



**POLICY  
NUMBER  
099**

<b>Title:</b>	<b>Job Orders and Placements</b>
<b>Program:</b>	<b>Wagner-Peyser (WP)</b>
<b>Adopted:</b>	<b>October 19, 2017</b>
<b>Effective:</b>	<b>October 19, 2017</b>

**I. PURPOSE AND SCOPE**

The purpose of this policy is to provide Local Workforce Development Board (LWDB) employees and other workforce system partners the minimum requirements for documenting and recording job orders and placements in Employ Florida.

**II. BACKGROUND**

The purpose of the Employment Service system is to improve the functioning of the nation's labor markets by bringing together qualified jobseekers and employers who are seeking workers. Additionally, each state must administer a labor exchange system that can:

- Assist jobseekers in finding employment, including promoting their familiarity with Employ Florida.
- Assist employers in filling jobs.
- Facilitate the match between jobseekers and employers.
- Participate in a system for clearing labor among the states<sup>1</sup>, including the use of a standardized classification system.
- Meet the work test requirements of the Reemployment Assistance program.
- Provide labor exchange services as identified in Section 7(a) of the Wagner-Peyser Act.

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<sup>1</sup> The processing of interstate and intrastate job orders.

### **III. AUTHORITY**

[ETA 9002 and VETS 200 Data Preparation Handbook; ETA Handbook No. 406](#)

[Wagner-Peyser Act of 1933, as amended by the Workforce Innovation and Opportunity Act of 2014](#)

[Workforce Innovation and Opportunity Act of 2014](#)

[20 CFR 651.10, 652, 653.501](#)

[29 CFR 1604, 1606, 1625](#)

[Chapter 760 Florida Statutes](#)

[42 U.S.C. 2000](#)

[Fair Labor Standards Act](#)

[Vietnam Era Veterans' Readjustment Act of 1972](#)

### **IV. POLICIES AND PROCEDURES**

#### **A. Job Orders**

Job orders are records of jobs openings containing the material terms and conditions of employment related to wages, hours, working conditions, worksite and other benefits, submitted by an employer. A job order may only be listed in Employ Florida when:

- It will employ a worker who is legally authorized to work in the United States.
- There is an employer-employee relationship, unless the job order is for an independent contractor position. Generally, an employer-employee relationship exists when a person, firm, corporation or other association or entity hires, fires, pays, supervises and otherwise controls the work of the employee.
- There is a currently available and non-duplicative position.
- There is a detailed description of the work to be performed.
- There are specific hiring requirements a jobseeker must meet.
- There are referral instructions.
- The posting party has authorization from the employing entity to post the open position when it is being posted by a third-party poster.
- The job order is verifiable through email, telephone, online or as otherwise determined.

## 1. Description and Types of Job Orders

The following are descriptions and types of job orders:

- Affirmative Action – Job orders that seek qualified applicants who are members of a specified group that, for non-occupationally valid purposes, have been discouraged from entering certain occupations.
- Agricultural Recruitment System (ARS) – Job orders designed to help agricultural employers recruit qualified agricultural workers on a temporary or seasonal basis using a system for the orderly movement of workers within and between states.
- Alien Labor Certification (ALC) – Job orders for employers who seek to hire foreign workers to work on a permanent, temporary or seasonal basis when there are not sufficient U.S. workers available. The types of job orders are:
  - H-2A Job Orders – Job orders to recruit workers for employers who seek to hire foreign workers on a temporary basis to perform agricultural work when there are not sufficient U.S. workers available.
  - H-2B Job Orders – Non-agriculture job orders to recruit workers for employers who seek to hire foreign workers to work on temporary or seasonal basis when sufficient U.S. workers are not available.
- Permanent Employment Certification (PERM) Job Orders – Job orders for employers who seek to hire foreign workers on a permanent basis to perform work when there are not sufficient U.S. workers available.
- Apprenticeship – Job orders that combine on-the-job training and related instruction in which workers learn the practical and theoretical aspects of a highly skilled occupation.
- Federal Contractor Job Listings – Job orders for a contracted position with the United States government to perform a specific job, supply labor and materials, or for the sale of products and services. The affirmative action provision of the [Vietnam Era Veterans' Readjustment Act of 1972](#) requires employers (and their subcontractors) with government contracts of \$100,000 or more to list their job openings with the state labor exchange system ([EmployFlorida.com](#)). These Federal Contractor Job Listings provide protected veterans with priority referrals to such jobs.
- Independent Contractor – Job orders for positions in which an employer-employee relationship does not exist. These positions provide a job opportunity for a jobseeker without a guarantee of wages.
- Internship – Job orders for a planned, structured learning experience that may be paid or unpaid and takes place in a workplace for a limited period of time.

- Job Development – Job orders entered by LWDB staff due to staff securing a job interview with a public or private employer for a specific applicant for whom the LWDB has no suitable opening on file.
- Mass Recruitment – Job orders for events such as job fairs or employer hiring events.
- Private Agency/Staffing Agency – Job orders to fill positions through private agencies or staffing companies. A fee cannot be charged to the applicant and job orders must state “position offered by a no-fee staffing agency.”

## **2. Job Order Entry**

Job orders may be posted by an employer, LWDB staff or spidered into Employ Florida from external job posting websites. Additionally, under the *Employ Florida Terms and Conditions of Use*, third-party companies (referred to as “third-party agents”) may post job orders to Employ Florida on behalf of employers under certain conditions as outlined in Section IV(A)(4) of this policy. Job orders posted by LWDB staff are included in the count of job openings reported to the United States Department of Labor (USDOL).

LWDB staff must conduct an independent verification of a newly registered employer prior to the new employer being able to create a job order, in accordance with the Employer Services policy.

Job orders received by staff must be entered in Employ Florida within one business day of receipt from an employer or third-party agent. Job orders posted by employers or third-party agents in Employ Florida must be reviewed and verified within two business days of posting into Employ Florida. LWDB staff must case note their review and verification of the job order.

The practice of withholding job orders from timely entry into Employ Florida, or otherwise preventing the sharing of job order information throughout the system, is prohibited.

## **3. Job Order Compliance Review and Approval**

All job orders entered into Employ Florida must comply with Equal Employment Opportunity and Immigration and Nationality Act laws, regulations and guidance as well, as the *Employ Florida Terms and Conditions of Use*. Job orders must be reviewed by the LWDB staff for compliance.

If the job order meets all compliance requirements, LWDB staff shall approve the job order according to local policy within two business days from the date and time of initial posting. LWDB staff must document with a case note their compliance review, and each step taken to verify the job order.

If the job order does not meet all compliance requirements, LWDB staff must place it “On Hold” and contact the employer or third-party agent to request a revision to the job order. If the employer or third-party agent agrees to comply with the requested revision, staff may make the change to the job order based upon the feedback received. However, if the employer or third-party agent does not comply with the requested revision, LWDB staff must close the job order with a case note detailing the reason for closing the job order.

If staff learns that duplicate positions are being posted in order to advertise a position for which a job order is about to expire, they must contact the employer or third-party agent to explain the process for extending existing job orders. If staff is unable to contact the employer or third-party agent, or does not receive a response within a reasonable timeframe (as determined by the LWDB), the duplicate job order may be closed with a case note detailing the reason.

#### **4. Third-Party Agent Job Order Verification**

Third-party agents posting job orders on the behalf of employers must obtain written consent from the employer and provide it to the LWDB staff electronically through Employ Florida (or by other approved means as developed by the LWDB) before a job order can be approved and made visible to the jobseeker. Written consent may be in the form of a letter drafted on the employer’s letterhead or an email that originates directly from the employer. The written consent must authorize the third-party agent to post open and available positions on the employer’s behalf. The written consent must be stored electronically in Employ Florida or as a hard copy at the LWDB and properly documented in the case notes in Employ Florida.

In addition to following the compliance requirements outlined in Section IV(A)(3) of this policy, when a new job order is entered by a third-party agent, LWDB staff are required to verify the position with the primary contact listed on the job order prior to approval. If the LWDB staff is unable to reach the primary contact listed on the job order, LWDB staff may employ means such as accessing the employer’s corporate website to verify the job listing. If staff is not able to verify the job order through the job order’s primary contact or other approved means within two business days, staff must close the affected job order and case note the reason for closing the job order. At no time may staff close the employer’s entire account due to the inability to verify a particular job order with an employer.

Note: Verification is not required by the employer if the third-party agent verifies the job openings as required.

#### **5. Using O\*NET Occupational Groups for Coding Job Orders**

Pursuant to 20 CFR 652.3, staff must ensure the O\*NET code used for a specific job opening matches the job description. If no match can be found, staff may use the title the employer or third-party agent provided. Only one O\*NET code may be used per job order. Placement into job openings that do not match the description in the job order or O\*NET code is not permissible.

## **6. Recording Wages on Job Orders**

It is prohibited to post job orders that pay less than the Florida minimum wage or pay commission only, unless minimum wage is guaranteed in accordance with federal or state law, or the employer is exempt per the [Fair Labor Standards Act](#).

The actual wage or wage range must be listed on all job orders entered into Employ Florida. Employers that choose not to enter actual wage information must enter a minimum value of (\$0.00) on the job order form, as the field cannot be left blank. In instances where a value less than minimum wage is entered, LWDB staff must verify that the job pays at least the Florida minimum wage and document it in the case notes. If it is determined that the jobseeker was hired and went to work at a higher wage, the higher wage should be entered on the job order. In the case of multiple positions being filled on one job order, staff should enter a case note for each hired customer stating the wage at which he/she was hired.

## **7. Labor Disputes In Progress**

LWDBs may not make a 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 in the course of a labor dispute, or the filling of which is otherwise an issue in a labor dispute involving a work stoppage. LWDBs shall resume full job referral services after they have been notified of, and have verified the labor dispute has ended.

## **8. Nondiscrimination Requirement**

Job orders discriminating against individuals based on race, color, religion, gender, pregnancy, national origin, age, handicap or marital status cannot be accepted, except where the stated requirement is a bona fide occupational qualification (BFOQ) pursuant to [42 U.S.C. 2000\(e\)-2\(e\)](#), [29 CFR 1604](#), [1605](#), [1606](#), and [1625](#), and [Chapter 760 Florida Statutes](#). If an employer claims a BFOQ, LWDB staff should advise management prior to listing the job order and the BFOQ status must be documented in the job order's case notes.

## **9. Availability to Migrant and Seasonal Farmworkers (MSFWs)**

LWDBs must provide adequate staff assistance to MSFWs to access job order information easily and efficiently. Assistance must be provided to MSFWs in their native language, whenever requested or necessary.

## **10. Agricultural Recruitment System (ARS)**

The Wagner-Peyser Act requires the United States Employment Service maintain a system for the orderly movement of workers within and between States. The ARS helps agricultural employers recruit qualified workers on a temporary or seasonal basis. The ARS provides protection to the workers who are not seeking permanent relocation, but rather temporary agricultural employment. Through the ARS, the Department of Economic Opportunity (DEO) can systematically recruit and refer qualified workers from within Florida and from other states when there is an anticipated shortage of workers. Job orders listed pursuant to the ARS request workers for less than one year of employment. The DEO Foreign Labor Certification Office is responsible for operating the ARS, therefore, local areas must refer employers to DEO for job order posting.

## **11. Job Order Retention**

The record retention requirement for job orders is three years.

### **B. Job Placements**

A placement means the hiring by a public or private employer of an individual referred by the LWDB for a job or an interview, and where the LWDB staff completed each of the following steps:

- Prepared a job order form prior to referral, except in the case of a job development contact on behalf of a specific individual.
- Made prior arrangements with the employer for the referral of an individual or individuals.
- Referred an individual who had not been specifically designated by the employer, except for referrals on agricultural job orders for a specific crew leader or worker.
- Verified from a reliable source, preferably the employer, the individual entered a job.
- Recorded the placement appropriately.

Placements are recorded as a result of a job referral and are automatically identified using service codes in Employ Florida. Staff must verify the customer began working prior to recording the appropriate placement code. Verification information must be documented and must include: 1) a case note identifying the customer's name, 2) the name of the employer, 3) the source of verification, and 4) the date the customer started

working at the designated jobsite. Notification of an upcoming start or hire date is not acceptable for recording a placement.

While verifying a customer's employment from the employer is the preferred source of information for placement credit, staff should use the least intrusive process for obtaining the verification information.

Note: If during the process of verifying a job placement staff determines the individual was placed in a job other than the one they were referred, placement credit may not be taken against the job order to which they were originally referred (unless both job openings match the description in the job order or O\*NET code). If the job description or O\*NET code for the position in which the individual was placed is different than the job description or O\*NET code for the position to which they were referred, staff must take an Obtained Employment - Manual credit and not a placement credit.

### **C. Job Development Hires**

If there is no suitable job opening on file in the LWDB, staff should make job development attempts by contacting the hiring authority at different companies to discuss the customer's qualifications and employment interests. At a minimum, the job development job order must contain in the job description the phrase "job development."

### **D. Obtained Employment**

Obtained employment refers to those individuals who secure employment within 180 calendar days of receiving one or more reportable services, which are fully or partially funded under the Wagner-Peyser program, and where the placement does not meet the federal definition for a "job placement." An obtained employment service code may be automatically entered ("automated") based on information from the Florida Department of Revenue, or manually-entered by LWDB staff. Credit for an obtained employment may be claimed for any individual who has received reportable service(s) and has a job start date where both the service and start date fall within 180 days from the date the obtained employment is recorded.

Staff must verify the customer began working prior to recording an obtained employment. Verification of the obtained employment must be received from a reliable source, preferably the employer. Sources of documentation may also include hire data obtained from the appropriate reemployment assistance management information system where a start date may be derived. Information obtained from sources where quarterly data is reported may be used as a starting point from which to gather a start date. However, quarters in which wages were reported are not sufficient as documentation of a start date nor will notification of a hire date.



It is not allowable to record a placement when a manual obtained employment service code has already been recorded or to take credit for an obtained employment where a placement has already been recorded in the system for the same customer, and the same position and start date with the same employer. This would constitute a duplicate placement in the system which is not allowable.

In the event staff verifies an individual has been placed against a job order, but an automated or manual obtained employment has already been recorded for the same position and start date with the same employer, staff may void the obtained employment and record the placement.

More than one obtained employment credit per customer is possible in the same program year, provided it is not duplicating employment already recorded, and the customer has not exited. Obtained employment must be documented on the activity history/service plan in Employ Florida using the appropriate service code and must include the following:

- Employer's name.
- Source of verification.
- Certification the service is not a duplicate of a previously documented placement.
- Actual start date.
- Local board/office information.

#### **E. Post Exit Manual Obtained Employment**

Post exit manual obtained employment refers to those individuals who meet the definition of an obtained employment, have gone at least 90 days without a reportable service and have exited the system. Credit for a post exit manual obtained employment may be claimed for any participant who has received any Wagner-Peyser reportable service(s), and has a job start date, where both service and start date fall within 180 days from the date the post exit manual obtained employment is recorded. Staff must verify, preferably through the employer, the customer has started working prior to taking credit for a post exit manual obtained employment. Notification of a hire date or an anticipated future start date is not acceptable for securing obtained employment credit.

The post exit manual obtained employment must be created as a Wagner-Peyser follow-up service to the last Wagner-Peyser application.

Post exit manual obtained employment requires entry and verification of the following:

- Employer's name.
- Source of verification.

- Certification the service is not a duplicate of a previously documented placement.
- Actual start date.
- Local board/office information.

## V. DEFINITIONS

1. **Bona fide occupational qualification (BFOQ)** – This is an employment decision or request based on race, color, religion, gender, pregnancy, national origin, age, handicap or marital status that is based on a finding that such characteristic is necessary to the individual's ability to perform the job in question. Since a BFOQ is an exception to the general prohibition against discrimination based on race, color, religion, gender, pregnancy, national origin, age, handicap or marital status, it must be interpreted narrowly in accordance with the Equal Employment Opportunity Commission regulations set forth at 29 CFR parts 1604, 1605, 1606 and 1625.
2. **Employer** – As defined in 20 CFR 651.10, a person, firm, corporation, or other association or organization which currently has a location within the United States to which U.S. workers may be referred for employment, and which proposes to employ a worker and which has an employer relationship with respect to employees under this subpart as indicated by the fact that it hires, pays, fires, supervises, and otherwise controls the work of such employees. An association of employers is considered an employer if it has all of the indicia of an employer set forth in this definition.
3. **Job Opening** – A single job opportunity for which the LWDB has on file a request to select and refer participants.
4. **Job Referral** – The act of bringing to the attention of an employer a participant or group of participants who are available for specific job openings or for a potential job; and the record of such referral in Employ Florida. “Job referral” means the same as “referral to a job.”
5. **Occupational Information Network (O\*NET)** – An online reference database which contains standardized detailed descriptions of U.S. occupations, distinguishing characteristics, classification codes, and information on tasks, knowledge, skills, abilities, and work activities as well as information on interests, work styles, and work values.
6. **Third-Party Agent** – A person, firm, corporation, other association or entity which posts job orders on behalf of another person, firm, corporation, other association or entity.

## VI. ATTACHMENTS

[Employ Florida Terms and Conditions of Use](#)