



March 21, 2016

Dear Certificate Holder:

The Wage and Hour Division (WHD) is committed to enforcement of section 14(c) of the Fair Labor Standards Act (FLSA) through a combination of compliance assistance and investigations. WHD's goal is to protect the earnings and welfare of workers, and ensure a fair and level playing field for employers. To that end, it is important that individuals paid a commensurate subminimum wage rate pursuant to section 14(c) of the FLSA receive the full protections afforded to them. Employers that hold section 14(c) certificates must comply with all regulatory and statutory provisions of the FLSA and all applicable Federal laws, including Executive Order 13658 (Establishing a Minimum Wage for Contractors), the Americans with Disabilities Act, as amended, and the Rehabilitation Act, as amended by the Workforce Innovation and Opportunity Act.

The WHD conducts investigations of employers that hold certificates to determine the employer's compliance with the requirements of the FLSA. When violations are found, the employer will be advised of the violations and told how to correct them. If back wages are owed to employees because of the violations, the employer will be requested to pay the back wages to affected employees. In certain instances, the WHD may also seek liquidated damages and civil monetary penalties under the minimum wage, overtime, and child labor provisions of the FLSA. Please see Fact Sheet # 44: Visits to Employers, for more information (<http://www.dol.gov/whd/regs/compliance/whdfs44.htm>).

In addition to these remedies, the section 14(c) regulations provide that an employer's certificate authorizing the payment of subminimum wages may be revoked in certain circumstances. The applicable regulations are at 29 CFR 525.17 (<http://go.usa.gov/cEntm>). This letter outlines WHD's general process for considering revocation of a section 14(c) certificate.

**The Section 14(c) Certificate Revocation Process**

During a section 14(c) investigation, a WHD investigator reviews compliance status for potential issues that might warrant certificate revocation. Potential issues include misrepresentations or false statements made in obtaining the certificate or in permitting a worker with a disability to be employed under the 14(c) certificate; violations of any of the provisions of the FLSA or the terms of the certificate; or that the certificate is no longer necessary in order to prevent curtailment of opportunities for employment. At the conclusion of the investigation, the WHD investigator will discuss any violation(s) found during the course of the investigation with the employer and explain the expected remedies for the violation(s). If WHD intends to revoke the

section 14(c) certificate, the investigator will then explain the revocation process and provide the employer with a notice of revocation letter.

The notice of revocation letter will provide the facts supporting revocation of the employer's certificate and inform the employer that revocation will occur 30 days from the date of the notice unless the employer presents evidence and/or arguments convincing WHD that revocation should not occur. The notice will also advise the employer of the right to respond by mail or in person, and the option to be represented by an attorney or another representative, at a specified time and place within the 30-day period from the date of the notice. If the employer timely objects to the revocation (within the 30-day period) and provides WHD with additional evidence and/or arguments to consider, the employer will be invited to meet with WHD to discuss the evidence and explain any objection.

After meeting with the employer, WHD will issue a final notice to the employer setting out its findings of facts and its decision concerning revocation. If the decision has been made **not to revoke** the certificate, WHD will issue a letter that details the decision not to revoke. If the decision is made to revoke the certificate, WHD will issue a letter notifying the certificate holder that the revocation decision is effective immediately and the employer is no longer authorized to pay subminimum wages to any covered employees performing work subject to the FLSA who were previously paid under the section 14(c) certificate.

The employer has 60 days, or such additional time as the WHD Administrator (or acting Administrator) may allow, to request review of the revocation decision by the Administrator. See 29 C.F.R. 525.18. The payment of a subminimum wage is not authorized during this review process. The Administrator will issue a final decision based upon all of the evidence provided during the review. The Administrator's final decision may be appealed to a Federal district court under the Administrative Procedure Act

#### **Keeping Current with WHD**

We are committed to provide you and other stakeholders with on-going information about compliance with the FLSA and section 14(c) program requirements. We encourage you to stay well-informed of new information or notices from WHD by regularly visiting our webpage for subminimum wage employment for workers with disabilities at <http://www.dol.gov/whd/workerswithdisabilities>. This recently updated webpage provides many resources we hope you find helpful, including electronic posting of this letter and past letters to certificate holders (<http://www.dol.gov/whd/workerswithdisabilities/letters.htm>). In addition, we encourage you to use the "Subscribe to 14(c) News" button on our webpage to sign up to receive free e-mail updates about the section 14(c) program and updates to our webpage.

Sincerely,



Helen M. Applewhaite, Branch Chief  
Family and Medical Leave Act and Other Labor Standards  
Wage and Hour Division  
United States Department of Labor