Virginia Employment Commission
Virginia Workforce Connection
Employer Accounts and Job Posting Policy

INTRODUCTION

The Wagner-Peyser Act requires the Virginia Employment Commission (VEC) to establish a labor exchange for the purpose of matching and referring qualified job seekers to genuine employment opportunities. The VEC uses an Internet based software system—the Virginia Workforce Connection (VWC)—to fulfill this responsibility. The purpose of this document is to set forth the VEC's policies and expectations concerning employer access and use of the VWC.

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

Definition of Employer

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

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

NOTE: This policy's definition of *employer* is different from the definition found in the Virginia Unemployment Compensation Tax Act (Code of Virginia, § 60.2-210). VEC Tax Representatives are available free of charge to determine whether an employer's hiring plans can reasonably be expected to trigger a tax liability. For additional information regarding Tax, contact the Local Tax Representative at a local VEC office or Central Office Tax Administration at (804) 786-7159 or (804) 786-3061.

Establishing an Employer Account in the VWC

Entities meeting the definition of *employer* given above may establish an account in the VWC for the purpose of posting employment opportunities and receiving applicant self-referrals and staff-assisted referrals of qualified applicants. Employers are encouraged to use the "self-service" method to complete and submit their registration; however, assistance with the registration process is available via e-mail to VWCEmployerServices@vec.virginia.gov, calling a local VEC office, or calling the State Workforce Services Manager at (804) 786-0187.

When a VWC employer registration is received, the VEC will review the registration information and take reasonable steps to determine if the registrant meets the definition of *employer* given above. These steps may include, but are not limited to, corresponding with the registrant by telephone or e-mail, reviewing the registrant company's web site, using various Internet search systems to corroborate the information given in the registration, cross-referencing the FEIN and/or UI Tax Account information provided in the registration with existing VEC records, and/or reviewing the registrant company in the Virginia State Corporation Commission Clerk's Information System or similar state system if the registrant is an out-of-state employer. Normally this review will be accomplished within three (3) business days of receiving the registration.

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

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

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

Third-Parties Acting on the Employer's Behalf

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

- Use the employer's FEIN, UI Account Number and mailing address,
- Show the third-party as the primary contact, and
- Include the employer's contact name and phone number as an additional contact.

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

Account Pending Verification

While the VEC staff is reviewing the registration information of new accounts, the account will remain in *Pending Verification* status.

JOB POSTINGS

Employers may enter job postings at any time after submitting the account registration; however, staff must approve the account and complete the Veteran's matching process before job orders display to the general public.

Once the account is approved, upon receipt of a job posting, VEC staff:

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

Salary Information In The Job Order

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

When the Job Order Is Visible

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

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

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

How Long the Job Order Stays Visible

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

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

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

Refusing or Removing a Job Posting

The VEC/VWC reserves the right to refuse or remove job postings that are in conflict with this policy or Federal or State laws and regulations.

Discriminatory Language, Discriminatory Practices

The VEC/VWC does not accept job postings with discriminatory language and does not participate in referral practices that violate Federal and State non-discrimination statutes. [42 U.S.C. 2000(e)-2(e) and 29CFR Parts 1604,160-6 and 1625]

Pre-Designation

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

Conflict with State and Federal Laws

The VEC/VWC does not accept job postings describing work situations that conflict with Federal and State compensation laws such as, but not limited to, the Fair Labor Standards Act (29 U.S.C. Chapter 8), Minimum Wage Act (§ 40.1-28.8 through 40.1-28.12 of the Code of Virginia), Payment of Wage Law (§ 40.1-29 of the Code of Virginia), or Child Labor Laws (§ 40.1-78 through 40.1-116 of the Code of Virginia).

Postings for Independent Contractors or Statutory Nonemployees

The VEC/VWC does not accept job postings for positions for which the employer will use IRS Form 1099 to report compensation paid. (Reference: U.S. Department of Treasury, Internal Revenue, Publication 15-A, Cat No. 21453T, Employer's Supplemental Tax Guide and Virginia Unemployment Compensation Act, § 60.2 of the Code of Virginia)

Fees for Consideration

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

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

If a job seeker responding to a posting in the VWC reports to the VEC that the employer has asked for money or payment of any type of fee similar to the fees/payments described above, the VEC reserves the right to cease referrals and not display the posting while investigating the matter.

Union or Non-Union Specifications

The VEC/VWC does not accept job orders with language that conflicts with the Virginia Right to Work Act. The Act provides that an employer cannot condition employment/continued employment by requiring an individual to become/remain a union member or by requiring an individual to abstain/refrain from union membership.

Labor Disputes in Progress

The VEC/VWC cannot accept job postings for positions that are vacant because the incumbent is on strike or locked-out, or for positions that are in dispute. Staff is obligated to follow the provisions related to labor disputes found at 20 CFR Subpart A 652.9.

If a posting is in conflict with this policy, VEC staff will contact the employer to suggest adjustments or alternative language to make the posting acceptable. If the employer is not in agreement, the matter should be referred to the Program Support Services Team in the VEC Central Office. If necessary, the Program Support Services Team will recommend initiation of the process to discontinue services in accordance with 20 CFR 658.502. Notwithstanding, VEC reserves the right to remove the posting from display if the employer is unresponsive to the VEC's attempts to contact the employer and resolve the issues or concerns.

Locking an Employer Account

Should an employer have repeated violations of this policy, the VEC reserves the right to remove non-conforming job postings and/or change the status of the Employer's account from "*Enabled*" to "*Locked Out*."

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