

EXECUTIVE ORDER 01.01.2009.09

The Joint Enforcement Task Force on Workplace Fraud

WHEREAS, Workplace fraud, a business practice where employers fail to properly classify individuals as employees, is an ongoing problem;

WHEREAS, Employers engaging in workplace fraud avoid their obligations under federal and state labor, employment, and tax laws, including laws governing minimum wage, overtime, prevailing wage, living wage, unemployment insurance, workers' compensation insurance, temporary disability insurance, wage payment, and income taxes;

WHEREAS, Workplace fraud adversely impacts individuals, businesses, and Maryland's economy in significant ways, including: depriving workers of critical protections and benefits to which they are legally entitled; reducing compliance with employment and occupational safety standards; giving employers who fail to properly classify their employees an unfair competitive advantage over law-abiding employers; denying the State millions of dollars in tax revenues, unemployment insurance contributions, and workers' compensation premiums; and increasing the demand for social services;

WHEREAS, Recent audits show that approximately 20% of Maryland employers misclassify employees as independent contractors;

WHEREAS, Law enforcement and regulatory efforts to combat and prevent workplace fraud have been divided historically among various agencies, reducing their efficiency and effectiveness;

WHEREAS, The Workplace Fraud Act of 2009, Chapter 188 of the 2009 Laws of Maryland, enhanced the ability of the State to take enforcement actions against workplace fraud violations;

WHEREAS, These enforcement efforts can be enhanced further and made more efficient through interagency cooperation, information sharing, and joint prosecution of serious violators; and

WHEREAS, The creation of joint task forces in other states has proven an effective mechanism for coordinating and enhancing law enforcement to address the problem of workplace fraud.

NOW THEREFORE, I, MARTIN O'MALLEY, GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND THE LAWS OF MARYLAND, HEREBY PROCLAIM THE FOLLOWING EXECUTIVE ORDER, EFFECTIVE IMMEDIATELY:

A. There is a Joint Enforcement Task Force on Workplace Fraud (Task Force).

B. For purposes of this Executive Order, "workplace fraud" means an employer's failure to properly classify an individual as an employee in violation of applicable law.

C. The Task Force shall consist of:

- (1) The Secretary of Labor, Licensing and Regulation or the Secretary's designee;
- (2) The Attorney General or the Attorney General's designee;
- (3) The Comptroller or the Comptroller's designee;

- (4) The Chair of the Workers' Compensation Commission or the Chair's designee;
- (5) The Insurance Commissioner or the Commissioner's designee;
- (6) The Commissioner of Labor and Industry or the Commissioner's designee; and
- (7) The Assistant Secretary for the Division of Unemployment Insurance or the Assistant Secretary's designee.

D. The Secretary of Labor, Licensing and Regulation or the Secretary's designee shall serve as the Chair of the Task Force.

E. Members of the Task Force may not receive any compensation for their services, but may be reimbursed for reasonable expenses incurred in the performance of their duties, in accordance with the Standard State Travel Regulations, and as provided in the State budget.

F. The Department of Labor, Licensing and Regulation shall provide publication, operational, and other support as needed to the Task Force.

G. The Task Force may identify and add members from governmental units whose participation would further its mission.

H. The Task Force shall coordinate the investigation and enforcement of workplace fraud. In fulfilling this mission, the Task Force shall have the following powers and duties:

- (1) To facilitate among Task Force members the timely sharing of information related to suspected workplace fraud to the maximum extent permitted by law;
- (2) To pool, focus, and target investigative and enforcement resources;
- (3) To assess existing methods and best practices, in both Maryland and other jurisdictions, with respect to workplace fraud prevention and enforcement, and to recommend that participating agencies adopt appropriate measures to improve their prevention and enforcement efforts;
- (4) To develop strategies for systematic investigations of workplace fraud within those industries in which misclassification is most common;
- (5) To identify and facilitate the filing of complaints against potential violators, including soliciting referrals and other relevant information from the public through the development of an education and outreach campaign;
- (6) To identify significant cases of workplace fraud which should be investigated and addressed collaboratively, and to form joint enforcement teams to utilize the collective investigative and enforcement capabilities of the Task Force members;
- (7) To establish protocols, consistent with applicable law, through which individual Task Force agencies investigating workplace fraud matters under their own statutory or administrative schemes will refer appropriate matters to other agencies for assessment of potential liability under all relevant statutory or administrative schemes;
- (8) To establish referral procedures and solicit the cooperation and participation of local state's attorneys and other relevant agencies, where appropriate;
- (9) To coordinate efforts with federal agencies;

(10) To work cooperatively with business, labor, and community groups interested in reducing workplace fraud by:

(a) Developing ways to prevent workplace fraud through effective outreach, including notices and educational materials; and

(b) Enhancing mechanisms to identify and report workplace fraud;

(11) To increase public awareness that employee misclassification is illegal and causes harm;

(12) To work cooperatively with federal, State, and local social service agencies to provide assistance to individuals who have been harmed by workplace fraud; and

(13) To consult with representatives of business, organized labor, and other agencies to improve and expand the operation and effectiveness of the Task Force and its members.

I. The Task Force shall issue a report to the Governor by December 31 of each year which shall:

(1) Describe the record and accomplishments of the participating agencies of the Task Force, including the amounts of wages, premiums, taxes, and other payments or penalties collected, as well as the number of employers cited for legal violations related to workplace fraud and the approximate number of employees affected;

(2) Identify any administrative or legal barriers impeding the more effective operation of the Task Force, including any barriers to information sharing or joint action;

(3) Propose, after consultation with representatives of business, organized labor, members of the General Assembly, and other affected agencies, appropriate administrative, legislative, or regulatory changes to:

(a) Reduce or eliminate any barriers to the Task Force's operations;

(b) Enhance the investigation, enforcement, and prevention of workplace fraud; and

(4) Identify successful strategies for preventing workplace fraud that reduce the need for greater enforcement.

J. Every agency, department, office, division, or public authority of the State shall cooperate with the Task Force and, to the fullest extent permitted by law, shall furnish such information and assistance as the Task Force determines is reasonably necessary to accomplish its purpose. Given Under My Hand and the Great Seal of the State of Maryland, in the City of Annapolis this 14th day of July, 2009.

MARTIN O'MALLEY
Governor
ATTEST:

JOHN P. McDONOUGH
Secretary of State