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OBTAINING A CONTRACTOR/SUBCONTRACTOR ADDRESS**D3.00****Purpose**

To assure that investigators take all reasonable steps to obtain an address for the contractor/subcontractor.

Responsibility

The investigator assigned to the case is responsible for attempting to obtain an address for the contractor/subcontractor and attempting to obtain a physical address if the contractor/subcontractor uses a post office box.

Policy

1. A closing summary shall not be issued unless an address has been obtained for a contractor/subcontractor. A contractor/subcontractor's failure to respond to written communication is not, in itself, sufficient justification to dismiss the complaint.
2. If a reasonable effort has been made and the contractor/subcontractor cannot be located, a letter indicating that the contractor/subcontractor's whereabouts is unknown should be issued, and the investigation closed.

Application

If communication to the contractor/subcontractor is returned to the department as undeliverable, or if the address given is a post office box, the investigator assigned to the case should make a reasonable effort to locate a physical address for the contractor/subcontractor. The amount of time spent trying to locate one contractor/subcontractor must be balanced against the needs of other cases and the probable likelihood of obtaining a physical address. Steps that may be taken to locate the contractor/subcontractor include:

1. Contact the Contracting Agent, project manager, and prime contractor to see if he/she knows the contractor/subcontractor's whereabouts.
2. Contact the complainant and to request a copy of the complainant's W2, 1099, etc.
3. Check with the County or City clerk's office to determine other names under which the Contractor/subcontractor may be doing business as; or to obtain the address listed on the assumed name filing.
4. Check with the local post office for forwarding address or location of physical address.
5. Check with the current owners of the establishment if it has been sold.
6. Check with the property owner or property manager if premises were leased.
7. Check with Corporations and Securities for current address and corporate name.
8. Check name and address in local telephone directory, Chamber of Commerce directories, etc.
9. Check name and address using Internet search engines.
10. Check to see if the contractor/subcontractor has filed for bankruptcy.

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11. Check with the Unemployment Insurance Agency to determine if the contractor/subcontractor is registered.
12. Check township or municipal tax rolls to verify ownership of property at the given address.
13. Check Polk's or Bresser's Directory at the library for cross-reference of addresses and names.
13. Check with the Department of Labor and Economic Growth, Bureau of Occupational and Professional Regulation.
14. Check with the Secretary of State via the internet: <https://webstation.state.mi.us/sos/marc.htm> to obtain information from driver files.
15. Have administrative support staff check with Workers' Compensation Agency, with the Unemployment Insurance Agency, and on Westlaw.

VERIFYING A CONTRACTOR/SUBCONTRACTOR'S IDENTITY**D3.01****Purpose**

To verify the identity of a contractor/subcontractor to assure that the correct legal identity is named.

Responsibility

The investigator assigned to the case is responsible for verifying the contractor/subcontractor's legal identity and obtaining documentation of the contractor/subcontractor's legal identity.

Policy

1. The contractor/subcontractor's legal identity shall be verified.
2. Identification involving assumed names (d/b/a) should include:
 - a. business name and address
 - b. name and address of persons who filed the assumed name
 - c. date of filing and file number if available
 - d. date of expiration or dissolution
 - e. municipality where assumed name filed
3. Identification involving corporations should include;
 - a. the corporate identity,
 - b. resident agent's name and address,
 - c. date of incorporation,
 - d. statement of good standing or dissolution, and
 - e. the date of dissolution if the corporation has dissolved.

NOTE: Make sure the earning period falls within the incorporation date and expiration date for the corporation.

Application

The following sources for legal identity are listed in order of preference:

Contact the Contracting Agent, project manager, and prime contractor to see if he/she knows the contractor/subcontractor's whereabouts.

Articles of Incorporation and Annual Report - Can be obtained from Corporations Division in the Department of Labor and Economic Growth, or from the Bureau of Commercial Services. The Articles of Incorporation contain the names of the officers of the corporation and the name of the corporation. The annual report provides a financial statement.

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County Clerk Registration - Can be obtained at the local county clerk's office and will show the Contractor/subcontractor's true name and address if operating under an assumed name and properly registered with the county clerk.

Sales Tax License - The sales tax license will show the name of the corporation, partners, or owner. A current license posted on the Contractor/subcontractor's premises may be used as a legal identity source. If the license shows a corporation, check with the Bureau of Corporations and Securities to make sure it was a viable corporation during the period claimed and that the earning period falls within the incorporation date and expiration date, if any, for this corporation.

License, Registration, or Certification - Can be obtained from appropriate board or commission, which has the authority to control the practice of a given profession. Examples of establishments, which are so controlled, include mortuaries, builders, beauty shops, pharmacies, doctor's offices, etc. Search the Department of Labor and Economic Growth website or see the listing in the state phone directory under Bureau of Commercial Services.

Have the administrative support staff check with the Unemployment Insurance Agency or Workers' Compensation Agency.

Look at W-2s and/or 1099s issued by the contractor/subcontractor and submitted by the claimant.

City licenses

Request the social security number from the contractor/subcontractor or the Unemployment Insurance Agency.

If a contractor/subcontractor's identity cannot be clearly established, the investigator should exercise judgment in identifying the person(s) who controlled the activities of the employees and the business.

Locating the contractor/subcontractor and establishing the contractor/subcontractor's legal identity can be accomplished at the same time. See section D3.00 on obtaining a Contractor/subcontractor address.

CONTRACTOR/SUBCONTRACTOR RECORD KEEPING REQUIREMENTS**D3.02**

Purpose

To summarize employment record keeping requirements pertinent to Act 166.

Responsibility

The investigator examining employment records is responsible for informing contractor/subcontractors of the record keeping requirements of the Act.

Requirements of the Act

408.555 Prevailing wage and fringe benefit rates; posting by contractors.

Sec. 5.

“Every contractor and subcontractor shall keep posted on the construction site, in a conspicuous place, a copy of all prevailing wage and fringe benefit rates prescribed in a contract and shall keep an accurate record showing the name and occupation of and the actual wages and benefits paid to each construction mechanic employed by him in connection with said contract. This record shall be available for reasonable inspection by the contracting agent or the commissioner. “

Policy

1. Records shall contain:
 - a. the name of the construction mechanic,
 - b. the occupation of the construction mechanic (include each classification worked),
 - c. the actual wages and benefits paid to the construction mechanic **including certified payroll, as used in the industry, of each and every construction mechanic, and verification of such certified payroll in writing by either a representative or auditor/certified accountant at the end of such a certified payroll,** and
 - d. the hours worked on each project for each classification.
2. Prevailing wage and fringe benefits rates shall be posted in a conspicuous place on the construction site.
3. Records shall be available for inspection by the department.

REQUESTS FOR RECORDS**D3.03**

Purpose

To establish a procedure for obtaining employment records and completing an investigation when a contractor/subcontractor fails to make records available for investigation.

Responsibility

It is the responsibility of the investigator assigned to the case to obtain pertinent records and to conduct follow-up contacts as requested by the Office of the Prosecuting Attorney.

Requirements of the Act

408.555 Prevailing wage and fringe benefit rates; posting by contractors.
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“Every contractor and subcontractor shall keep posted on the construction site, in a conspicuous place, a copy of all prevailing wage and fringe benefit rates prescribed in a contract and shall keep an accurate record showing the name and occupation of and the actual wages and benefits paid to each construction mechanic employed by him in connection with said contract. This record shall be available for reasonable inspection by the contracting agent or the commissioner. “

Policy

1. Employment records shall be opened to inspection by an authorized agent of the Wage & Hour Division at any reasonable time within 14 working days of the date requested unless a showing of good cause of an extension is made.
2. At least 2 record requests shall be made to obtain the specific records needed to address the merits of the complaint.
3. The first request for records is the notification letter.
4. The second request shall be issued directing a response within 14 working days when a contractor/subcontractor does not respond to the notification letter or any other requests made by the investigator. These requests must be documented through a personal visit, telephone call, or a letter to the Contractor/subcontractor.
5. If the records are not provided in response to the second request, a letter shall be sent notifying the contractor of the section 5 violation and asking for compliance within 14 working days. The complainant, contracting agent, and if known, project manager and prime contractor shall be copied on the letter.
6. If a contractor fails to open employment records as requested, the investigator shall recommend the department contact the Prosecuting Attorney and/or the Attorney General to seek enforcement of section 5 and 7 of Act 166.

Exception, a complainant who is a contracting agent shall be referred to the Prosecuting Attorney to pursue action on their own behalf.

7. The contracting agent shall be notified when the department contacts the Prosecuting Attorney and/or the Attorney General for enforcement of section 5 and 7 of Act 166.
8. If the Prosecuting Attorney has not responded within 14 working days, the file shall be closed.