

PARTNERSHIP
AGREEMENT BETWEEN
THE U.S. DEPARTMENT OF LABOR
WAGE AND HOUR DIVISION

AND

THE ALCOHOLIC BEVERAGE CONTROL DIVISION OF
THE MISSISSIPPI DEPARTMENT OF REVENUE

This Agreement is made and entered into by and between the United States Department of Labor's Wage and Hour Division (herein referred to as "WHD" or "Department") and the Alcoholic Beverage Control Division of the Mississippi Department of Revenue (hereinafter referred to as ABC), together collectively referred to as "the agencies" or "the parties".

With the specific and mutual goals of providing clear, accurate, and easy-to-access outreach to employers, employees, and other stakeholders, and of sharing resources and enhancing enforcement by conducting coordinated investigations and sharing information consistent with applicable law, the parties agree to enter into this partnership.

THEREFORE, IT IS MUTUALLY AGREED THAT:

Purpose

The agencies recognize the value of establishing a collaborative relationship to promote compliance with laws of common interest, including sharing training materials, providing employers and employees with compliance assistance information, conducting coordinated investigations, and sharing information as appropriate.

Agency Responsibilities

WHD is responsible for administering and enforcing a wide range of labor laws, including the Fair Labor Standards Act, the Family and Medical Leave Act, the Migrant and Seasonal Agricultural Worker Protection Act, worker protections provided in several temporary visa programs, and the prevailing wage requirements of the Davis-Bacon and Related Acts and the Service Contract Act. Nothing in this agreement limits WHD's enforcement of these and other statutes. WHD enters into this agreement under the authority of 29 U.S.C. 211(b), which authorizes the Department to cooperate with State agencies charged with the administration of State labor laws.

The ABC licenses the alcoholic beverage industries and collects fees paid by the licensees, and enforces the laws and regulations of the alcoholic beverage industries, pursuant to Title 35, Part II and Title 67, Chapter I of the Mississippi Administrative Code. Nothing in this agreement limits the ABC's enforcement of these and other statutes.

Contacts

- The agencies will designate a contact person responsible for coordinating the partnership activities. The agencies will notify each other in the event of the separation or long-term absence of their contact persons.

ABC: Mr. Russell Hanna (formal)
Chief of Enforcement
P.O. Box 22828 (Jackson, MS 39225)
500 Clinton Center Drive
Clinton, MS 39056
601-923-7630
Rusty.hanna@dor.ms.gov

Mr. Bryan Alexander (informal)
Deputy Chief of Enforcement
P.O. Box 22828 (Jackson, MS 39225)
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601-923-7630
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WHD: Ms. Audrey Hall (formal)
District Director
100 West Capitol Street, Ste. 725
Jackson, MS 39269
601-965-7392
Hall.audrey@dol.gov

Mrs. Susan Denham-Collins (informal)
Community Outreach & Resource Planning Officer (CORPS)
431 West Main Street, Ste. 115
Tupelo, MS 38804
662-231-7069 or 662-842-2447
Denham.susan@dol.gov

The agencies will designate a representative to meet at least quarterly to review areas of mutual concern and the terms and conditions of the partnership.

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Deputy Chief of Enforcement

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Enforcement

Where appropriate and to the extent allowable under law,

- The agencies may conduct coordinated investigations periodically in the State of Mississippi, if opportunity provides.
- The agencies may coordinate their respective enforcement activities and assist each other with enforcement.
- The agencies may make referrals of potential violations of each other's statutes.

Previous Agreements

- This agreement replaces and supersedes any previous Partnership Agreement MOU between the parties.

Effect of Agreement

- This agreement does not authorize the expenditure or reimbursement of any funds. Nothing in this agreement obligates the parties to expend appropriations or enter into any contract or other obligation.
- By entering into this partnership, the agencies do not imply an endorsement or promotion by either party of the policies, programs, or services of the other.
- Nothing in this agreement is intended to diminish or otherwise affect the authority of either agency to implement its respective statutory functions.

- This agreement contains all the term and conditions agreed upon by the parties. Upon execution of this agreement, no other understanding, oral or otherwise, regarding the subject matter of this agreement shall be deemed to exist or be finding upon the parties. This agreement shall be deemed to exist or be binding upon the parties. This agreement is not intended to confer any right upon any private person or third party.
- Nothing in this agreement will be interpreted as limited, superseding, or otherwise affecting the party's normal operations. This agreement also does not limit or restrict the parties from participating in similar activities or arrangements with other entities.
- This agreement will be executed in full compliance with the Privacy Act of 1974, and any other applicable federal and Mississippi state laws.

Exchange of Information

- It is the policy of WHD 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 the WHD's own statutory obligations and enforcement efforts. It is WHD's view that an exchange of information in cases in which both entities are proceeding on basically the same matter is to our mutual benefit. There is a need to WHD to provide information to other law enforcement bodies without making a public disclosure.
- Exchange of such information pursuant to this agreement is not a public disclosure under the Freedom of Information Act, 5 U.S.C.552.
- Confidential information means information that may be exempt from disclosure to the public or other unauthorized persons under state and federal statutes. Confidential information includes: the identities of persons who have given information to the parties in confidence or under circumstances in which confidentiality can be implied; any employee statements in WHD's enforcement files that were obtained under these conditions; internal opinions and recommendations of federal or state personnel, including (but not limited to) investigators and supervisors; information or records covered by the attorney-client privilege and the attorney work-product privilege; and confidential business information and trade secrets.
- Confidential information includes personal identifiable information such as: first and last name, business address and telephone, home and/or personal phone numbers, home address, date and place of birth, mother's maiden name, individually identifiable health information, and financial records.

- The agencies shall use Federal Information Processing Standard (FIPS) 140-2 compliant encryption to protect all instances of WHD sensitive information during storage and transmission.
- Both parties agree to work together to ensure the joint security of the data they store, process, and transmit. Each party certifies that the processes used to transmit and store data is in compliance with all relevant federal laws, regulations, and policies.
- Confidential information, which includes personal identifiable information, may be accessible only to those agents and/or employees of the recipient who require the data in the official performance of their job duties. All data will be kept in the strictest confidence and will be made available to the receiving agency's staff on a "need-to-know" basis. The parties shall instruct all such authorized individuals about the confidentiality requirements under both applicable state and federal law and the Partnership Agreement itself, and about the potential sanctions for unauthorized use, browsing, or disclosure of confidential information.
- When confidential information is exchanged it shall be used and accessed only for the limited purposes of carrying out activities pursuant to this Agreement as described herein. The information shall not be duplicated or re-disclosed without the written authority of the Agency providing the information (hereinafter the "Donor Agency"), a court order or if otherwise required by law.
- In the event there is a public proceeding, such as a trial, in which confidential information may be used or testimony of ABC's employees sought, the ABC requires that the WHD notify ABC in writing at least 10 days prior to such use of required testimony.
- Should either party receive a request or subpoena that would, fairly construed, seek productions of privileged information that it received pursuant to this MOU agreement, 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 to the production of such information.
- Neither party shall have authority to waive any privilege or doctrine on behalf of the other party, nor shall any waiver of an applicable privilege or doctrine by the conduct of one party be construed to apply to the other party.
- For information security purposes, information (including paper-based documents and electronic information such as emails and CDs) exchanged pursuant to this Agreement

remains the responsibility of the donor agency while in transit. The agencies agree to establish a communication protocol for notifying each agency's designated contact person 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 day following the agreed upon delivery date.

- 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.
- However, in the event that 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 Agreement, the agency experiencing the incident or disaster will send formal written notification to the donor agency's designated contact person within 3 days after detection of the incident or disaster. The written notification will describe the security incident or disaster in detail including what data exchanged pursuant to this Agreement may have been inadvertently disclosed.

Subject to the foregoing constraints:

- The agencies agree to exchange information on laws and regulations of common concern to the agencies, to the extent practicable.
- The agencies will establish a methodology for exchanging investigative leads, complaints, and referrals of possible violations, to the extent allowable by law and policy.
- The agencies will exchange information (statistical data) on the incidence of violations in specific industries and geographic areas, if possible.
- This exchange of information by ABC shall only relate to permits issued for the sale or manufacture of alcoholic beverages as defined by Mississippi Code Section 67-1-5. It shall not include information relating to beer or light wine. The statutes relating to beer and light wine incorporate certain confidential information restrictions present in Mississippi Sales Tax Law which prohibits the exchange of information except under certain statutorily authorized situations.

Resolution of Disagreements

- Disputes arising under this Agreement will be resolved informally by discussions between Agency Points of Contact, or other officials designated by each agency.

Period of Agreement

- This agreement becomes effective upon the signing of both parties, and will expire 3 years from the effective date. This agreement may be modified in writing by mutual consent of both agencies. The agreement may be cancelled by either party by giving thirty (30) days advance written notice prior to the date of cancellation. Renewal of the agreement may be accomplished by written agreement of the parties.

This agreement is effective as of the 19th day of April, 2018.

By: Wayne Kotowski
Wayne Kotowski
Regional Administrator, Southeast
Wage and Hour Division
U.S. Department of Labor

By: Herb Frierson
Herb Frierson
Commissioner of Revenue
Alcoholic Beverage Control
Division of the Mississippi
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By: Audrey L. Hall
Audrey L. Hall, JD
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