

**MEMORANDUM OF COOPERATION**

**BETWEEN**

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

**AND**

**THE COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF LABOR AND INDUSTRY,  
BUREAU OF LABOR LAW COMPLIANCE**

This Agreement is made and entered into by and between The United States Department of Labor's Wage and Hour Division (hereinafter referred to as "WHD" or "DOL") and the Commonwealth of Pennsylvania, Department of Labor and Industry, Bureau of Labor Law Compliance (hereinafter referred to as "BLLC"), together collectively referred to as the "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 concern in the Commonwealth of Pennsylvania. The agencies are forming this partnership to more effectively and efficiently communicate and cooperate on areas 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. DOL enters into this MOU under the authority provided by 29 U.S.C. § 211(b), which authorizes DOL to cooperate with State agencies charged with the administration of State labor laws. Nothing in this agreement limits the WHD's enforcement of these and other statutes.

The BLLC is responsible for administering and enforcing twelve (12) laws of Pennsylvania relating to labor, including the Construction Workplace Misclassification Act (commonly referred

to as “Act 72”), Prevailing Wage Act, Child Labor Act, Minimum Wage Act, Wage Payment Collection Law, Prohibition of Excessive Overtime in Health Care Act (commonly referred to as “Act 102”), Medical Pay Law, Apprenticeship and Training Act, Equal Pay Law, Industrial Homework Law, Personnel File Inspection Act, and Seasonal Farm Labor Act, and the regulations promulgated under each.

### **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.
- The agencies will designate a representative to meet annually to review areas of mutual concern and the terms and conditions of the partnership.

### **Enforcement**

Where appropriate and to the extent allowable under law,

1. The agencies may conduct joint investigations periodically in the Commonwealth of Pennsylvania when the opportunity provides.
2. The agencies will coordinate their respective enforcement activities and assist each other with enforcement.
3. The agencies will make referrals of potential violations of each other’s statutes.

### **Effect of Agreement**

1. 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.
2. 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.
3. Nothing in this agreement is intended to diminish or otherwise affect the authority of either agency to implement its respective statutory functions.
4. 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.
5. Nothing in this agreement will be interpreted as limiting, superseding, or otherwise affecting the parties’ normal operations. This agreement also does not limit or restrict the parties from participating in similar activities or arrangement with other entities.

6. This agreement will be executed in full compliance with the Privacy Act of 1974, The agreement 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 and state laws such as the *Pennsylvania Right-to-Know Law* and the *Commonwealth Attorneys Act*.

### **Exchange of Information**

7. It is the policy of WHD and BLLC 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 and BLLC's own statutory obligations and enforcement efforts. It is WHD's and BLLC'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 for WHD and BLLC to provide information to other law enforcement bodies without making a public disclosure.
8. Exchange of such information pursuant to this agreement is not a public disclosure under the Freedom of Information Act, 5 U.S.C. 552 and are investigatory records excepted from the definition of public records under the Pennsylvania Right-to-Know Law, 65 P.S. § 67.708.
9. 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 the agencies' 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.
10. 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.
11. 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 redisclosed without the written authority of the agency providing the information (hereinafter the "donor agency") or a final court order.
12. In addition to the requirements above, Confidential Unemployment Compensation information may be exchanged only subject to the confidentiality requirements of 20 CFR Part 603 and any applicable Commonwealth of Pennsylvania laws, including but not limited to 34 Pa.Code § 61.25.
13. In the event that there is a public proceeding, such as a trial, in which confidential information may be used or testimony of WHD's employees sought, the WHD requires that BLLC notify WHD. In the event that there is a public proceeding, such as a trial, in which confidential information may be used or testimony of BLLC's employees sought, the BLLC requires that WHD notify BLLC.

14. 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.
15. 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.
16. 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:

17. The agencies agree to exchange information on laws and regulations of common concern to the agencies, to the extent practicable.
18. The agencies will establish a methodology for exchanging investigative leads, complaints, and referrals of possible violations, to the extent allowable by law and policy.
19. The agencies will exchange information (statistical data) on the incidence of violations in specific industries and geographic areas, if possible.
20. Liability of the U.S. Government is governed by the Federal Torts Claims Act.

### **Resolution of Disagreements**

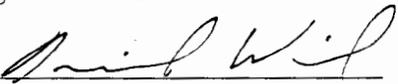
- Disputes arising under this Agreement will be resolved informally by discussions between Agency Points of Contact, or other officials designated by each agency.

### **Period of Agreement**

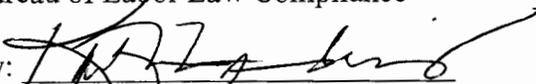
- This agreement becomes effective upon the signing of both parties, and will expire 3 years from the effective date. This agreement may be modified in writing by mutual consent of both agencies. The agreement may be cancelled by either party by giving thirty (30) days advance written notice prior to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

This agreement is effective as of the 4<sup>th</sup> day of August, 2016.

United States Department of Labor  
Wage and Hour Division

By:   
Dr. David Weil  
Wage and Hour Administrator

Commonwealth of Pennsylvania,  
Department of Labor and Industry,  
Bureau of Labor Law Compliance

By:   
Kathy M. Manderino  
Secretary of Labor and Industry  
Commonwealth of Pennsylvania

By:   
Mark H. Watson Jr.  
Regional Administrator  
Northeast Region