

O. 892-2022– Wage Theft and Payroll Fraud Prevention

Enacts new Codified Ordinance Chapter 190 to prevent wage theft and payroll fraud on City service contracts, construction and improvement contracts, and contracts for financial assistance.

Self-reporting system: Any person or entity that bids on a City service or construction contract, or that applies for financial assistance from the City *must disclose any adverse determinations* that occurred in the previous 3 years to the Fair Employment Wage Board (FEWB) and the contracting department.

- *Adverse determination* means a final adjudication or final action by a governmental agency that a contractor or subcontractor or recipient of financial assistance has committed wage theft or payroll fraud.
- *Wage theft* means a violation of any federal or State of Ohio law regarding prompt payment of wages, minimum wage standards, prevailing wage rates, hours worked, etc.
- *Payroll fraud* means concealing an entity's true payroll tax liability from government agencies by misclassifying employees, not reporting or underreported payment of wages, or executing cash transactions while not maintaining proper records of reporting and withholding.

Effect of adverse determination: Any person or entity receiving an adverse determination within the previous 3 years of the due date of the bid or proposal or application for assistance is not eligible to enter into any contract with the City, or apply for assistance, for 3 years from the date of the last adverse determination.

Any person employed on a contract or subcontract that alleges a violation of federal or state law regarding wage theft or payroll fraud may file written complaint with the Director of the contracting department within 180 days of the alleged violation. The Director informs the FEWB and refers complainant to the appropriate state or federal governmental agency.

Adverse determination list: List created and maintained by the FEWB of persons or entities receiving an adverse determination within the preceding 3 years; published on City website and updated monthly.

Waiver:

- a *contracting department may request a waiver* from the FEWB on behalf of a person or entity with an adverse determination that puts them on the adverse determination list if the department shows the inability to contract with that person or entity results in serious disruption to efficient and orderly City operations, or that the person or entity is a sole source provider of goods or services necessary for efficient and orderly City operations.

- A person or entity may request a waiver from the FEWB of an adverse determination that places them on the adverse determination list if they can show: a change in ownership since the adverse determination; or that they have taken significant actions to prevent future adverse determinations and have complied with the requirements of the final action placing them on the list; and any other information relevant to granting the waiver.
- The FEWB may grant the waiver by removing the person or entity from the list; reducing the time period they are on the list; or allowing a one-time waiver. A majority vote of the FEWB is required to grant a waiver.

Fair Employment Wage Board: A 7 member board created in Chapter 189 to monitor the City living wage ordinance. The FEWB is empowered by this ordinance to monitor wage theft and payroll fraud in city contracts through creation of an adverse determination list, to review the effectiveness of this ordinance, and to make recommendations to Council, as appropriate, regarding wage theft and payroll fraud policy.

Violations and Penalty: Any person willfully withholding the required information about an adverse determination is guilty of a first degree misdemeanor.