



MARCH 2011

## Department of Labor's Wage and Hour Division Targets Construction Sites in Rhode Island and Connecticut

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On March 22, 2011, the Hartford District Office of the U.S. Department of Labor's Wage and Hour Division (Division) launched an enforcement initiative to identify and eliminate wage and hour violations by employers at Rhode Island and Connecticut construction projects through more closely monitored compliance with the Fair Labor Standards Act (FLSA). The FLSA is a federal statute governing the hours worked and the pay owed to employees, including issues of overtime, minimum wage, appropriate record keeping by the employer, pay dates, and prohibition of retaliation for those employees who exercise their legal rights under the statute.

As part of its initiative, the Division will immediately begin increased monitoring and investigation of both general contractors and subcontractors working on large sites in the state. If violations are found, it is anticipated that the Division will pursue and enforce liability to a stricter extent, including monetary fines, payment of back pay owed to employees, and liquidated damages. Significantly, back pay can be a costly burden on employers, particularly if a group of employees has been paid below minimum wage and/or denied proper overtime pay over an extended time period. A noncompliant employer will likely be ordered to pay the employees the entire amount owed and make other restitution—costs that could run well into thousands of dollars or more. Employers are urged to thoroughly review their wage and hour practices with legal counsel and confidentially "self-audit" for potential risks of exposure, as well as assist with a strategy for remediation.

The Division has also announced that it will be tracking the relationships between various "layers" of contractors (that is general contractors, sub-contractors, etc.) to have a broader, "top-down" effect on the industry at large. Contractors may wish to take immediate steps to ensure that any subcontractors they work with are made expressly aware of wage and hour laws in writing and are regularly monitored for compliance. Likewise, subcontractors who use their own outside contractors would probably be well-served to strictly oversee compliance with wage and hour laws. Monitoring at this early stage may help reduce future risk of legal exposure.

Employers who are directly contacted by the Wage and Hour Division, or are subject to an unexpected on-site visit by Division investigators, should consider contacting legal counsel promptly for advice on managing the inquiry before taking action or further communicating with the Division.

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