

Job Orders

H-2A and H-2B Job Orders

The Foreign Labor Certification (FLC) Coordinator will enter all H-2A and H-2B job orders from Central Office. Any employer, agent, or attorney that contacts the JC inquiring about entering this type of job order must be instructed to contact the FLC Coordinator. The FLC Coordinator may be reached by email at moswa@dhewd.mo.gov or by phone at (855) 859-2950.

JC staff are expected to issue referrals to these job orders as they would any other job order in the labor exchange system.

H-2A job orders require JC staff to screen all applicants and send approved applications, resumes, profiles directly to the employer. If the JC needs more information other than what is listed on the job order they may contact the FLC Coordinator for that information.

H-2B job orders can be written using any of the available application methods within the labor exchange system. Each job order will have the instructions on how to apply, which are to be followed accordingly.

Agricultural Employment Services (AES) Job Orders

JCs will receive agricultural-related job orders that are not H-2A or H-2B orders. It is the responsibility of the JC staff to enter these job orders into the System and work these orders just as they would any other job order.

The agricultural employer will need and must receive the same services offered any other employer, including hiring events, referrals of qualified applicants, and other job center opportunities.

All agriculture-related job orders are to be identified with 'AES' in the job title and recorded as AES under the special category section during the job order entry process. Examples of agriculture-related job orders will include job orders for the following positions:

- Agri-Construction (barns, buildings, grain storage, or concrete completed on the farm)
- Agri-Harvesting (hand or equipment harvesting for grain, vegetables, nuts, or fruits)
- Agri-Manufacturing (meat and poultry processing)
- Agri-Business (agricultural sales for equipment and retail products)
- Agri-Tourism (corn mazes, pumpkin patches)
- Agri-Farm Labor (any form of farm labor, livestock feeding, animal care, equipment operator, hand planting/harvesting, etc.)

Job Special Categories

The System allows staff to indicate if a job order has been written for a special program. These special categories include Summer Youth Program, Summer Parks Youth Corp (SPYC), Summer Job League, On-the-Job Training, Green Job, Show Me Heroes, Alien Labor Certification, AES, and Federal Contract Job Listings (FCJL). Staff are to record these categories as instructed per their applicable program guidance.

Job Orders in Violation of the Law

If a job order is received and the services to be performed, and/or the terms or conditions of employment are contrary to federal, state, or local law, the JC staff should explain to the person who placed the order why the job order is contrary to the law. JC staff should inform the employer that the job order could not be acted upon by the local JC. If the employer modifies the job where the services to be performed and/or the

terms or conditions of employment meet all legal requirements, the job order is accepted. If there is no such modification, the job order is voided and cannot be entered into the system.

Job Orders with Union or Non-Union Specifications

Under the National Labor Relations Act (NLRA), it is an unfair labor practice for an employer to refuse to hire an applicant, if the refusal is motivated by the membership of an applicant in a labor organization.

Job orders specifying membership or non-membership in a labor organization as a condition of employment are in violation of the law, and are not accepted by JCs. Further, an applicant's union or nonunion affiliation is regarded as confidential information and is not disclosed to employers.

Orders from Labor Organizations

JC staff will ascertain the following:

- The labor organization has specific job openings with the employer corresponding to the openings on the job order;
- The specifications on the job order correspond to the employer's specification for filling the opening; and
- The information on the job order is adequate for selection and referral.

When the job order is acted upon, workers are directed to the labor organization or to the employer in accordance with the referral arrangements that have been worked out between the labor organization and the JC.

Job Orders and Labor Disputes¹

When a job order is received from an employer reportedly involved in a labor dispute involving a work stoppage, the Regional Manager must 1) verify the existence of the labor dispute and determine its significance with respect to the vacancy involved in the job order, and 2) notify all potentially affected staff concerning the labor dispute, which must include the Wagner-Peyser Coordinator.

JC staff may not make a job referral on job orders which will aid directly or indirectly in the filling of a job opening that 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. For this reason, all job orders received to which the Regional Manager has determined the position is involved in a labor dispute cannot be entered into the System. If a job order currently exists online, these job orders must be placed on hold. A note regarding the denial of job order entry, or status change, should be made in case notes on the employer's record.

The Regional Manager must follow up on the labor dispute and notify all parties when the labor dispute has been terminated. Once it has been verified with the employer and workers' representative(s) that the labor dispute has been terminated, full referral services must resumé.

Should a position be available with an employer involved in a labor dispute, job orders and job referrals can only be processed when the position itself is not at issue in the dispute. In these situations, a written notification must be provided to all applicants referred to such positions that a labor dispute exists at the employing establishment and that the job they are being referred to is not at issue in the dispute. Such a statement can be provided in the job description and must state the minimum information:

"A labor dispute currently exists at this employing establishment. This notice serves as written notification that the position you are being referred to is not at issue in the dispute."

¹ [20 CFR §652.9](#), "Labor Disputes."

Job Orders from Employers with a Work Site Located in Another JC's Administrative Area

All job orders must be tied to the Region and JC entering the job order. In order to effectively serve employers and collect accurate data for the Effectiveness in Serving Employers performance indicator, as required by WIOA, staff must coordinate with the correct local JC for job order entry.

At times, a JC will receive a request to recruit workers from another JC's administrative area. Due to how employer information is set up, the location information of a job order must reflect the actual worksite location. To assist with these requests, JCs should coordinate recruitment activities with other JCs instead. Suggestions include holding hiring events, distributing flyers, or hosting an employer spotlight event. Duplicate job orders when only one opening exists are prohibited.

Job Order from Employer Requesting Confidentiality

An employer may request confidentiality when placing a job order. Job order confidentiality should not be solicited, however, if the employer requests that company name, address and telephone number be withheld from the applicant, the confidentiality of that employer must be maintained. Under no circumstances will the employer name, address or telephone number be given to an applicant when the employer requests confidentiality. Through discussion with the employer, the staff person taking the job order determines the need for confidentiality, and that an opening does in fact exist. These job orders must be handled as follows:

- The order should be accepted and entered into the System as usual. On the 'Job Order Information to be Displayed Online' section of the job order, answer "No" when asked to display company name.
- Referrals to this job order must be coordinated through the JC holding the job order and by the JC staff working with that employer. All potential referrals from other JCs for this job order must be coordinated in the same manner.
- Only the individual having job order responsibility should make contact with the employer. Referrals are to be made according to the instructions provided by the employer.
- Follow-up with the employer is the responsibility of the JC holding the job order and the staff person responsible for the job order.

NOTE: This procedure is to be strictly implemented in order to maintain OWD's integrity when accepting and referring on all job orders where the employer has requested confidentiality. Any deviation from these procedures without prior approval will be referred for appropriate disciplinary action.

DISCRIMINATORY JOB ORDERS & OTHER JOB ORDER VIOLATIONS

JCs are prohibited from providing any employment services to employers who are known by OWD to discriminate in employment on the basis of race, color, religion, national origin, ancestry, sex, disability, or age (applicable to the age group 40 through 69).

Various laws prohibit OWD from accepting discriminatory job orders, as well as job orders that violate other employment-related laws. Some of these laws are the Civil Rights Act of 1964 as Amended, Age Discrimination Act of 1967 as Amended, Rehabilitation Act of 1973, Vietnam Era Veterans Readjustment Assistance Act of 1974, Missouri Human Rights Act, and The Americans with Disabilities Act of 1990.

Job Orders Requiring a Criminal Record Exclusion

Job orders requiring a criminal background check are allowable. Under the direction of the U.S. Department of Labor

(USDOL), Training and Employment Guidance Letter (TEGL) 31-11², the employer must be given 'Notice #1 for Employers Regarding Job Bank Nondiscrimination and Criminal Record Exclusions'. This notification will be provided through MoJobs when the employer logs into the system for the first time, to which the employer must click 'Next' confirming they have read and agreed to the notice.

If a job order indicates that a background check is part of the hiring process, a link containing 'Notice for Employers Regarding Job Posting Containing Criminal Record Exclusion' will be present for the employer to read. JC staff entering a job order on behalf of an employer must send this notice to the employer through email, fax, or the mail.

TEGL 31-11 also calls for a notice to be provided to job seekers when a criminal record exclusion exists. This notice will be made available to job seekers when viewing any job order during the job search process as a link labeled 'notice regarding job postings that may contain exclusionary criminal record criteria'. When staff provide a referral to a job order with a background check listed in the 'Hiring Requirements' section of the job order, this notice should be printed and given to the job seeker.

Instructions on how to utilize MoJobs to meet these requirements are found in Attachment 1 of this Issuance.

Substandard Orders

If a job order is received that specifies wages that are below the minimum established by federal or state law, and the job order is subject to the minimum wage law, JC staff will explain to the employer that the job order cannot be entered in MoJobs because the wages specified are below the legal minimum. If the employer does not change the order, JC staff will call the job order to the attention of his/her supervisor, manager, or functional leader, for a decision on the proper course of action.

Suspected Violations in the Job Order

If JC staff observes or has reason to believe that an employer or employer representative is attempting to enter a discriminatory requirement or information that goes against other employment-related laws into the job description, the staff person must stop the process immediately, document the suspected violation and refer to the local JC supervisor.

At this point, the following steps should occur:

1. If the employer has filed a job order within the last 12 months, the supervisor must attempt informal resolution.
2. If the employer has not filed a job order within the last 12 months, the suspected violation of the employment-related law must be referred to the appropriate enforcement agency in writing.

Questions regarding the apparent violations process are to be directed to the State Monitor Advocate.

Job Orders Involving a Charge

Job orders that indicate that a charge, fee, or that costs will be incurred in order to bring the worker and employer together, are not allowable. When a job order is placed which would result in a charge being made, JC staff will inform the employer or the agent recruiting for an employer that no action may be taken by the JC to select or refer workers to the job opening. No action may be taken on orders that require the purchase of demonstration kits or products in order to be offered employment.

² [TEGL 31-11](#), "Update on Complying with Nondiscrimination Provisions: Criminal Record Restrictions and Disparate Impact Based on Race and National Origin," May 25, 2012.

Attachment 1

Orders requiring a license, safety equipment, police reports, physicals, etc., prior to hire, may be taken and served.

Job Orders Involving Youth

JC staff will inform the employer that such referrals of Youth are made only in accordance with local, state, and federal laws concerning school attendance and child labor standards.