

MEMORANDUM OF UNDERSTANDING (MOU)
AGREEMENT

BETWEEN

THE U.S. DEPARTMENT OF LABOR
Wage and Hour Division

THE U.S. DEPARTMENT OF LABOR
Occupational Safety and Health Administration

AND

THE NEW YORK STATE WORKERS' COMPENDATION BOARD

WHD is responsible for administering and enforcing 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 provide in several temporary visa programs, and the prevailing wage requirements of the Davis-Bacon and Related Acts and the Service Contract Act. WHD enters into this MOU under the authority provided by 29 U.S.C § 211 (b), which authorizes WHD to cooperate with State agencies charged with administration of State Labor Laws. Nothing in this agreement limits the Wages and Hour Division's enforcement of these statutes.

OSHA is responsible for administering and enforcing the Occupational Safety and Health Act and a multitude of whistleblower statutes and regulations. OSHA's mission is to "to assure safe and healthful working conditions for working men and women; by authorizing enforcement of the standards developed under the Act; by assisting and encouraging the States in their efforts to assure safe and healthful working conditions; by providing for research, information, education and training in the field of occupational safety and health; and for other purposes. OSHA enters into this MOU under the authority provided by the Occupational Safety and Health Act of 1970 (OSH Act), 29 U.S.C §651(b), which authorizes OSHA to assist and encourage States in efforts to assure safe and healthful working conditions. Nothing in this agreement limits OSHA's enforcement or compliance assistance activities.

The New York State Workers' Compensation Board protects the rights of employees and employers by ensuring the proper delivery of benefits to those who are injured or ill, and by promoting compliance with the law. The WCB is responsible for administering and enforcing

state laws, including the NYS Workers' Compensation Law, NYS Volunteer Ambulance Workers' Benefit Law, and the NYS Volunteer Firefighters Benefit Law. Nothing in this agreement limits the Workers Compensation Board's enforcement of these laws.

MEMORANDUM OF UNDERSTANDING (MOU)
AGREEMENT

BETWEEN

THE U.S. DEPARTMENT OF LABOR
Wage and Hour Division

THE U.S. DEPARTMENT OF LABOR
Occupational Safety and Health Administration

AND

THE NEW YORK STATE WORKERS' COMPENSATION BOARD

The United States Department of Labor, Wage and Hour Division (hereinafter referred to as "WHD"), The United States Department of Labor, Occupational Safety and Health Administration (hereinafter referred to as "OSHA") and the New York State Workers' Compensation Board (hereinafter referred to as WCB), collectively referred to as "the agencies" or "the parties", recognize the value of establishing a collaborative relationship to promote compliance with laws of common concern among the regulated community in the State of New York. The agencies are forming this MOU to more effectively and efficiently communicate and cooperate on areas of common interest, including cross training staff, providing employers and employees with compliance assistance information towards the goal of protecting the wages, safety, and health of America's workforce and conducting joint investigations and sharing information as appropriate.

WHD is responsible for administering and enforcing 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, and the prevailing wage requirements of the Davis-Bacon and Related Acts and the Service Contract Act. WHD enters into this MOU under the authority provided by 29 U.S.C. § 211(b), which authorizes WHD to cooperate with State agencies charged with the administration of State Labor Laws. Nothing in this agreement limits the Wage and Hour Division's enforcement of these statutes.

OSHA is responsible for administering and enforcing the Occupational Safety and Health Act and a multitude of whistleblower statutes and regulations. OSHA's mission is to "to assure safe and healthful working conditions for working men and women; by authorizing enforcement of the standards developed under the Act; by assisting and encouraging the States in their efforts to assure safe and healthful working conditions; by providing for research, information, education, and training in the field of occupational safety and health; and for other purposes." OSHA enters into this MOU under the authority provided by the Occupational Safety and Health Act of 1970 (OSH Act), 29 U.S.C. § 651(b), which authorizes OSHA to assist and encourage States in efforts to assure safe and healthful working conditions. Nothing in this agreement limits OSHA's enforcement or compliance assistance activities.

The New York State Workers' Compensation Board protects the rights of employees and employers by ensuring the proper delivery of benefits to those who are injured or ill, and by

promoting compliance with the law. The WCB is responsible for administering and enforcing state laws, including the NYS Workers' Compensation Law, NYS Volunteer Ambulance Workers' Benefit Law, and the NYS Volunteer Firefighters' Benefit Law. Nothing in this agreement limits the Workers Compensation Board's enforcement of these laws.

With the specific and mutual goals of sharing resources and enhancing enforcement by sharing information and conducting joint investigations, the parties agree to enter into this MOU.

The parties agree as follows:

A. Agency Contacts

- The agencies will designate a contact person responsible for coordinating the activities of the MOU.
- The agencies will designate a representative to meet quarterly to review areas of mutual concern and the terms and conditions of the MOU.

B. Enforcement and Data Sharing

- The contacts will establish a methodology for exchanging investigative leads and referrals of possible violations, to the extent allowable by law and policy.
- The agencies may conduct joint investigations, if appropriate or if opportunity provides.
- The agencies will coordinate their respective enforcement activities and assist with enforcement of the other(s), where appropriate and to the extent allowable under law.
- The agencies will make referrals of potential violations of each other's statutes, where appropriate.
- Provide information regarding settlements or other dispositions of cases to the other parties where appropriate.
- Cooperate and coordinate with the other agencies in criminal investigations subject to overlapping jurisdiction.

C. Information

- 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 or policy.
- The agencies will exchange information (statistical data) on incidence of violations in specific industries and geographic areas, if needed.

D. Training

- The agencies agree to cross train investigators and other staff, subject to agency resources. Joint training will be conducted to educate staff members of both agencies about the laws and regulations enforced by the parties, and to discuss issues of common concern.
- The agencies will exchange information related to policy or regulatory changes to State or Federal laws, to the extent permissible.

Exchange of Information

- It is the policy of WHD and OSHA to cooperate with state government agencies (such as WCB) to the fullest extent possible under the law, subject to the general limitations that any such cooperation must be consistent with federal statutory obligations and enforcement efforts. There is a need for the government to provide information to other law enforcement bodies without making a public disclosure.
- Exchange of such information pursuant to this MOU is not a public disclosure under the Freedom of Information Act, 5 U.S.C. 552 and the New York's Freedom of Information Law (Article 6, Sections 84-90 of the New York State Public Officers law)
- When confidential information is exchanged, such information will not be released to the public, or to any third party, without the express permission of the agency providing that information.
- Confidential information includes: circumstances in which confidentiality can be implied and could result in the identification of persons who have provided information and evidence in confidence to the U.S. Department of Labor agencies that are signatories to this MOU (i.e., WHD and OSHA); internal opinions and recommendations of federal 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; and confidential business information and trade secrets.
- If an agency that has received information under this MOU receives a Freedom of Information Act (FOIA) request for which there are responsive records that originated with the other agency, to the extent practicable, it will refer that request to the other agency for it to respond directly to the requestor regarding whether the information may be released. In such cases, the agency making the referral will notify the requestor that a referral has been made and that a response will issue directly from the other agency.
- In the event that there is a public proceeding, such as a trial, in which certain records may be used or testimony of WHD's or OSHA's employees is sought, WCB will notify other agency through the agency contact, as soon as practicable.

Effect of Agreement

- This agreement is not intended to be legally binding and does not confer any rights on any private person. This MOU represents the broad outline of the Parties' present intent to collaborate in areas of mutual interest. It does not create binding, enforceable obligations against either Agency.
- This MOU does not alter, amend, or affect in any way the statutory or regulatory authority of the parties. Nothing in this agreement will be interpreted as limiting, superseding, or otherwise affecting the parties' normal operations. This MOU will be subject to the applicable policies, rules, regulations, and statutes under which WHD, OSHA, and WCB operate.
- This agreement also does not limit or restrict the parties from participating in similar activities or arrangement with other entities.
- All activities undertaken pursuant to the MOU are subject to the availability of personnel, resources, and funds. Nothing in this MOU shall obligate its signatories to any current expenditure or future expenditure. 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 obligations.
- By entering into this MOU, the agencies do not imply an endorsement or promotion by the other parties of the policies, programs, or services of the other(s).
- This agreement will be executed in full compliance with the Privacy Act of 1974 and the New York State Personal Privacy Protection Law, where applicable.

Resolution of Disagreements


- Disputes arising under this MOU will be resolved informally between appropriate agency officials and staff upon request for such discussion made between the agency points of contact.

Period of Agreement


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

This MOU agreement is executed as of the 15th day of July, 2016.


United States Department of Labor
Wage and Hour Division

By: 
Jay I. Rosenblum
District Director

New York State Workers' Compensation Board

By: 
Mary Beth Woods
Executive Director

United States Department of Labor
Occupational Safety and Health Administration

By: 
Robert D. Kulick
Regional Administrator