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Governmental Affairs Department

U.S. Department of Labor Wage and Hour Division Audit Information

The Wage and Hour Division (WHD) of the US Department of Labor enforces many federal labor laws.

Below is the Wage and Hour Division's Mission Statement:

The Wage and Hour mission is to promote and achieve compliance with labor standards to protect and enhance the welfare of the Nation's workforce.

The WHD enforces Federal minimum wage, overtime pay, recordkeeping, and child labor requirements of the Fair Labor Standards Act. WHD also enforces the Migrant and Seasonal Agricultural Worker Protection Act, the Employee Polygraph Protection Act, the Family and Medical Leave Act, wage garnishment provisions of the Consumer Credit Protection Act, and a number of employment standards and worker protections as provided in several immigration related statutes. Additionally, WHD administers and enforces the prevailing wage requirements of the Davis Bacon Act and the Service Contract Act and other statutes applicable to Federal contracts for construction and for the provision of goods and services.

Investigators from WHD investigate covered employers' compliance with those laws and recordkeeping through the use of audits.

Employers will be sent a letter notifying them of their selection by WHD for an audit. Generally, the letter provides little prior notice of the time for the audit. Employers may request additional time to prepare for the audit and should consider doing so right away upon notification. WHD has the authority to issue subpoenas if the employer refuses to cooperate entirely.

Employers selected for audit should give serious consideration to contacting employment counsel for assistance in the WHD audit. Remember, the WHD investigator will review payroll and timekeeping records, related employment records and may conduct interviews with your employees.

Employers prepare for an audit by collecting the information that WHD will probably be examining. That information usually includes all payroll data, time sheets, job descriptions, I-9 forms, and more for the past two years, and possibly three years depending on what the investigators find.

Employers should ensure they are compliant with the wage and hour laws before the audit begins. This can be done by conducting periodic self audits prior to the arrival of WHD investigators. Such audits should include a review of pay practices, primarily looking for employees improperly classified as exempt, invalid pay deductions for exempt employees, timesheet discrepancies, employees working off the clock, overtime calculation mistakes, tip credit and tip pooling violations, invalid use of comp time and potential child labor violations.

A Department of Labor Fact Sheet can be found on the department's website here

<http://www.dol.gov/whd/regs/compliance/whdfs44.htm> or downloaded here

<http://www.dol.gov/whd/regs/compliance/whdfs44.pdf>