
JOINT ENFORCEMENT TASK FORCE ON PAYROLL FRAUD AND WORKER MISCLASSIFICATION

Virtual Meeting via WebEx

December 16, 2021
10:00 am – 12:00 pm

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Agenda

Attendance

Task Force: Megan Martin, Tim DeMinter, David Haushalter, Cindy Buchko, Jesus Villa, Steve Peters, Danielle Williams, Cara Connors, Jennifer Wakerhauser, Maria Lapacek, Andy Buck, Matthew Archambo, Andrew Disch, Stu Wilson, Representative Sinicki

Public: BJ Dernbach

- A. Welcome and Introductions – Danielle Williams, DWD Assistant Deputy Secretary
- B. Workgroup Updates and Final Recommendations
 - a. DFI Registration – Cynthia Buchko
 - i. Larger workgroup than just taskforce members
 1. Included other agencies, such as DFI
 - ii. Background information in the recommendation is important to understanding why the group made the recommendations they did
 - iii. Existing statutory requirements, but lack enforcement
 1. DFI does not have active enforcement authority
 2. Right now, it is based on voluntary compliance, which doesn't usually happen
 - iv. See recommendation document for recommendations
 - v. Questions on recommendations
 1. #2: How does this play out?
 - a. Requiring disclosure of members/managers would provide another tool for DFI for enforcement and prosecution of LLC's that do not
 - b. Currently it is easy for LLCs to not disclose this information
 - vi. Vote on Recommendation
 1. #1: Maria Lapacek motions to accept recommendation, Andy Buck seconds
 - a. AYES: Unanimous

- b. NAYS: None
 - 2. #2: Cindy Buchko motions to accept, Jesus Villa seconds
 - a. AYES: Unanimous
 - b. NAYS: None
 - 3. #3: Tim DeMinter motions to accept, David Haushalter seconds
 - a. AYES: Unanimous
 - b. NAYS: None
- b. Upstream Liability – Megan Martin
 - i. See recommendation document for recommendation
 - 1. General contractors using subcontractors illegally and forcing others to look the other, disobeying the law
 - 2. Questions
 - a. Anything that prevents businesses/organizations from doing this now?
 - i. Publishing the names of the bad actors would help to disincentivize contractors to hire the bad actors
 - ii. Enforce current laws and create awareness of the issue/those not following the law
 - ii. Vote on Recommendation
 - 1. Andy Buck motions to approve, Stu Wilson seconds
 - a. AYES: Unanimous
 - b. NAYS: None
- c. Independent Contractor Test – Steve Peters
 - i. Create a unified test across state government
 - ii. Through research, it was identified that many states are doing many different things
 - iii. Creation of a worker questionnaire
 - 1. See worker questionnaire document for sample
 - iv. Discussion about "safe harbor" approach
 - 1. Discussion with employer would lead to DWD or other agencies providing guidance to employer to comply with the law
 - 2. Trying to eliminate the honest mistake
 - 3. Preventative measures to help employers, especially small businesses, to not make mistakes and help them comply with the laws through conversations and answers to their questions
 - a. Relieve regulatory measures for smaller businesses, etc.
 - 4. Would the record of a unified worker questionnaire be shared among agencies?
 - a. Yes, that's the intention
 - 5. Enforcement team
 - a. Could this questionnaire be a resource for enforcement rather than just individual investigations?
 - i. Possibly, could consider
 - v. Vote on Recommendation
 - 1. Jesus Villa motions to approve, Maria Lapacek seconds
 - a. AYES: Unanimous
 - b. NAYS: None

C. Committee Updates

- a. Outreach and Education Committee – Jesús Villa
 - i. Education campaign on misclassification issues
 - ii. Goal by 2022: 90% of workers to be familiar with these issues
 - 1. Preliminary survey in 2020
 - 2. Put together information for this
 - iii. Needed to re-evaluate due to the pandemic
 - iv. Coordinated with DWD Communication's Office
 - 1. Target communication efforts and narrow focus
 - 2. New entrance to the workforce
 - a. Students, trades, new employees, etc.
 - b. Language barriers, Spanish speaking folks

- v. Use DWD channels that have already been used
 - 1. DWD website, social media, emails, brochures, speaking opportunities/events
- vi. Earned channels
 - 1. Radio, tv ads
 - 2. Interviews
 - 3. Costs associated with this, but not costs DWD can absorb with current budget
 - 4. Looking into ways for funding for these efforts
- vii. Refining resources and messaging
- viii. Anticipate by March of 2022 to be able to begin targeted messaging and start tracking
- ix. In May of 2022 want to resurvey on misclassification awareness
- b. Joint Investigations and Enforcement – Maria Guerra Lapacek
 - i. Many issues that Cindy brought up in the DFI Registration recommendation were also discussed by this workgroup
 - ii. Revolving door of crime
 - 1. One entity may fizzle out due to disobeying the law, but another entity pops up, usually run by the same person/business
 - a. Identifying those responsible for these entities may disincentivize
 - iii. Looked at enforcement authority for each agency involved in workgroup
 - iv. Information sharing across agencies
 - v. Audit team is reviewing information provided by DWD
 - vi. Will begin working on a small, enforcement group in January
 - 1. More targeted to be able to target fraud and potential offenders for audits, etc.

D. Legislative Updates

- a. DWD Legislative updates – Cara Connors
 - i. See Legislative updates PowerPoint
- b. Other Legislative updates
 - i. No Legislature members on meeting to provide updates

E. Open Records Training – Jennifer Wakerhauser

- a. See Open Meetings and Public Records PowerPoint

F. Discussion items

- a. Annual Report
 - i. Reviewed 2021 Report

G. Public Comment

- a. No public comment
- b. Email box is open for public comment on the recommendations

Adjourn

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