

InterOffice Memo

Department of Workforce Development

Date: 06 December 2004

File Ref:

To: Job Service Supervisors and All Staff Involved in Taking and Writing job orders

From: Brian Solomon, Director
Job Service Bureau

Subject: **Declining a Job Order vs. Discontinuation of Service**

This memo contains information on job order writing issues which is important for all staff involved in taking and writing job orders to be familiar with. This also includes all partner agency staff involved in job order writing.

Policy Discussion

Job Order Policies and Procedures allow staff the discretion to decline job orders that do not meet applicable laws or comply with DWS policy. Declining a job order and discontinuation of services to a company are two separate issues and processes and are explained below.

BEFORE A Job Order has been posted:

1.) Declining or refusing Job Orders

Before job orders can be accepted they must be legal and in compliance with all applicable state and/or federal employment related laws. This includes, but is not limited to, labor standards, minimum wage, child labor, discrimination and disability (ADA) related laws. In addition, the policy requires job orders to comply with Employment and Training Administration (ETA) regulations to represent actual, available, terms and conditions of employment and opportunities as stipulated on the order, by an employer. Agencies enforcing employment related laws include WI Equal Rights Division/Labor Standards, Federal Wage & Hour and OSHA.

Because JobNet and other services of Job Service are paid for by public funds, Job Service 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 a job order writer who is authorized to make the determination decides that a job order should be refused under the policy stated above, that staff person shall notify the Job Service Supervisor for the local office, who will notify the person who submitted the job order. The submitter may request a review of the determination.

If the employer agrees to modify, amend or change the contents of the job order to comply with Job Order policy and employment related laws, the order writer can then process the order.

AFTER A Job Order has been posted:

2.) Discontinuation of Services to Employers

This would occur after a job order has passed the test as a "legal order" and has been accepted, processed and placed in our JobNet System. Local Job Service staff shall report to the local office manager or director, instances when discontinuation of services to an employer seem appropriate. (Note: The decision to discontinue services to an employer is very rare and should be limited to instances where we have worked extensively to resolve issues without success.)

The following are some conditions identified as the basis for discontinuation of services to employers:

- a. Employer submits and refuses to alter or withdraw job orders containing specifications which are contrary to employment related laws.
- b. Employer submits interstate or intrastate job workers seeking workers to perform agricultural or food processing work and refuses to provide assurances that the jobs offered are in compliance with employment related laws or to withdraw such orders as required by the clearance order (ARS) system.
- c. Employer is found, through field checks or otherwise, to have either misrepresented the terms and conditions of employment specified on job orders or to have failed to comply fully with assurances made on job orders.
- d. Local Job Service staff or Job Service Complaint Specialists are informed or become aware that three or more formal written complaints have been filed against an employer who placed a job order within the past 12 months (Job Service Related Complaints). If complaints are *resolved locally*, the employer may continue to receive services. If complaints are not resolved, the employer is informed that job orders will be pulled out of the system with no more applicant referrals, until the complaints are resolved.
- e. Job Service staff (either local or central office) become aware or are notified by an enforcement agency or agencies after an investigation, that complaints against that employer did violate employment-related laws.

Procedure

1. Local office manager initiates and sends a request for discontinuation of services against an employer to the State Monitor Advocate, including copies of supportive documentation such as: job order number, copies of complaints, results of agency investigation.
2. State Monitor Advocate recommends appropriate action to the DWS Administrator and drafts a discontinuation of services letter
3. h. DWS Administrator notifies the employer in writing of Job Service's intention to discontinue services.

Action Required

Staff should be aware that they have authority to decline job orders that do not meet DWS policy, are contrary to community standards of good taste or decency, are misleading, or appear to be in violation of employment related laws. Attempts should first be made to correct the job order by working with the employer.

Staff should request, through their supervisors, discontinuation of services to a company if any of the conditions listed above occur. Staff should take this step only after other efforts to correct problems have failed.

Questions

Contact Phil Anderson at (608) 261- 6974, with questions regarding Job Order Policies and Procedures

Contact Raul Reyes at (608) 261-6545, with questions regarding discontinuation of services issues or procedures.