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ACCEPTANCE OF COMPLAINTS**D2.00**

Purpose

To establish uniform criteria for the acceptance of complaints filed alleging violation of Act 166.

Responsibility

The administrative support staff is responsible for determining if the project listed on the complaint form is currently maintained by Wage and Hour in the project files; if no file exists a project folder will be created in the electronic document management system. If a claim does not include the name of the Contracting Agent at the time the claim is assigned, no search or project file can be made by support staff. Support staff shall send an email to the manager of the region where the contractor is located, that includes claim number, employer history and if a project file exists.

The region manager is responsible for assigning claims in their region.

The investigator is responsible for reviewing all incoming complaints to determine whether they contain the minimum amount of information necessary for acceptance.

Policy

1. There are 10 calendar days to review a new claim once assigned.
2. A written complaint by a construction mechanic or a third party that provides all of the following shall be accepted for investigation by the department:
 - a. name and address of the complainant;
 - b. name and address of contractor alleged to have committed the violation;
 - c. name and address of contracting agent;
 - d. project name and description;
 - e. location where the work was performed;
 - f. construction dates that include at least the month and year;
 - g. description of the complaint;
 - h. identification of the classification for each construction mechanic alleged to be underpaid.
3. If the complaint is missing information listed in policy 1, the investigator may contact the complainant to provide missing information in his or her own writing in person or via mail, email, or fax. If information is received from the complainant, open and send the funding letter. Once the Contracting Agent has been determined the investigator shall notify support staff of the name so a search can be made for existing project files. If information is not received, it must be sent back to the complainant as incomplete.

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4. A complaint filed by a construction mechanic in accordance with policy 1 shall be accepted as an individual complaint.
5. A complaint filed by a third party in accordance with policy 1 shall be accepted as a third party complaint.
6. A complaint filed by a third party or representative on behalf of a construction mechanic, in accordance with Policy 1, shall:
 - a. be accepted as an individual complaint, if the complaint ***includes a notice of representation by an attorney or signed written authorization*** from the construction mechanic.

The complainant shall be the construction mechanic, when a third party complaint filed on behalf of a construction mechanic is accepted. The third party shall be treated as a representative and be kept apprised of the investigation.

- b. be accepted as a third party complaint, if the complaint ***does not include*** a notice of representation by an attorney or signed, written authorization from the construction mechanic.

The third party is considered the complainant and shall be advised that the complaint will not be opened as an individual complaint because written authorization was not included.

7. The complainant has the authority to withdraw, accept payment or settle the complaint.
8. The date of filing shall be the date received by Wage and Hour.
9. A written complaint may be filed within 3 years of the alleged violation.

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DETERMINING JURISDICTION**D2.01****Purpose**

To determine whether a project listed on an accepted complaint is covered by Act 166.

Responsibility

The administrative support staff is responsible for the internal search of the file plan in the electronic document management system if the project listed on the complaint form is currently maintained by Wage and Hour in the project files; if no file exists a project folder shall be created in the electronic document management system.

The assigned investigator is responsible for determining jurisdiction on an accepted complaint and completing the Prevailing Wage Jurisdiction Notification and Checklist.

The manager is responsible for reviewing the completed checklist and assigning the claim for further investigation or reviewing closing summary

Policy

1. Administrative support determines if the project file exists (if project information previously received) or creates a new one only when the Contracting Agent is identified.
2. Administrative support notifies region manager a 166 claim has been received and whether or not a project file exists (refer to policy D2.00 (3)).
3. Region manager notifies support staff of the investigator assigned to the claim for the jurisdiction investigation.
4. Administrative support notifies the investigator that a 166 claim has been assigned to them and identifies whether or not a new or complete project file exists.
5. If the project file exists, the investigator compares the current claim information to the project file checklist to confirm project details; time period of complaint is covered by the project scope (time period); completes the jurisdiction and notification checklist for the current claim and submits to the region manager.
6. If the project file does not exist the investigator shall request records from the contracting agent within 10 calendar days of the referral, allowing the contracting agent 10 calendar days to provide the requested information as follows:
 - a. the first request shall be the 166 coverage/funding letter to the contracting agent
 - b. the second documented request shall be a telephone contact or written correspondence.
 - c. the final request shall be an onsite contact. When appropriate the manager may request another region do an onsite contact.

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7. When requested information is received, the investigator completes the jurisdiction checklist and includes documentation that supports the recommendation.
 - a. If Act 166 jurisdiction is determined:
 - i. Makes recommendation to “open, send notification letter.letter and refer for investigation”
 - ii. Submits file (identified project file name, and jurisdiction checklist) to manager
 - b. If no jurisdiction determined:
 - i. Writes closing summary indicating Open/Close – No jurisdiction (with reason)
 - ii. Identifies closing letter to be sent
 - iii. Submits file (with project file/data, jurisdiction checklist and closing summary) to the immediate manager
 - c. Copies of the pages from the project file which were used to determine whether the department has jurisdiction for the claimed project should be labeled and submitted to the manager along with the completed jurisdiction checklist. Those documents shall include some, if not all, of the following:
 - i. Source of funding
 - ii. Copy of advertisement/invitation to bid
 - iii. Contract specifications with requirement to pay state prevailing wage
 - iv. Contract specifications that include the project description
 - v. Prevailing wage rate schedule for the project
 - vi. List of contractors to include award date and/or when construction began
8. When the contracting agent fails to provide records after the attempted field contact, the investigator submits a closing summary recommending the file be closed as unable to establish jurisdiction.
9. When administratively possible jurisdiction should be established within 90 days of the referral date

MCL 408.555, 408.556

Purpose

To establish uniform guidelines for notifying the contracting agent/contractor/subcontractor of complaints filed.

Responsibility

The assigned investigator is responsible for requesting the support staff to send a letter notifying the contractor of a complaint if identification of a "state project" is determined in the field.

The administrative support staff is responsible for mailing the notification letter to the contractor/subcontractor and contracting agent on identified state projects.

Policy

1. A contractor/subcontractor and contracting agent shall be notified of any complaint filed against them unless:
 - a. the complaint is returned due to incomplete information, or
 - b. the complaint is determined to be outside the jurisdiction of the Act based on information submitted in response to a coverage letter, or
 - c. the complainant is exempt from the Act, or
 - d. the alleged violation precedes the three year record limitation.
2. Notification shall be provided in writing following a determination of coverage. The notification letter shall contain:
 - a. the nature of the complaint,
 - b. the project description,
 - c. the time period the violation is alleged to have occurred,
 - d. the name of the complainant.
 - e. the occupation or classification of the construction mechanic
 - f. the contracting agent authority under Section 6 of the Act.
 - g. the posting requirement under Section 5 of the Act.
3. The contracting agent shall be notified of a complaint against a (sub) contractor.
4. The prime contractor, if known, shall be notified of a complaint against a (sub) contractor.