

## COMMON INTEREST AGREEMENT

BETWEEN

PARTICIPATING AGENCIES OF THE U.S. DEPARTMENT OF LABOR

AND

THE NEW HAMPSHIRE DEPARTMENT OF LABOR

This Agreement is made and entered into by and between participating agencies of the United States Department of Labor, specifically, the Wage and Hour Division, the Employee Benefits Security Administration, and the Occupational Safety and Health Administration (all represented by the Office of the Solicitor and hereinafter collectively referred to as the "USDOL"), and the New Hampshire Department of Labor (hereinafter referred to as the "NHDOL"). The USDOL and the NHDOL are collectively referred to as "the agencies" or "the parties."

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

THEREFORE, IT IS MUTUALLY AGREED THAT:

### Purpose

The parties recognize the value of establishing a collaborative relationship to promote compliance with laws of common concern in the state of New Hampshire. The parties enter into this Agreement to more effectively and efficiently communicate and cooperate on areas of common interest. This includes, but is not limited to the following: sharing of training materials; providing employers and employees with compliance assistance information; and conducting coordinated law enforcement investigations and sharing information, where appropriate and to the extent allowed by law, to advance the common legal goals of the parties, *i.e.*, protect the wages, retirement income security, equal employment opportunity, unemployment benefits, workers' compensation entitlements, safety, and health of America's workforce, and to ensure a level playing field for law-abiding businesses, and proper compliance with applicable tax and licensing laws.

### Agency Responsibilities

The USDOL is responsible for administering and enforcing a wide range of federal 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, the prevailing wage requirements of the Davis-Bacon and Related Acts, the Service Contract Act, the Employee Retirement Income Security Act, the Occupational Safety and Health Act, and numerous whistleblower provisions of federal statutes. Nothing in this agreement limits the USDOL's enforcement of these and other laws.

The NHDOL monitors insurance carriers and employers to insure that they are in compliance with New Hampshire labor laws, such as wage payment, minimum wage, overtime,

safety issues and workers' compensation. NHDOL's mission is to serve and protect the interests and dignity of the New Hampshire workforce.

### **Contacts**

- Each participating agency will designate a Point of Contact person responsible for coordinating the activities pursuant to this Agreement. The agencies will notify each other in the event of the separation or long-term absence of their contact persons.
- The agencies will designate a representative to meet annually to review areas of common legal interest and the terms and conditions of the Agreement.

### **Enforcement**

Where appropriate and to the extent allowable under law,

- The agencies may conduct joint investigations periodically in the state of New Hampshire, 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.

### **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 Agreement, 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 any other agency to implement its respective statutory functions.
- This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of 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 other third party.
- Nothing in this Agreement will be interpreted as limiting, superseding, or otherwise affecting each party's normal operations. This Agreement also does not limit or restrict the parties from participating in similar activities or arrangement with other entities.
- This Agreement will be executed in full compliance with the Privacy Act of 1974, and any other applicable federal and New Hampshire laws.

## **Exchange of Information**

- It is the policy of the USDOL 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 each participating agency's statutory obligations and enforcement efforts. It is USDOL's view that an exchange of information in cases in which the federal and state entities are proceeding with a common legal interest is to our mutual benefit. The parties to this Agreement recognize the importance of being able to provide information to other law enforcement bodies without making a public disclosure or waiving the privilege regarding otherwise protected material.
- 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 privileged or otherwise exempt from disclosure to the public or other unauthorized persons under state and/or federal law. 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 any of the USDOL'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; personal information on living persons; individually identifiable health information; and confidential business information and trade secrets.
- 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.
- 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") or a court order.
- 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.
- In the event that there is a public proceeding, such as a trial, in which confidential information may be used or testimony of any of the USDOL participating agency's employees sought, that USDOL agency requires that NHDOL notify it of such circumstance.
- 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 date 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, or as soon thereafter as practicable, 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, and to the extent practicable.
- The agencies will exchange information (statistical data) on the incidence of violations in specific industries and geographic areas, if possible, to the extent practicable.

#### **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 the 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 12<sup>th</sup> day of November, 2014.

United States Department of Labor  
Wage and Hour Division

By:   
Dr. David Weil  
Administrator

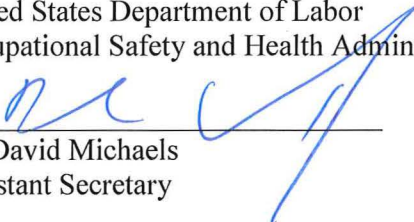
New Hampshire Department of Labor

By: \_\_\_\_\_  
James Craig  
New Hampshire Commissioner of Labor

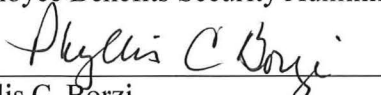
and

By:   
Carl P. Smith  
Acting Regional Administrator


United States Department of Labor  
Occupational Safety and Health Administration

By:   
Dr. David Michaels  
Assistant Secretary

United States Department of Labor  
Employee Benefits Security Administration

By:   
Phyllis C. Borzi  
Assistant Secretary

United States Department of Labor  
Office of the Solicitor

By:   
M. Patricia Smith  
Solicitor of Labor

United States Department of Labor  
Wage and Hour Division

By: \_\_\_\_\_  
Dr. David Weil  
Administrator

and

By: \_\_\_\_\_  
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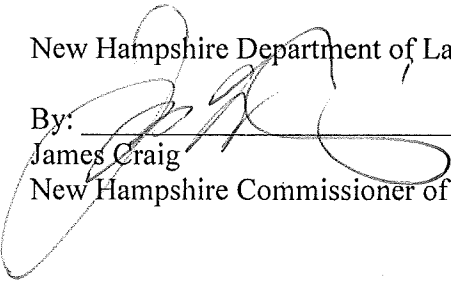
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M. Patricia Smith  
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New Hampshire Department of Labor

By:   
James Craig  
New Hampshire Commissioner of Labor

United States Department of Labor  
Office of the Solicitor

By:   
Michael D. Felsen  
Regional Solicitor, Region I