

MEMORANDUM OF UNDERSTANDING

BETWEEN

U.S. DEPARTMENT OF LABOR, WAGE AND HOUR DIVISION

AND

NYC DEPARTMENT OF CONSUMER AND WORKER PROTECTION

The United States Department of Labor, Wage and Hour Division (hereinafter referred to as “USDOL/WHD”), and the New York City Department of Consumer and Worker Protection, Office of Labor Policy & Standards (hereinafter referred to as “DCWP”) (USDOL/WHD and DCWP are collectively referred to as “the agencies” or “the parties”) recognize the value of establishing a collaborative relationship to promote compliance with laws of common concern among the regulated community in the city of New York.

The agencies are forming this partnership to more effectively and efficiently communicate and cooperate on areas of common interest. This collaboration includes sharing training materials and conducting joint investigations as well as sharing other information as appropriate.

THEREFORE, IT IS MUTUALLY AGREED THAT:

This memorandum of understanding agreement (“MOU”) is intended to memorialize this understanding between USDOL/WHD and DCWP. This MOU is a voluntary agreement that expresses the good-faith intentions of USDOL/WHD and DCWP; it is not intended to be legally binding. This MOU does not create any contractual obligations, and it is not enforceable by any party. This MOU does not obligate and will not result in an exchange of funds, personnel, property, services, or any kind of financial commitment. This MOU outlines procedures to be followed by both USDOL/WHD and DCWP when they are collaborating with one another.

Agency Responsibilities

USDOL/WHD enforces the federal minimum wage, overtime pay, recordkeeping, and child labor requirements of the Fair Labor Standards Act. USDOL/WHD also enforces the Migrant and Seasonal Agricultural Worker Protection Act, the Employee Polygraph Protection Act, the Family and Medical Leave Act, wage garnishment provisions of the Consumer Credit Protection Act, and a number of employment standards and worker protections as provided in several immigration-related statutes. Additionally, USDOL/WHD administers and enforces the prevailing wage requirements of the Davis-Bacon Act and the Service Contract Act and other statutes applicable to Federal contracts for construction and for the provision of goods and services.

DCWP is responsible for enforcing worker protections in Title 20 of the New York City Administrative Code, including the Paid Safe and Sick Leave Law, Fair Workweek Law, and Delivery Worker Laws.

I. Purpose

The purpose of the MOU is for the agencies to collaborate to maximize resources and improve the enforcement of the laws administered by USDOL/WHI and by DCWP. This MOU also seeks to encourage greater coordination between the agencies.

II. Authority

The substantive authority under which the parties will be carrying out the activities contemplated in the MOU is found under 29 U.S.C. § 211(b).

III. Outreach and Education

- The agencies agree to coordinate, prepare and distribute publications, when appropriate, for the regulated community of common concern.
- The agencies agree to work with each other to provide a side-by-side comparison of laws with overlapping provisions and jurisdiction.
- The agencies agree to jointly disseminate outreach materials to the regulated community, when appropriate.
- All materials bearing the USDOL or USDOL/WHI name, logo, or seal must be approved in advance by USDOL.
- All materials bearing the DCWP name, logo, or seal must be approved in advance by DCWP.

IV. Points of Contact

- The agencies designate the following points of contact (“POCs”) responsible for coordinating the partnership activities and meeting annually to review terms and conditions and areas of mutual concern. The agencies will notify each other in the event of any change in their POC designees.
- POC designees:

Wage and Hour Division

Formal Contact:

Jorge Alvarez
26 Federal Plaza
Rm 41-130
New York, NY 10278
646-587-5330
alvarez.jorge.r@dol.gov

Manuel Gonzalez
26 Federal Plaza
Rm 41-130
New York, NY 10278
646-587-5325
gonzalez.manuel@dol.gov

Informal Contact:

Manuel J. Garcia
26 Federal Plaza
Rm 41-130
New York, NY 10278
646-587-5346
Garcia.Manuel.J@dol.gov

Security Incident Contact:

DOL Computer Security Incident Response Capability (CSIRC)
Email: dolcsirc@dol.gov
Tel: 202-693-4417

DCWP Office of Labor Policy & Standards

Formal Contact:

Elizabeth Wagoner
42 Broadway, 8th Floor
New York, NY 10004
212-436-0117
ewagoner@dcwp.nyc.gov

Carlos Ortiz
42 Broadway, 8th Floor
New York, NY 10004
212-436-0345
Cortiz@dcwp.nyc.gov

Informal Contact:

Margot Finkel
42 Broadway, 8th Floor
New York, NY 10004
212-436-0222
mfinkel@dcwp.nyc.gov

V. Enforcement

Where appropriate and to the extent allowable under law:

- The agencies may conduct joint investigations annually in the City of New York if opportunity provides.
- The agencies may coordinate their respective enforcement activities and assist each other with enforcement.
- The agencies will make referrals of potential violations of each other's statutes.

VI. Information

- The agencies agree to exchange information on their respective laws and regulations of common concern, to the extent practicable and allowable by law and policy.
- The agencies will establish a methodology for exchanging investigative leads, complaints, and referrals of possible violations, to the extent allowable by law or policy.
- The agencies will exchange information (statistical data) on incidence of violations in specific industries and geographic areas, if possible.
- The agencies agree to meet, no less than semiannually, to exchange information and discuss topics of mutual interest.

VII. Training

- The agencies agree to cross-train investigators and other staff no less than once per calendar year, subject to agency resources and any applicable legal requirements. Joint training will be conducted to educate staff members of both agencies about the laws and regulations enforced by them and to discuss issues of common concern.
- The agencies will exchange information related to policy and to regulatory changes to State or Federal laws, to the extent permissible.

VIII. Previous Agreements

- This MOU replaces and supersedes any previous memorandum of understanding or agreement between the parties.

IX. Effect of MOU

- This MOU does not authorize the expenditure or reimbursement of any funds. Nothing in this MOU obligates the parties to expend appropriations or enter into any contract or other obligations.

- By entering into this MOU, the agencies do not imply an endorsement or promotion by either agency of the policies, programs, or services of the other.
- Nothing in this MOU is intended to diminish or otherwise affect the authority of either agency to implement its respective statutory or regulatory functions.
- This MOU is not intended to be legally binding and does not confer any rights on any private person or any outside third party.
- This MOU is not intended to confer any rights against the United States, its agencies, its officers, or upon any private person.
- Nothing in this MOU will be interpreted as limiting, superseding, or otherwise affecting the agencies' normal operations or decisions in carrying out their statutory or regulatory duties, or their duties under any Executive Order. This MOU does not limit or restrict the parties from participating in similar activities or arrangements with other entities.
- This MOU will be executed in full compliance with the Privacy Act of 1974, the Freedom of Information Act, the Federal Records Act, and any other applicable federal laws and New York state laws.
- This MOU contains all the terms and conditions agreed upon by the agencies concerning the subject matter of the MOU. No other understandings, oral or otherwise, regarding the subject matter of this MOU shall be deemed to exist or be binding upon the agencies.

X. Exchange of Information

To the extent permitted by law, the agencies understand that in order to effectuate the purposes and provisions of this MOU, it will be necessary, from time to time, to exchange information, some of which may be considered confidential. It is the policy of each of the parties to cooperate with other government agencies to the fullest extent possible under the law, subject to the general limitation that any such cooperation must be consistent with its own statutory obligations and enforcement efforts. It is the view of the parties that an exchange of information in which both agencies are proceeding with a common legal interest is to their mutual benefit. The agencies to this MOU recognize the importance of being able to provide information to other law enforcement bodies without waiving the privilege of otherwise protected material or making a public disclosure.

It is the policy of USDOL/WHD and DCWP to cooperate with other government agencies to the fullest extent possible under the law, subject to the general limitation that any such cooperation must be consistent with USDOL/WHD's and DCWP's own statutory obligations and enforcement efforts. It is USDOL/WHD's and DCWP's view that an exchange of information in cases in which both entities are proceeding on basically the same matter is to their mutual benefit. There is a need for USDOL/WHD and DCWP to provide information to other law enforcement bodies without making a public disclosure.

In consideration of these concerns, and subject to any applicable laws and regulations regarding the handling of such information, the agencies agree as follows:

1. The parties will be available to discuss and provide information to one another on topics of mutual interest, such as overlapping jurisdiction, and certain areas of expertise, when possible.
2. Exchange of information to one another pursuant to this MOU is not considered a public disclosure under the Freedom of Information Act, 5 U.S.C. § 552, or the Freedom of Information Law, N.Y. Pub. Off. Law § 84 et al.
3. Confidential information from USDOL/WHd to DCWP shall be clearly marked as “CONFIDENTIAL – USDOL/WHd,” and confidential information from DCWP to USDOL/WHd shall be clearly marked as “CONFIDENTIAL – DCWP.” When confidential information is exchanged, it will not be released to the public or to any third party without the express permission of the party providing that information (hereinafter, the “donor agency”), except as required by law, including, but not limited to, the Freedom of Information Act and Freedom of Information Law. Upon receipt of a public disclosure request for confidential information provided by the donor agency, each party agrees to provide the donor agency with notice of the request and an opportunity to pursue legal action to prevent the release of information.
4. When confidential information is exchanged, it shall be used and accessed only for the limited purposes of carrying out activities pursuant to this MOU as described herein. The information shall not be duplicated or re-disclosed without the express written consent or authority of the donor agency, a court order, or as required by law, including the Freedom of Information Act and Freedom of Information Law.
5. Confidential information means information that may be privileged or otherwise exempt from disclosure to the public or other unauthorized persons under federal and state laws. Confidential information may include: the identity of persons who have given information to the agencies in confidence or under circumstances in which confidentiality can be implied; any employee statements in enforcement files that were obtained under these conditions; internal opinions, policy statements, memoranda, and recommendations of federal or state employees, including (but not limited to) investigators and supervisors; any records that would otherwise not be subject to disclosure under law as non-final, intra- or inter-agency documents; information or records covered by the attorney-client privilege and the attorney work-product privilege; personal information protected by any relevant law or regulation; individually identifiable health information; and confidential business information and trade secrets.
6. Confidential Unemployment Compensation (“UC”) information, as defined in 20 CFR § 603.2(b), means any unemployment compensation information, as defined in 20 CFR § 603.2(j), required to be kept confidential under 20 CFR § 603.4 or its successor law or regulation.

7. In the event there is a public proceeding, such as a trial, in which certain records, such as confidential information, may be used or testimony of USDOL/WHD's employees may be sought, USDOL/WHD requires that DCWP notify USDOL/WHD.
8. In the event there is a public proceeding, such as a trial, in which certain records, such as confidential information, may be used or testimony of DCWP employees may be sought, DCWP requires that USDOL/WHD notify DCWP.
9. Should either party receive a request or subpoena that would, fairly construed, seek production of confidential information that it received pursuant to this MOU, the party receiving such a request or subpoena shall take reasonable measures, including but not limited to asserting the common interest privilege, to preclude or restrict the production of such information for ten (10) business days, and shall promptly notify the donor agency that such a request or subpoena has been received, so that the donor agency may file any appropriate objections or motions or take any other appropriate steps to preclude or condition the production of such information.
10. Each party shall not have the authority to waive any applicable privilege or doctrine on behalf of the other party, and any waiver of an applicable privilege or doctrine by the conduct of one party shall not be construed to apply to the other party.
11. The agencies will notify one another, through the agency POC identified in this MOU, upon commencement of litigation, a hearing, or other proceeding that may involve the release (through subpoena, introduction of written evidence, or testimony) of confidential information exchanged under this MOU.
12. In addition to the requirements above, Confidential Unemployment Compensation information may be exchanged only subject to the confidentiality requirements of 20 CFR § 603.4 and any applicable state laws.
13. For information security purposes, information (including paper-based documents and electronic information such as emails and CDs) exchanged pursuant to this MOU remains the responsibility of the donor agency while in transit. The agencies agree to establish a communication protocol for notifying each agency's designated POC when information is sent to or received from that agency, including information on the form of the transfer and the media type and quantity (when appropriate). An agency expecting to receive information will notify the donor agency if the information is not received as of the next business date following the agreed upon delivery date. Confidential data will be destroyed no later than thirty (30) days after its use and may be transmitted via secure File Transfer Protocol ("FTP"). Use includes the time period required for compliance with federal records retention periods. Confidential data will not be electronically mailed, unless encrypted using approved encryption standards.
14. For information security purposes, after an agency receives information from the donor agency, the donor agency retains no responsibility for any security incidents, inadvertent disclosure, or the physical and information technology safeguards in place for protecting that information by the agency that received it.

15. Each agency's technical staff will immediately notify their designated counterparts when a security incident(s) is suspected or verifiably detected so that the other party may take steps to determine whether its system has been compromised and to take appropriate security precautions. Technical staff will provide reasonable support to their counterparts in support of analysis and/or investigation into any security incidents. In the event the agency receiving the information experiences a security incident or disaster that results in the suspected or confirmed inadvertent disclosure of the data exchanged pursuant to this MOU, the agency experiencing the incident or disaster will send formal written electronic notification to the donor agency's designated POC within three (3) days after detection of the incident or disaster. The written electronic notification will describe the security incident or disaster in detail, including the data exchanged pursuant to this MOU that may have been inadvertently disclosed.
16. At the conclusion of an investigation and prosecution by either party, the receiving agency will return any and all confidential information to the donor agency, except as required by law, including the Federal Records Act.
17. Liability of the U.S. Government is governed by the Federal Tort Claims Act.

XI. Dissemination of Factual Information

- The agencies agree to jointly disseminate outreach materials to the regulated community when appropriate. Any such dissemination may not be undertaken without prior notice and approval of each party.
- All public materials bearing the United States Department of Labor ("USDOL") or USDOL/WHM name, logo, or seal must be approved in advance by USDOL. All public materials bearing the DCWP name, logo, or seal must be approved in advance by DCWP. Any such materials that include the opinions, results, findings, and/or interpretations of data arising from the results of activities carried out under this MOU shall state that they are the responsibility of the party carrying out the activity and do not necessarily represent the opinions, interpretation, or policy of the other party.

XII. Resolution of Disagreements

- Disputes arising under this MOU will be resolved informally by discussions between agency POCs, or other officials designated by each agency.

XIII. Period of Agreement

- This MOU becomes effective upon the date of the last party to sign this MOU and will expire three (3) years from the Effective Date (as hereinafter defined). This MOU may be modified in writing by mutual consent of both agencies. The MOU may be cancelled by either party by giving thirty (30) days advance written notice prior to the

date of termination. Renewal of the MOU may be accomplished by written agreement of the parties.

This MOU is effective as of the 6 day of January, 2025 (“Effective Date”).

**United States Department of Labor
Wage and Hour Division**

**NYC Department of Consumer and
Worker Protection**

By: Jorge Alvarez 1/6/2025
Jorge R. Alvarez Date
District Director

By: Vilda Vera Mayuga
Vilda Vera Mayuga
Commissioner