

## **ENFORCEMENT**

### **City of Pittsburgh Service Worker Prevailing Wage Ordinance: Title I, Article VII, Section 161.38**

#### **Complaint Procedure**

Any individual or organization may file a complaint with the City Controller for any violation of this section. All complaints may be filed directly to the City Controller's Office (412-255-2054) or via the website: [pittsburghpa.gov/controller/contact](http://pittsburghpa.gov/controller/contact)

#### **Review and Investigation**

The Controller shall review and investigate the complaint and shall make a finding of compliance or noncompliance within sixty (60) days of the complaint being filed, including a determination of whether an employer is covered by the law.

- The Controller shall immediately notify, in writing, the employer who is the subject of the complaint.
- The covered employer shall permit agents of Controller to observe work, interview employees, and/or examine books and records relating to the payrolls investigated to determine whether employer is in compliance.
- The City Controller may extend the investigation period beyond sixty (60) days with the consent of the complaining party.
- Failure of the Controller to issue a finding of compliance or noncompliance does not relieve the covered employer of obligations under the law.

#### **Finding of Noncompliance**

If at any time the Controller finds a violation of the law has occurred, it will issue a finding of noncompliance and notice of corrective action to the employer, with a copy to the complaining party. The finding of noncompliance shall specify the areas of noncompliance, indicate such corrective action as may be necessary to achieve compliance, and impose deadlines for achieving compliance.

#### **Dispute Finding of Noncompliance Hearing**

A covered employer may dispute finding of noncompliance and notice of corrective action by requesting a hearing within thirty (30) days of the date of the finding. The Controller will appoint a hearing officer who will affirm or reverse the finding of noncompliance upon evidence presented by the applicable department and covered employer.

- **Precondition for Request of Hearing:** As a precondition for an employer request for a hearing for wage restitution, a covered employer must provide evidence that such wages have either been paid or placed into an escrow account for the satisfaction of the judgment of the hearing officer.
- **Failure to Request Hearing or Failure to Pay or Escrow Wages:** Failure to do so will waive the right to dispute a finding of noncompliance.
- **Final Finding:** If employer fails to request a hearing, or if the hearing officer affirms the finding of noncompliance, the finding of noncompliance and the notice of corrective action will become final.\*

*\*Violation by a subcontractor of a covered employer shall also be deemed a violation by the covered employer. In such case, the covered employer would be afforded all investigation and hearing rights under the same section.*

#### **Penalty for any employer willfully noncompliant or failure to pay prevailing wage**

If a covered employer has failed to comply for more than sixty (60) days after a notice of corrective action has become final, or if the hearing officer determines that any portion of an employer's dispute is frivolous or brought for delay, the Controller or hearing officer shall order the following penalties and relief:

- Wage restitution for affected employee(s);
- Liquidated damages in the amount of three times the wages owed;
- A directive to the applicable department to withhold any payments due to the covered employer

- and to apply such payments to the payment of fines or the restitution of wages;
- Attorney fees; and
- Rescission of any City Service Contract.

Should a covered employer, when filling out its certification to Controller verifying the wages paid to its employees, certify that it has not paid the employee(s) the applicable required prevailing wage, the Controller shall notify the covered employer, in writing, that all unpaid wages due as certified shall be paid to the affected employee(s) within sixty (60) days.

If a covered employer has willfully or more than twice in a 3-year period, failed to comply with the Ordinance, the Controller or hearing officer, in addition to the above sanctions, shall order the following penalties:

- In the case of a City service contract, order debarment of the contractor; and
- In the case of a project receiving a City subsidy, **order the payment of a fine in the amount of no less than thirty thousand dollars (\$30,000).**

#### **Referral for Criminal Investigation**

If at any time the Controller or the applicable City department determines a criminal violation may have occurred, the applicable department or the Controller shall refer the matter to the District Attorney for criminal investigation.

#### **Subpoena Power**

The Controller may issue subpoenas to compel the attendance and testimony of witnesses and production of books, papers, records and documents relating to payroll records necessary for hearing, investigations, and proceedings. Disobedience of a subpoena may result in the Controller seeking appropriate relief from the Court.

#### **Retaliation Barred**

**A COVERED EMPLOYER SHALL NOT DISCHARGE, REDUCE THE COMPENSATION OR OTHERWISE RETALIATE AGAINST ANY EMPLOYEE FOR MAKING A COMPLAINT TO THE COVERED EMPLOYER, ITS AGENTS, THE APPLICABLE DEPARTMENT, OR THE CONTROLLER, TO ENFORCE HIS OR HER RIGHTS UNDER THIS SECTION. THE CONTROLLER SHALL INVESTIGATE ALLEGATIONS OF RETALIATION OR DISCRIMINATION.**

**IF, AFTER NOTICE AND AN OPPORTUNITY FOR A HEARING, THE ALLEGATIONS ARE FOUND TO BE TRUE, THE CONTROLLER SHALL ORDER APPROPRIATE RELIEF, INCLUDING REINSTATEMENT OF A DISCHARGED EMPLOYEE WITH BACK PAY. A COVERED EMPLOYER MAY DISPUTE A FINDING OF RETALIATION OR DISCRIMINATION BY REQUESTING A HEARING AS NOTED ABOVE.**