not ever know to whom they’ve applied....

**Display worksite full address – YES/NO, works in tandem with the following option,
Display worksite street address – YES/NO.**

- If full address is set to NO, the street address option will no longer be available.
- If full address is set to YES, the user may choose whether to display the street address *in addition* to the city, state, and zip code on the job order.

Have a local Career Center staff member screen your applicants - YES/NO.

THIS OPTION ONLY AVAILABLE TO STAFF.

- This question is completely independent of “Display your company name.”
- This option will require Career Center staff to review the applicant before any self-referrals to the job order. When a self-referral is done, it populates the “Referrals Pending Review” list for the Career Center closest to the individual. Staff must then review the request and either refer the job seeker or reject the request.
- Keep in mind, regardless of this being set to YES or NO, the application method works in conjunction with the desired suppression level. For example, if the employer says YES to screening, and YES to Display Company Name, and uses an application method to apply in person, they are violating their own suppression level desire by giving the job seeker the information to apply without screening. Staff should be aware of any logical contradictions and resolve those with the employer.

NCWO is designed to give job orders the broadest exposure while facilitating recruitment of the best qualified applicants. Career Center staff must understand the selection process, respect confidentiality, and only refer the most qualified applicants. When an employer requests a **confidential** job order, staff should ensure the job order is keyed in such a way to accommodate the employer’s request. Copious notes and comments on the order will help make other staff aware of the confidential nature and make it less likely for staff to accidentally violate the request. There should be nothing in the job order, including in the application method, which relates back to the confidential employer. Employers who request confidentiality should be advised this practice is contrary to good recruitment and could raise issues of discriminatory selection as well as making it incredibly difficult for staff to assist them with recruitment efforts.

Additional guidance related to job order suppression:

- If the employer chooses NO to display online, this is a fully suppressed job order that

Career Center staff must be made aware of by the job order creator for them to be able to assist with recruitment and/or provide any referrals. Surrounding counties' Career Center staff should also be made aware of this order in case they have individuals who meet the qualifications. If an individual is determined to be qualified, then a referral with the appropriate application information may be provided.

- If the employer requests its name to not be provided (suppressed), and/or requests Career Center staff to screen applicants, then Career Center staff must know at what point the employer authorizes their information to be disclosed. Most employers are ok with disclosure once the candidate has been screened by staff and deemed qualified – if this is not the case, the employer's wishes must be clearly made known on the job order and in case notes.
- If a new employer is moving to the area and requests its job orders to be posted without any identifying information, this order is considered **confidential**. At such a time an announcement is made **and** with permission from the employer, the job order may be modified to show the employer's name and contact information. Until that point, the employer's account will bear the name and information of the local Career Center.
- If the employer sets display online to YES, show employer name to YES, and staff screen to YES, the job seeker may have all the information he or she needs to contact the employer, apart from staff interaction. Additionally, a mismatched application method could further delay the employer's suppression intent. Career Center staff should always take notice of suppression options and make employers aware of any inconsistencies between the chosen selections that may work against his or her suppression desires.
- The method of application should match what the employer is requesting as it relates to the level of suppression the employer is seeking in the job order. Employers should be made aware of the various options of displaying their company information on the job orders and how it affects job seekers' ability to see their information.

A.12. Job Codes (O*NET) and Titles

Job orders should be entered using the appropriate *Occupation Information Network* (O*NET) code (see "Glossary of Terms," *section D.2*). It is critical that the correct code be used to ensure the best match with potential job seekers and for greater accuracy in the Labor Market Information (LMI) data. Career Center staff should contact the employer for clarification of job orders with incorrect or very broad occupational duties. Career Center staff unable to contact the employer should place the job order on hold until clarification is received.

In situations where the employer's job title is ambiguous to the general public, staff should explain to the employer that a misleading job title may result in recruitment of candidates with the wrong skill sets. Career Center staff should reference the O*NET website (www.onetonline.org) for suggestions of more appropriate or commonly used titles. If the

employer is not willing to change the job title, Career Center staff should suggest placing the more commonly used job title in the job description.

Job orders have only one job title (one position), but a single job order may contain multiple *openings* (vacancies) for the same position or occupation, just not multiple *positions* on a single job order. Separate job orders should be posted for different occupational positions. Using more than one job title on a job order causes confusion and produces inaccurate search results. When the job title is not related to the job duties, coding must reflect the job duties instead.

A.13. Compensation Methods

North Carolina law requires that all employees be paid at least minimum wage for all covered employment regardless of the method of compensation. A job order should clearly state the method of compensation: salary, salary plus commission, straight commission (also known as commission only), performance-based, incentive, piecework, etcetera.

To be listed in NCWO, all job orders must provide total compensation of at least the minimum wage for any hours worked or spent in required training. Jobs with other forms of pay (e.g., rent in lieu of wages) must be broken down into a 'per hour' rate to ensure they at least meet the minimum wage before being listed. Jobs that pay straight commission cannot be listed in NCWO if they only pay when a product is sold and do not guarantee the worker at least a minimum wage for the hours worked.

Occasionally an employer provides a draw against future commission to cover wages until the employee begins to earn commission. If a draw against commission is received, the job can only be listed in NCWO if the employer guarantees the draw will at least provide minimum wage for the hours worked or spent in required training. A draw is usually paid back to the employer by being subtracted from future commissions. Employers should be informed at the time of the job order listing that the minimum wage law applies. For more information on the Fair Labor Standards Act (FLSA) view the following website: <http://www.nclabor.com>.

Tipped Occupations

Tipped occupations have a special minimum wage. However, North Carolina law requires that *total* compensation (*wages plus tips*) be equal to or exceed the regular federal/state minimum wage. The employer is responsible to make up the difference in the absence of adequate tips to meet the regular minimum wage.

The following mandatory statement must be included within the job description on all tipped occupation job orders:

"Compensation for tipped occupations must include both hourly wage and tips that are equal to or exceed the minimum wage."

Day Labor and Domestic Service

Domestic service employment encompasses all services related to the care of persons or maintenance of a private household. Some examples include butlers, housekeepers, gardeners, nannies, cooks, babysitters, handyman, or other odd jobs. Job orders for domestic service openings are acceptable as long as they meet the requirements stated in these procedures, including employer/employee relationships paying via W-2, and adhere to applicable North Carolina laws. Career Center staff should advise the private employer that Career Center staff may screen applicants for job requirements but will not conduct background checks. Job orders from a business or an individual engaged in a business activity requesting short-term labor (“Day Labor”) may also be accepted. The individual (employer) engaged in the day-labor activity may be required to use his or her SSN in place of a FEIN in these situations.

Negotiable Wages

Career Center staff should always encourage employers to list at least the minimum compensation they are willing to pay, even when the starting pay is ‘negotiable.’ This will save time and effort for both the employer and the job seeker if the wage is not acceptable to the job seeker. When a wage is only listed as ‘negotiable,’ it may be interpreted by job seekers as low-paying, and the more qualified job seekers may not apply.

Suppressed Wage Information

To ensure more accurate Labor Market Information (LMI) data, employers or Career Center staff must always include on the job order the ‘real’ minimum/maximum salary or wages. If employers do not wish to display their salary range to job seekers, they should be sure the box is checked for “Do not display salary,” located immediately above the salary min/max fields on the job order. Career Center staff will be alerted that the wages should not be shared with the job seeker. Suppressed wage information will no longer display for staff (without the access rights) so that applicants looking at staff computers will not accidentally view this information.

IMPORTANT NOTES:

- *Pay or compensation method(s) must always meet federal and/or North Carolina law concerning minimum wage.*
- *Job orders listed with \$0.01 minimum wages, or any other fictitious/inaccurate amount, adversely affect recruitment and LMI and must NOT be accepted.*
- *For more information on tipped occupations view the following website: <http://www.nclabor.com> (see also section 13 NCAC 12.0303 TIPS AND TIP CREDITS).*

A.14. Veterans’ Priority

Veterans’ priority is mandated by the Federal Government in all American Job Centers, including referral preference on all job orders. This means that all registered veterans have an opportunity to view and apply for the job opening before non-veterans. To comply with this mandate, every

new job order includes a 24-hour business day “Vet hold” (plus overnight update). This status prevents non-veterans from seeing, or being referred to, these jobs until the “Vet hold” expires. *For example, an employer lists a job order at 2:00 p.m. on Tuesday. The 24-hour hold expires at 2:00 p.m. on Wednesday. The system will update overnight and release the job order from “Vet hold” early Thursday morning making it available for all job seekers. Similarly, job orders posted on Friday would not expire and be released from “Vet hold” until early Monday morning.* If you believe a job order should be available to all applicants prior to the “Vet hold” release, contact your DWS Regional Analyst for consultation.

Virtual Recruiter

Veteran file searches are no longer required for all new job orders. Instead, **all** veterans should have Virtual Recruiter set up on their profile as part of their Veterans’ Priority efforts. Any staff working with veterans, or the veterans themselves, can set this up. This automated job search function will assist staff in notifying veterans of all new jobs that are posted in the system that match their knowledge, skills, and abilities. Check *Staff Online Resources* for more information on how to use the Virtual Recruiter with individuals, employers, and staff.

A.15. Abbreviations

Abbreviations and technical jargon should only be used when necessary, such as when information is specific to an occupation or when specific requirements are referenced (e.g., driver’s license requirements such as “HAZMAT CDL,” or computer code such as “HTML”).

A.16. Native American Sovereignty and Job Orders

Native American tribes are sovereign nations as established by treaties and federal law. Most federal employment compliance laws, such as the Americans with Disabilities Act, are incorporated into tribal constitutions. Job orders placed by Native American tribal businesses or located on tribally owned lands are not required to meet North Carolina’s employment law, specifically. Job orders with wording contrary to state law, but acceptable under federal law, will be acceptable as a valid job order. *For example, North Carolina law prohibits discrimination based on the use, or non-use, of legal products. Discriminatory statements regarding smoking (a legal product) that would be otherwise rejected are acceptable on a Native American job order because North Carolina law is preempted. Similarly, if North Carolina were to raise the state’s minimum wage, Career Center staff may accept Native American job orders paying a different wage as long as it meets the federal wage standards.*

Native American tribes can also give preference to the hiring of tribal members and other Native Americans. If tribes choose to include a preference statement in their job openings, the following language should be used in addition to the statement of preference:

“Because this position is subject to sovereign tribal authority, Native Americans may receive hiring preference, as granted by the Wheeler-Howard Act of 1934, and re-affirmed by the U.S. Supreme Court.”

To ensure the public is fully informed of the employment situation, the following mandatory statement must be included on Native American tribal business job orders:

"This job is with a Native American tribal business or is located on tribally owned lands. Laws governing employment may differ from the State of North Carolina. You may wish to discuss this with the employer before accepting the position."

Section B. Additional Job Order Information

B.1. Discrimination

Job orders that are not in compliance with all applicable state and federal employment laws will not be accepted. This includes all wage and hour laws, child labor laws, discrimination, and disability laws.

It is assumed when an employer asks questions or requests certain qualifications of an applicant, that those are related to the function of the job. If the relationship between the questions or requested qualifications and functions of the job are not clear, it is appropriate for Career Center staff to obtain further information from the employer.

B.2. Affirmative Action Employer

Affirmative Action is the policy of providing special opportunities for, and favoring members of, a disadvantaged group who suffer discrimination. Merely listing a job with NCWO does not satisfy an Affirmative Action directive from the U.S. Equal Employment Opportunity Commission (EEOC). For more information on EEOC visit <http://www.eeoc.gov/>.

B.3. Quality Control

Regional and state office staff will select internal job orders, written by both staff and employers, to evaluate the quality of job orders in each Career Center periodically, but not less than quarterly. This process differs from the requirement of Career Center staff to review all new job orders daily for discriminatory language, appropriateness, W2 status, etcetera (see *section A.10*).

Items to be reviewed when evaluating job orders include:

- Job Title and Occupation
- Job Location (Work Site) Information

- Contact Information
- Job Details
- Job Description
- Hiring Requirements
- Minimum Education, Experience, and Age Requirements
- Compensation and Hours
- Application Methods – how to apply (If by company website, check to see that Uniform Resource Locator (URL)/Internet Protocol (IP) address is correct, see *sections A.1 and D.2*)
- All fields must be checked for spelling, punctuation, grammar, standard (occupation specific) abbreviations, etcetera

B.4. Job Development Contacts

A Job Development Contact (JDC) is an outreach tool where an employer is contacted directly by Career Center staff for the purpose of obtaining possible employment for a **specific** individual when no job order exists. Familiarity with area employers provides the opportunities for staff to conduct a JDC which can provide additional job referral(s) and placement(s) for individuals. If, as a result of the JDC, the individual is hired, an ‘in-and-out’ job order must be entered in NCWO in order to get credit for the referral and placement (see *section B.5*).

A JDC job order and placement are only to be entered when staff **initiated** the contact between the individual and the employer or hiring representative, and a placement occurred **as a result of that initial contact**. Staff are not to enter a job order and/or placement simply after learning that an individual has obtained employment through the individual’s own efforts and without significant staff assistance. If staff have questions about possible placement activity, they should contact their DWS Regional Analyst.

The JDC activity (service code “123 – Job Development Contacts” and “E92 – Notification to Employer of potential applicant”) and a case note documenting the JDC (including employer information) must be entered at the time of the employer contact. Staff cannot take credit for a JDC hire if the service codes and a case note were not previously recorded. Once staff are aware of a hire following the JDC, an ‘in-and-out’ job order may be written to take credit for the placement (as long as the service codes 123 and E92 and case note were recorded within the last 90 days). If the hire has been more than 90 days prior, you must contact a DWS Regional Analyst for assistance in determining if the JDC placement credit is possible.

B.5. Writing an In/Out JDC Order and Entering the Hire

When posting a job order to receive credit for a JDC hire, create a new job order for the JDC employer; *do not copy a previously listed job order* as all options are not available to modify as needed for JDC purposes. Enter the job title and appropriate O*NET code and complete all the

required fields throughout the job order as normal with the following exceptions in these fields:

- Job Order Information to be Displayed Online
 - Display online to job seekers = NO (this will close the other options)
- Job Details
 - Positions = number of JDCs referred/hired
 - Earliest and Last Date displayed = Today's date
 - Special categories = JDC
 - Maximum number of applicants = same as Positions (above)
- Compensation and Hours
 - Min/Max salary/Basis for unit of salary/pay = Individual's hiring salary
- Job Application Methods Accepted
 - Uncheck the option to provide a NCWO resume online
 - Check the option for in person (which is the worksite of the job)
- Staff Information
 - Category = Job Development
 - Job Developer/Mandatory Listing = Job Development

Upon completion of the JDC job order:

- If the individual is a non-veteran, contact a DWS Regional Analyst to change the "Vet hold" status, then,
- change the job order staff status to "closed by staff" and indicate the job opening was developed for JDC applicant(s), then,
- enter the referral(s) and hire(s) for the JDC making a note in the comments section indicating this hire is the result of a JDC placement.

B.6. Continuous Recruitment Listing and Open Recruitment

A job order must represent a definite, bona fide job opening. Listing continuous recruitment job orders, where the employer is continually hiring, is appropriate only when a bona fide job opening exists. Employers should be cautioned that continuous listings may be less effective, and this practice should be discouraged.

Continuous listings should be reviewed at least every 90 days to ensure the job order is up to date and the position still needs to be filled by the employer. This allows for the job order to be extended by staff (beyond the 90-day max), but still must not be used beyond 180 days (except for some H-2A job orders created/maintained by the state *Foreign Labor Certification* (FLC) unit). After such time a new order should be entered (or simply copied from the previous one and updated). Referrals should be reconciled when a job order is extended or closed.

An employer who is aware of a retirement, expansion, or similar situation and is reasonably certain there will be a bona fide job opening within the next 90 days can list the anticipated

opportunity. If an employer is not willing to state they are reasonably certain a job opening will be available within 90 days, the job order should not be posted until the employer has an immediate job vacancy.

B.7. On-Site Recruitment

An employer who does on-site *recruitment* is **required** to list a job order for the position(s) for which they are recruiting; however, listing a job order is not a requirement for utilizing services or space in a Career Center.

B.8. Employment, Background and Drug Testing

Employment Testing:

Career Center staff cannot administer employment tests for employers where staff are responsible for evaluating responses and assigning a pass/fail determination. Examples of tests Career Center staff may administer are approved typing tests and Prove It. These restrictions apply to both skill and aptitude testing; however, employers may use the Career Center to administer their own tests. This testing is not limited to employers who list a job order.

Background Testing:

Background or criminal records checks are not performed by Career Center staff. Employers who require a background or a criminal record check should be made aware of this information prior to posting a job order. The job order should clearly state background and/or criminal record checks will be performed if required by the employer.

Drug Testing:

North Carolina law allows employers to conduct controlled substance examinations (drug test) as a condition of hire or of continued employment. A prospective employer may remove a job applicant from employment consideration for refusal to take a drug test. The cost of drug testing is the employer's responsibility unless the applicant or employee is requesting a retest of a positive test result. Employers may reimburse for drug testing, but it must be reimbursed regardless of a negative or positive result on the initial testing. Job orders should indicate if a drug test is a requirement for the job.

Drug testing in Career Centers is determined by each Local Area WDB; however, Career Center staff **must not** administer, arrange, nor conduct the drug testing. Nor can there be any collection of specimens (blood, urine, etcetera) in a Career Center due to the added safety, privacy, and health precautions that are required, and for which the centers are not equipped to allow. Only hair, saliva, and breath analysis can be conducted in a Career Center by qualified administrators arranged by the employer. Employers who arrange outside specimen collection must also use labs which are certified by either the U.S. Department of Health and Human Services or the

College of American Pathologists. Employers who require drug testing should be made aware of this information prior to listing a job order.

B.9. Fees, Investments, and Purchases as a Condition of Employment

The Wagner-Peyser Act and associated regulations prohibit DWS from accepting job orders for positions for which the job seeker must:

- pay a fee to be considered for employment (agency fee, etcetera);
- pay for employer-provided training 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, or purchase of direct selling kits);
- make any similar arrangement that requires an individual to pay the advertising employer or a third-party acting on behalf of the employer.

Investments or purchases that primarily benefit the employer, cover the costs of the hiring process, or would commonly be considered the price of doing business are unacceptable fees and should not be paid by applicants. Investments or purchases that are primarily personal and benefit the employee are a cost of entering an occupation or industry, or that are usable in other employment or personal situations, are acceptable fees (e.g., steel toe boots).

Important factors in deciding if fees included are acceptable:

- Who will own the item?
- Who will control the item?
- Is the item transferable to other employment situations?

If the job seeker owns the item, controls the item, and is able to use the item with future employment opportunities, this is usually considered an acceptable cost for the job seeker. Career Center staff should exercise professional judgment and look at the entire employment situation in making these decisions.

Examples of unacceptable costs to the applicant

- Paying for employment tests such as personality surveys, aptitude tests, skill assessments or tests which are specific to the particular employer. These are not transferable costs and are not the responsibility of the job seeker.
- Purchasing sales inventory or sales kits raises questions of self-employment. DWS does not accept job orders where there is no employer/employee relationship.
- Purchasing safety equipment such as reflector vests, safety harnesses, etcetera. These items are the responsibility of the employer and are considered a cost of doing business.
- Drug testing and medical examinations as a condition of employment may be required by law. This is also considered a cost of doing business for the employer.

Examples of acceptable costs to the applicant

- Professional or occupational licenses such as nursing certificates, insurance licenses, teaching certificates, and Commercial Driver's Licenses (CDL).
- Occupational certifications normally obtained as a part of a vocational training program, including Career Readiness Certifications.
- Tools not provided by the employer but required for occupations such as mechanics.
- Uniforms, clothing, or safety items common to the occupation such as nursing uniforms, safety shoes, gloves, or professional clothing.
- On-the-job use of personal vehicles where mileage is reimbursed.
- Obtaining a background/credit check. The job seeker can allow the employer to have a copy and keep the original for future use when applying for other job openings.

Note: *Any requirements of the employer to have the employee purchase or use their personal property should be clearly stated in the job order.*

B.10. Declining Job Orders and Discontinuation of Service

Career Center managers or designated staff have discretion to decline job orders that do not meet applicable employment laws or comply with DWS Operational Guidance. Career Center management reserves the right to refuse the listing of a job order that is contrary to community standards of good taste or decency, is misleading, or appears to be in violation of employment-related laws.

If the Career Center management decides that a job order should not be posted, the manager or designated staff must notify the person who submitted the job order and give him or her an opportunity to amend the contents of the job order, if possible. If the employer agrees to modify the job order to comply with job order procedures and employment-related laws, the job order can be processed and created.

Career Center staff can temporarily suspend job order services to a company if continuation of service could cause substantial harm to a significant number of workers. Staff should case note corroborating information in NCWO. Situations like this should be communicated to Career Center management and to the DWS Regional Analyst for assistance with resolution. In some cases, DWS State Office of Management may determine that services should be *discontinued permanently*. If this occurs, the employer must be notified in writing and provided an opportunity to appeal to DWS State Office of Management.

B.11. Complaints about Job Orders

When a complaint, question, or concern is raised about a job order, the receiving staff person will address the customer in an honest, accurate, and informative manner. If the customer is not satisfied with the response, then Career Center management or staff should contact the next

level of management for resolution; this gives the next level of management the opportunity to research the issue before discussing it with the customer. Career Center management should always be made aware of complaints regarding any aspect of center operations.

B.12. Fraudulent or Questionable Employers/Job Orders

Fraudulent or ‘scam’ employers and job orders harm customers and damage the credibility of our workforce system. Career Center staff should be mindful of potential fraud and job scams at all times. **Suspicious employers and/or job orders should not be listed and should be reported immediately to Career Center management and the appropriate DWS Regional Analyst.** Individuals who believe they have information concerning a scam can notify the State Attorney General’s office at 1-877-5-NO-SCAM or file a complaint online at www.ncdoj.gov.

In an effort to eliminate scam employers having access to NCWO, the agency has limited the number of staff who have the ability to change Employer Access Rights. Before any staff are given this access, they must complete training approved by DWS. Career Center management must contact the DWS Regional Analyst for assistance in requesting and approving staff access. Staff rights to Employer Access privileges in NCWO requires written justification signed by their supervisor and confirmation with the *Request for Access (RFA)* that the staff member has been trained in both the *Employer Accounts and Job Order Operational Guidance* and *SCAM Employers*. DWS Applicant Services will determine whether the justification provided is sufficient.

Should a staff member, or partner, with Employer Access rights enable a scam employer in the system, their direct or indirect manager will be notified of the alleged offense. If staff failed to follow procedures, then immediate suspension of Employers Access Rights access is required. Access suspension will remain in place until retraining is completed and a new request is approved by Applicant Services. Subsequent violations of the directives could result in permanent revocation of staff access to NCWO. Applicant Services reserves the right to deny future access based on the seriousness of the infraction which initiated the suspension.

By default, NCWO includes a security measure whereby employers cannot view the telephone numbers of individuals registered in NCWO automatically. This option can only be turned on **after** seeking permission to do so from their DWS Regional Analyst and/or DWS Applicant Services. As a part of the security precautions, employer access to view telephone numbers of individuals registered in NCWO should be limited and seldom granted. Even without telephone numbers access, employers may contact individuals through the NCWO Message Center. Only employers with an Employer/Career Center staff relationship should be considered for this access. Temporary/Staffing/Recruitment agencies and entities will not be considered for this additional privilege.

Factors to consider when determining job order validity include:

- Are Career Center staff independently aware of the employer?
- Is the address provided by the employer in the service area of the Career Center?
- Can the employer provide detailed information about the company worksite?
- Can the employer provide detailed information about the job vacancy being posted?
- Does the potential employer plan to charge a fee(s) to the job seeker?
- Does the contact person work directly for the company?
- Has the email address domain been reviewed to determine if it is a company domain?

An unsatisfactory response to any of these should encourage Career Center staff to get more information from the employer or to seek additional guidance from Career Center management on how to proceed. No job order should be entered until the complete employment situation is clear and there are no concerns about the posting from staff.

NOTE: *Spidered job orders which appear to be questionable, or where staff have received a complaint, may be blocked by Career Center management or their DWS Regional Analyst.*

B.13. Labor Disputes

Job orders will not be accepted for positions that are vacant due to a labor dispute, strike, or lockout (see *section D*). Code of Federal Regulations (CFR§ 652.9) cites the following concerning labor disputes:

- State agencies shall make no job referral on job orders which will aid directly or indirectly in the filling of a job opening which is vacant because the former occupant is on strike, or is being locked out, or the filling of which is otherwise an issue in a labor dispute involving a work stoppage. Written notification shall be provided to all applicants referred to jobs not at issue in the labor dispute that a labor dispute exists in the employing establishment and that the job to which the applicant is being referred is not at issue in the dispute.
- When a job order is received from an employer reportedly involved in a labor dispute involving a work stoppage, state agencies shall:
 - verify the existence of the labor dispute and determine its significance with respect to each vacancy involved in the job order; and,
 - notify all potentially affected staff concerning the labor dispute.
- State agencies shall resume full referral services when they have been notified of and verified with the employer and workers' representative(s) that the labor dispute has ended.
- State agencies shall notify the regional office of the U.S. Department of Labor in writing of the existence of labor disputes which:
 - result in a work stoppage involving a significant number of workers; or,
 - involve multi-establishment employers with worksites outside of the reporting state.

When a job order is received from an employer reportedly involved in a labor dispute, which includes a work stoppage, Career Center staff shall verify that a labor dispute exists and determine if the position is affected by the labor dispute. Job orders received from staffing agencies without complete jobsite information should NOT be accepted (see section A.4 and A.11 for more information).

B.14. Foreign Labor Certification (FLC)

One method for an employer to fill a vacancy when it is unable to find qualified applicants locally is to obtain a Permanent (PERM) FLC from the U.S. Department of Labor (USDOL). In order for the USDOL to certify that there are no qualified U.S. workers available and willing to accept the job, as part of the recruitment process, the employer must advertise the job for at least 30 days, but not more than 180 days before the application for FLC is filed. This means the employer must place a job order with the nearest Career Center for no less than 30 calendar days. The local Career Center is responsible for servicing these PERM employers, which at times will include account creation and/or verification. In addition, if the employer chooses not to self-serve through NCWO, local staff will be responsible for creating, reviewing, posting, and referring candidates to the PERM job order(s). There is very little distinction, from a local staff perspective, between PERM employers and all other employers – other than strict job order posting time frames that the employer must monitor carefully.

Similarly, employers may instead utilize a **temporary** FLC (known as H-2A/H-2B) to fill their jobs when they are unable to find qualified applicants. The protocol is a bit different, however, with Temporary FLC *job orders*. While local Career Centers are encouraged to develop business connections with these employers and to create/verify/service their *accounts* when needed as an extension of that relationship, the temporary *job orders* themselves are entered, serviced, and closed **only** by the state FLC unit. To reiterate, **Temporary (H-2A/H-2B) FLC job orders are not to be updated, closed, or otherwise modified by Career Center staff.**

Employers filing Non-Agriculture Temporary FLC job order(s) (H-2B) must submit their job order(s) no more than 90 calendar days and no fewer than 75 calendar days to the state FLC unit via email (h2b.joborders@nccommerce.com) prior to the start date. Employers filing Agriculture Temporary FLC job order(s) (H-2A) must submit their job order(s) to the USDOL FLC National Office no more than 75 calendar days and no fewer than 60 calendar days prior to the start date.

Job orders are required to be listed with the nearest local Career Center in the area of intended employment. The state FLC unit relies heavily on the Career Centers to report any problems with FLC job orders. These problems include employers being uncooperative, employers not providing a valid method of contact for the applicants to apply for the position, employers indicating to applicants that they do not have an opening, etcetera,

At times, the USDOL requires certain H-2A/H-2B vacancies to be posted in additional states from the actual worksite of the position. In compliance with this mandate, these employer accounts (having no North Carolina worksite) will be created/serviced by the state FLC and Applicant Services units.

Section C. Staff Specific Instructions

C.1 Professional and Appropriate Referrals

Staff are expected to provide referrals to **qualified applicants** in a professional manner abiding by the employer's request for applicants with the specified knowledge, skills, and abilities as set forth in the job order. Staff should not provide referrals for anyone who does not meet the requirements of the position stated in the job order. Staff should also be aware of the referral instructions on each job order and direct applicants accordingly – without making assumptions or otherwise disclosing information that is **not** authorized (e.g., suppressed information). If the job order requests a resume, staff must take necessary action to ensure that an appropriate, active, up-to-date resume is used during the referral process when staff are providing the referral. If there are no resumes on file for the individual that meet the employer's expectations, staff should **not** make the referral. Instead, staff should notify the individual of the need for an updated resume and only refer the individual once the employer's expectations have been met.

Blind Referrals

At no time should staff refer an individual to a job order without the individual's knowledge; staff should always discuss a job order with a potential applicant prior to making the referral. A notification (during the NCWO referral process) to the individual is required for all referrals. The employer can choose on the job order whether, or not, to receive a notification at the time a referral is provided, but the individual must **always** be sent a notice that a referral was made regardless of whether referred over the telephone, via email, or while in-person at the office.

C.2 Third Party Agents

Employer accounts where a third-party agent (TPA) will be managing the account for the employer, must first have the employer account verified directly with the employer (NOT the TPA) by Career Center staff. **The account will list the employer information and the employer point of contact (POC) as the primary contact in NCWO.** Staff must confirm with the employer its POC and that it wishes for the TPA to manage the account. Either the employer or staff may then add/use the TPA as the secondary contact in NCWO. Staff will need to case note the employer's TPA confirmation and check periodically that it has not 'expired.'

Professional Employer Organizations

Some employers utilize a TPA via a professional-employer-organization (PEO) relationship. Under this type of arrangement, the PEO is the employer of record for the employer's workforce; however, often the (direct/client) employer is the one managing and maintaining the NCWO account. These NCWO accounts should list the (direct/client) employer as the primary contact but may be unable to provide an **active** FEIN and/or EAN as the active employer of record (for tax reporting purposes) would be the PEO. Staff should verify the employer as normal and contact Applicant Services for instructions regarding a FEIN and/or EAN to use on the account. Staff will need to case note the employer's PEO confirmation and check periodically that it hasn't 'expired.'

C.3 Remote Worksites/Work from Home Positions

For job orders in NCWO where the incumbent would not be working from a 'main' office and/or working remotely (e.g., mobile 'office', territory coverage, route sales, etcetera) with no physical address for the employer, the job order should include the designation of "Remote Worksite" as the physical address of the worksite on the job order. Similarly, exclusively work from home positions would use the designation "Work from Home" on their worksite location. In either case the city and zip code for the job location should be centralized within the zone or territory, or coverage area that the position would oversee (*for statewide consideration, see the following section*). Alternatively, the Career Center staff could use the physical address of the Career Center in circumstances where BSRs will be working closely with the employer to recruit and fill the position(s).

Statewide Job Orders

Some employers are now utilizing telework employees and other models of workforce whereby the incumbent(s) will *not* be working in/from a physical worksite owned/operated by their employer. As such, these positions are difficult to list in the system since the candidate could work from (their home or [mobile] location) anywhere in North Carolina. NCWO and LMI data are designed to link every vacant position to a single zip code. Because of this design, these job orders will require special consideration. To help staff with listing these statewide job orders, the following should be applied:

- Locations tab of the Employer account:
 - As specified previously, the Location/Work Site in the employer's account should carry the appropriate designation ("Remote Worksite"/" Work from Home") in the physical address ("Street Address 1") field.
 - This remote worksite location will have to include a zip code – staff should include a Raleigh (27603), Greensboro (27407), or Charlotte (28217) zip code, using their best judgement as to which area would possibly garner more search results from jobseekers. (*Which area might have more residents qualified for the position....*)
- Job Order:
 - Under "Job Details" users have the option to specify whether the position(s)

should be considered as “Work at Home.” This designation would allow job seekers to specifically search for jobs of this type, but these searches will still be limited to the geographical “Search Area” selected by the user.

- Under “Job Description” the order should include “Work from Home” or “Remote Worksite” (as appropriate) and specify the exact nature of the work location/coverage area, in addition to all the other job essentials.

Section D. Resources

D.1. Finding Answers

Career Center staff who need assistance to resolve a job order procedural question or have employer accounts related issues must:

- review the process outlined in this Operational Guidance;
- contact their Career Center management for guidance.

If unclear after reading this Operational Guidance, refer to the Contact Information listed below (*section D.3.*) for assistance from a DWS Regional Analyst or another appropriate staff member.

D.2. Glossary of Terms

Affirmative Action Job Order: A job order which applies policies that take factors including “race, color, religion, sex, or national origin” into consideration in order to benefit an underrepresented group in the area of employment opportunities.

Americans with Disabilities Act (ADA): A wide-ranging civil rights law that prohibits discrimination based on disability. It affords similar protections as the Civil Rights Act of 1964. In addition, unlike the Civil Rights Act, the ADA also requires covered employers to provide reasonable accommodations to employees with disabilities and imposes accessibility requirements on public accommodations.

Blind Referral: Submitting a referral to a job order without that applicant’s knowledge.

Bona Fide Job Order: A real or genuine job order made by the employer in good faith without fraud or deceit for a currently vacant job opening the employer intends to fill.

Bona Fide Occupational Qualification (BFOQ): A work requirement reasonably necessary to the normal performance of a job, such as being a certain age or gender.

Disabled Veterans’ Outreach Program (DVOP): Veterans’ specialist who serves only those

veterans and eligible persons most in need of intensive services to overcome barriers to employment. The Secretary of Labor may modify who DVOPs may assist. (Veterans Program Letter 03-14).

Employer Account Number (EAN): A number assigned to employers by the NC DES who are liable for paying Unemployment Taxes on their employees. Also known as the Unemployment Tax ID Number.

Entered Employment: The aggregate count of individuals who went to work by means of direct or indirect services.

Featured Job: A job order staff believes would be of high interest to applicants based on one or more of the following factors: salary, employer, benefits offered, or other elements.

Federal Contractor: A company that does business with the federal government valued at \$100,000 or more annually.

Federal Employer Identification Number (FEIN) – A unique nine-digit number assigned by the Internal Revenue Service (IRS) to business entities operating in the United States for the purpose of identification. Also known as Federal Tax Identification Number.

H-2A Visa: Permits foreign workers' entry into the United States for temporary or seasonal agricultural work. There are several requirements of the employer in regard to this visa. The H-2A temporary agricultural program establishes a means for agricultural employers who anticipate a shortage of domestic workers to bring foreign workers to the United States to perform agricultural labor or services of a temporary or seasonal nature.

H-2B Visa: Permits employers to hire foreign workers to come temporarily to the United States and perform temporary non-agricultural services or labor on a one-time, seasonal, peak load, or intermittent basis.

Hyper-Text Markup Language (HTML): The standard markup language used to create web pages. Web browsers can read HTML files and render them into visible or audible web pages. HTML describes the structure of a website semantically along with cues for presentation, making it a markup language, rather than a programming language.

Internet Protocol (IP): An IP address is a numerical label assigned to each computer. An IP address is used to host or network interface identification and to locate addresses. For instructions on locating an IP address contact a DWS Regional Analyst.

Job Development Contact (JDC): Used as a marketing tool on behalf of a specific individual to an employer when no job order exists in NCWO.

Job Opening: An immediate job vacancy that an employer expects to fill with qualified worker(s) within 90 days.

Job Order: A structured record of an employer's requirement for filling vacant positions with qualified workers.

Job Placement: The hiring by an employer of an individual referred by the Career Center, provided that the Career Center made significant effort in working the job order, and verified the referral results from a reliable source (preferably, the employer) including starting wage, first day worked, except in cases such as agriculture orders, no pre-selection of candidates was provided by the employer.

Labor Dispute: A controversy between an employer and its employees regarding the terms (such as conditions of employment, fringe benefits, hours of work, tenure, wages) to be negotiated during collective bargaining, or the implementation of already agreed upon terms.

Local Veterans' Employment Representative (LVER): Veterans' specialists who conduct outreach to employers to assist veterans in gaining employment, including conducting seminars for employers, and, conducting job search workshops and establishing job search groups. They facilitate employment, training, and placement services furnished to veterans within the NCWO system. (Veterans' Program Letter 03-14).

Lockout: The temporary closing of a business or the refusal by an employer to allow employees to come to work until they accept the employer's terms.

Mass Recruitment: High volume recruitment to fill a large number of positions, often in a very short time frame.

NCWorks Online (NCWO): A one-stop online resource for job seekers and employers in North Carolina. Job seekers can search for jobs, create resumes, and find education and training opportunities. Employers can find candidates, post jobs, and search labor market information.

North American Industry Classification (NAICS): The standard used by federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the United States business economy.

Occupational Information Network (O*NET): The O*NET is the nation's primary source of occupational information. Central to the project is the O*NET database, containing information on hundreds of standardized and occupation-specific descriptors.

Older Worker Friendly: An employer who expresses an interest in hiring persons age 55 or over. Employers self-disclose this information, and it does not need to be verified. Career Center staff must not solicit this information.

Professional Employer Organization: An entity, usually hired by an employer, to provide human resources and other administrative services to the employer and serve as the employees' employer of record. Sometimes, these entities also provide recruitment services for the employer and would then also represent the employer, post job orders, recruit candidates, and otherwise maintain the NCWO employer account.

Scam Job Order: A fraudulent job order posted by an illegitimate employer in an attempt to defraud an individual (job seeker). Career Center staff should make every effort to ensure that every job order is from a legitimate source.

Spidered Job Order: NCWO collects (or "spiders") jobs from a variety of national and local employer websites to populate the jobs database. Spidering makes it easy for job seekers to quickly search the database to find many more jobs in a single site.

Strike: A temporary concerted stopping of work or withdrawal of workers' services, as to compel an employer to agree to workers' demands or in protest against terms or conditions imposed by an employer.

Third Party Agent: An entity, usually hired by an employer, to provide recruitment services for the employer, represent the employer, post job orders, recruit candidates, and otherwise maintain the NCWO employer account.

Uniform Resource Locator (URL) code: The address that other computers enter in to access your computer across the internet. This is a four-segment number, as in 123.456.78.90.

Veteran Friendly: An employer who expresses an interest in hiring Veterans. Employers self-disclose this information, and it does not need to be verified. Career Center staff must not solicit this information.

Veterans' Priority of Service: By federal law, veterans and eligible spouses shall be given priority over non-Veterans for the receipt of employment, training, and placement services, notwithstanding any other provision of the law.

D.3. North Carolina Contact Information

DWS Procedural or Technical Questions

DWS Regional Analyst for your respective Prosperity Zone...

State Analyst, Applicant Services

Phone: (919) 814-0541

Employer Accounts and Job Order Procedures

Applicant Services

Phone: (919) 814-0541

Federal Bonding

Program Coordinator

Phone: (919) 814-0457

Equal Employment Opportunity (EEO)

Administrative Officer

Phone: (919) 814-0419

Foreign Labor Certification

Coordinator, H-2B/PERM

Phone: (919) 814-0465

Coordinator, H-2A

Phone: (919) 814-0544

Veterans' Services

Director of Veterans' Services

Phone: (919) 814-0453

Job Order Complaint System

Applicant Services

Phone: (919) 814-0454

DWS Business Services

Main Line

Phone: (919) 814-0423

Rapid Response, Program Director

Phone: (919) 814-0309

Layoff Aversion, Program Director

Phone: (919) 814-0324

Industry Sector Strategies, Program Director

Phone: (919) 814-0340

Work Opportunity Tax Credits

Program Director

Phone: (919) 814-0436

Economic Development

Program Director

Phone: (919) 814-0321

Work-based Learning/Training

Program Director

Phone: (919) 814-0322

The DWS, “*Employer Accounts and Job Order Operational Guidance*” can be found on the DWS website at: <http://www.nccommerce.com/workforce/workforce-professionals/policy-statements>.