

# THE COUNCIL ON THE UNDERGROUND ECONOMY (CUE)

## ANNUAL REPORT

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2020

# PARTNER AGENCY ABBREVIATIONS

ABCC: Alcoholic Beverages Control Commission  
AGO-FLD: Office of the Attorney General - Fair Labor Division  
DCAMM: Division of Capital Asset Management and Maintenance  
DFML: Department of Family and Medical Leave  
DIA: Department of Industrial Accidents  
DLS: Department of Labor Standards  
DOB: Division of Banks  
DOL: Massachusetts Division of Occupational Licensure  
DOR: Massachusetts Department of Revenue  
DPH: Department of Public Health  
DUA: Department of Unemployment Assistance  
EBSA: USDOL Employee Benefits Security Administration  
EOLWD: Executive Office of Labor and Workforce Development  
IFB: Insurance Fraud Bureau  
JTF: Joint Enforcement Task Force on the Underground Economy  
MCAD: Massachusetts Commission Against Discrimination  
MOBD: Massachusetts Office of Business Development  
NLRB: National Labor Relations Board  
OPSI: DOL Office of Public Safety and Inspections  
ORI: Massachusetts Office for Refugees and Immigrants  
OSD: Operational Services Division  
USDOL: United States Department of Labor




# THE COUNCIL ON THE UNDERGROUND ECONOMY



The Council on the Underground Economy (“CUE”) works to stop unfair business practices and promote compliance with Massachusetts law. CUE serves employers, taxpayers, industries, and workers across the Commonwealth by engaging in coordinated investigations and related enforcement actions. This is a collaborative effort between the state and federal governments and their partners. By pursuing tips and engaging in outreach, the CUE works to hold businesses accountable, bringing them into compliance with Massachusetts law and related tax requirements. The CUE is focused on ensuring that all Massachusetts workers are treated fairly and creating a level playing field for all businesses based or operating in the Commonwealth.

The “underground economy” refers to individuals and businesses who conceal or misrepresent their employee populations to avoid one or more of their responsibilities related to wages, payroll taxes, insurance, licensing, safety, or other legal or regulatory requirements.



When the underground economy is allowed to flourish, workers are denied basic rights and protections, legitimate businesses cannot compete and shut down, consumers receive unregulated goods and unlicensed services, and the state is cheated out of revenue that could otherwise provide programs and services that benefit Massachusetts residents.

[Section 25 of Chapter 23 of the Massachusetts General Laws](#) formally established the Council on the Underground Economy. Led by the Executive Office of Labor and Workforce Development (EOLWD) in partnership with the federal government and agencies across the Commonwealth, including the Attorney General's Office, Executive Office of Public Safety and Security, the Department of Revenue, the Division of Occupational Licensure, and in collaboration with the legislature, business, organized labor, nonprofits, and others, the CUE primarily focuses on seven key tasks:

1. Streamlines collaborative and targeted investigation and enforcement actions;
2. Educates business owners and employees about applicable requirements and potential harms caused by the underground economy;
3. Helps to restore competitive equality for law-abiding businesses;
4. Assesses and evaluates investigative and enforcement methods and develops and recommends strategies to improve these methods;
5. Collaborates to assist vulnerable populations that have been exploited by the underground economy and misclassification, including, but not limited, to immigrant workers; and
6. Preserves taxpayer dollars and ensures proper payment of taxes; and
7. Protects worker health, safety, wages, rights, and benefits.

The CUE is the successor entity to the Joint Enforcement Task Force on the Underground Economy and Employee Misclassification, established by Executive Order in March of 2008. It was first codified in 2015.

# Important Definitional Terms

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- The “underground economy” refers to businesses and/or individuals that utilize schemes to conceal or misrepresent their employee population(s) to avoid legal or reporting obligations. Specifically, the underground economy means any individual or business that deals in cash or uses other means to conceal its true tax liability from government licensing, regulatory, or taxing agencies, including tax evasion or fraud, employee misclassification, wage theft, or unreported wages.
- Cash wages are wages illegally paid in cash (or “under the table”) to avoid payroll related expenses (e.g., business expenses associated with taxes or insurance).
- Child labor violations, in the context of the CUE, constitute work performed illegally by minors who are either too young to work generally, lack statutory permission to work, or who are too young to perform work in the times of day, cumulative hours or, at the specific job they are doing.
- Employee misclassification violations occur when a worker is paid as something other than an employee (such as an independent contractor), when by law that worker is really an employee. When employees are incorrectly classified, costs for insurance (including unemployment and workers compensation), payroll taxes, licenses, employee benefits, and safety equipment and conditions are reduced, in turn negatively impacting workers, other businesses, and Commonwealth taxpayers more broadly.
- Licensure is the practice of ensuring that qualified individuals are credentialed in a particular area or trade. Credentialing requirements are frequently established by law, regulation, or licensing entity. Fair and consistent enforcement of licensing laws and regulations ensures that licensed, qualified individuals and businesses are providing services to consumers.

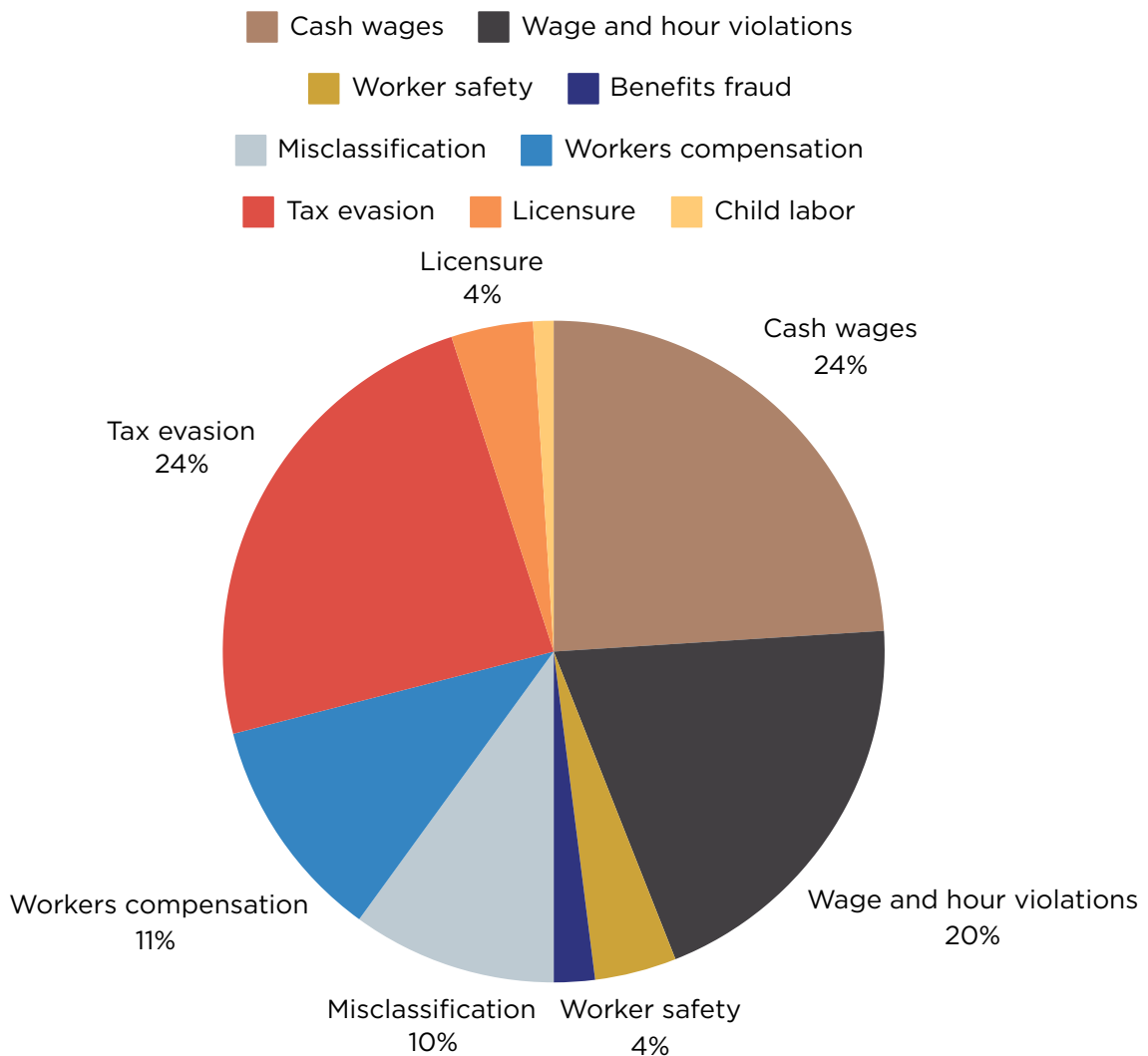
- Prevailing wage is the minimum hourly rate that must be paid on a public works project. These rates vary by craft, trade, or location and are maintained by the Department of Labor Standards and apply to union and non-union employers and employees on any public works project. The Fair Labor Division in the Attorney General's Office enforces these laws.
- Tax evasion is a crime, frequently stemming from an individual or business's failure to pay taxes or file a tax return.
- Wage and/or hour violations occur when employers are not in compliance with Massachusetts's wage and hour laws. Wage and hour laws establish how, when, and how much workers must be paid, including provisions regarding minimum wage, overtime, timely payment, sick time, meal breaks, temporary worker protections, domestic worker protections, recordkeeping, and more.
- Workers' compensation violations occur when businesses fail to secure and maintain workers' compensation insurance coverage for their employees.
- Worker health and safety violations may exist where workers are exposed to hazardous circumstances, conditions, practices, or operations.

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# 2022 Results

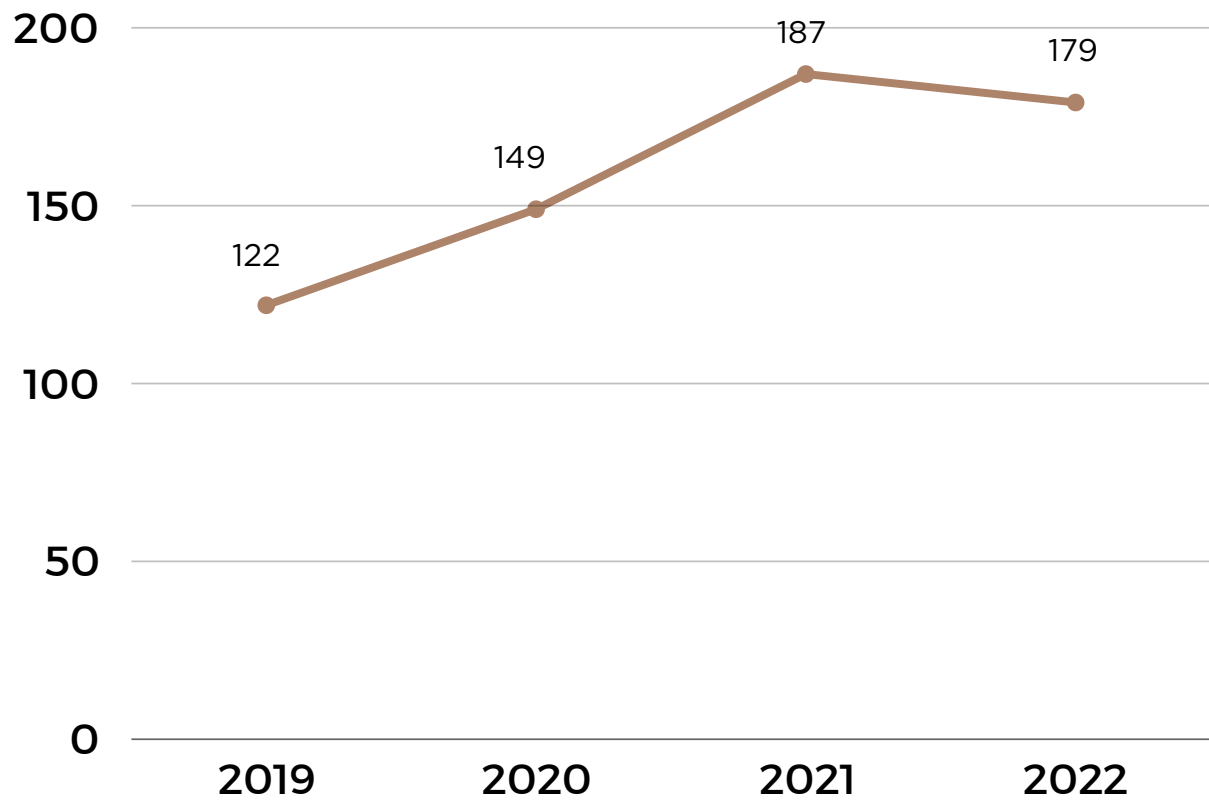
The CUE's investigators meet monthly and review complaints, referrals, and tips from the CUE tip line. The investigators then coordinate to help bring businesses into compliance and level the playing field across the state. In 2022, the CUE received 179 tips. Based on these tips and the investigative efforts of CUE member agencies, over \$1 million were ordered or assessed. These recovered dollars are then distributed, either back to the enforcing agency, or in some cases, as restitution directly to the affected workers. Results for 2022 indicate a decrease from previous years in ordered or assessed funds because the Department of Unemployment Assistance temporarily suspended some of its enforcement activities during the COVID-19 pandemic in that year.

**Figure 1: 2022 Results**





**Figure 2: Number of tips received by the CUE between 2019 - 2022**



# 2022 Funds Ordered and Assessed by CUE Reporting Agencies

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Attorney General's Fair Labor Division	\$491,029.00
Department of Unemployment Assistance	\$2,951.00
Insurance Fraud Bureau	\$70,000.00
Department of Revenue	\$16,994.81
Department of Labor Standards	\$26,000.00
USDOL Wage & Hour	\$528,651.52
<b>Total:</b>	<b>\$1,135,626.33</b>

## Lifetime Revenue

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Since 2009, Massachusetts CUE operations have assessed/ordered over \$142 million from non-compliant businesses. These collections are the result of tips, complaints, and referrals given to the CUE's investigators.

# Appendix

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Common Interest Agreement among CUE partners.

**AMENDMENT TO THE NOVEMBER 17, 2014 COMMON INTEREST AGREEMENT BETWEEN  
PARTICIPATING AGENCIES OF THE U.S. DEPARTMENT OF LABOR AND THE COMMONWEALTH OF  
MASSACHUSETTS EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT, JOINT  
ENFORCEMENT TASK FORCE ON THE UNDERGROUND ECONOMY AND EMPLOYEE  
MISCLASSIFICATION/COUNCIL ON THE UNDERGROUND ECONOMY AND THE FEBRUARY 5, 2018  
RENEWAL AND AMENDMENT OF THE COMMON INTEREST AGREEMENT**

This Amendment to the November 17, 2014 Common Interest Agreement Between Participating Agencies of the U.S. Department of Labor and the Commonwealth of Massachusetts Executive Office of Labor and Workforce Development, Joint Enforcement Task Force on the Underground Economy and Employee Misclassification/Council On the Underground Economy (collectively, “The Parties”) and the February 5, 2018 Renewal and Amendment of the Common Interest Agreement (hereinafter, collectively, the “Common Interest Agreement”) is entered into by and between the U.S. Department of Labor, the Commonwealth of Massachusetts Executive Office of Labor and Workforce Development and the Commonwealth of Massachusetts Department of Revenue. This Amendment renews the Common Interest Agreement for a further term of four years from the effective date of this Amendment. As the Common Interest Agreement expired on February 5, 2021, the Parties agree that the Effective Date of this Amendment shall be February 5, 2021.

Appendix A of the Common Interest Agreement is amended:

1. by replacing the first bullet with the following: Pursuant to M.G.L. c. 62C, § 21(b)(26), DOR is authorized to disclose tax return information “relating to the classification by a business entity of individuals providing services to such business entity as employees or independent contractors, including but not limited to information relating to the business entity’s withholding or failure to withhold personal income tax pursuant to [M.G.L.] chapter 62B with respect to payments to particular individuals and the amount of any such payments or withholding” to members of the Council on the Underground Economy (CUE). In accordance with M.G.L. c. 14, § 6 and DOR’s Tax Confidentiality Statutes, M.G.L. c. 62C, §§ 21 and 21B:
2. by deleting the following sub-bullet under DOR disclosure of tax information (third sub-bullet):
  - Any person having access to the tax information must be informed of DOR’s confidentiality requirements and the sanctions for unauthorized disclosure and sign DOR’s confidentiality acknowledgement.

and replacing it with the following three sub-bullets:

- Unless specifically requested and subject to additional security requirements, DOR will only release the last four numbers of an individual’s Social Security number. All information under this Agreement will be exchanged in a secure manner, as specified by the parties.
- Before a CUE Member Employee or an Employee of Participating Agencies of the U.S. Department of Labor can access DOR’s information, such Employee will be required to sign the attached “Massachusetts Department of Revenue Compliance Agreement.” Thereafter, on an annual basis, each such employee is required to read and sign the Compliance Agreement.
- Exchange of the DOR information pursuant to this Agreement is not a public disclosure under the Massachusetts Public Records Law (M.G.L. c. 4, §7(26) and M.G.L. c. 66, § 10). Only general, aggregate information may be discussed or disclosed during any “public CUE Council meeting,” unless that information is otherwise publicly available. Names of companies under audit, total wages owed by a named company, etc., may not be discussed in a public CUE Council meeting. For the purposes of this Common Interest Agreement, a public CUE Council meeting is a meeting



at which any person other than a CUE Member, a party to the Common Interest Agreement or their representative/s is present, provided that a person who is not a CUE Member Employee shall sign the Compliance Agreement or an agreement that is equally protective of DOR's information, as may be agreed upon with DOR.

All other terms and conditions remain the same.

This Amendment is effective as of February 5, 2021.

**United States Department of Labor**

By: Jessica Looman  
**Wage & Hour Division**

Name: Jessica Looman

Title: Acting Administrator

By: Doug L. Parker  
**Occupational Safety & Health Administration**

Name: Douglas L. Parker

Title: Assistant Secretary

By: **TIMOTHY HAUSER** Digitally signed by TIMOTHY HAUSER  
Date: 2022.02.25 13:15:43 -05'00'  
**Employee Benefits Security Administration**

Name: Timothy D. Hauser

Title: Deputy Assistant Secretary for Program Operations

By: **JENNY YANG** Digitally signed by JENNY YANG  
Date: 2022.03.01 20:45:36 -05'00'  
**Office of Federal Contract Compliance**

Name: Jenny Yang

Title: Director

By: Seema Nanda  
**Office of the Solicitor**

Name: Seema Nanda

Title: Solicitor of Labor

**Massachusetts Executive Office of Labor and Workforce Development**

By: Rosalin Acosta

Name: Rosalin Acosta

Title: Secretary

By: Geoffrey E. Snyder  
**Massachusetts Department of Revenue**

Name: Geoffrey E. Snyder

Title: Commissioner

**MASSACHUSETTS DEPARTMENT OF REVENUE  
U.S. DOL PARTICIPANT EMPLOYEE COMPLIANCE AGREEMENT**

**A. CONFIDENTIALITY POLICY**

The U.S. Department of Labor ("U.S. DOL") and its Participating Agencies in the Commonwealth of Massachusetts Council on the Underground Economy ("U.S. DOL Participant" or "U.S. DOL Participants") has entered into a Common Interest Agreement with the Massachusetts Department of Revenue ("DOR") which allows U.S. DOL Participants to receive certain confidential information from DOR.

I, \_\_\_\_\_, a U.S. DOL Participant Employee, hereby acknowledge that in connection with my performance of activities for U.S. Department of Labor's [IDENTIFY applicable U.S. DOL program] I may have access to DOR Information.

For the purpose of this Agreement, DOR Information shall consist of any personally identifiable information provided by DOR to the U.S. DOL Participant in the course of work under the Common Interest Agreement and may include, but is not necessarily limited to, state tax return information, as well as "personal data" as defined in M.G.L. c. 66A and "personal information" as defined in M.G.L. c. 93H. In addition, DOR Information shall also include any of the following information, if provided by DOR to the U.S. DOL Participant in the course of work under the Common Interest Agreement: computer systems information; audit, compliance and collection criteria and techniques.

Subject to disclosures of information that may be required by law, court order, or congressional inquiry and subject to the provisions of the Common Interest Agreement with respect to privileged information, including but not limited to notice requirements, I will at all times maintain the confidentiality of the DOR Information. I will not "browse" (defined as an unauthorized willful inspection) the DOR Information for any purpose. I will not access, or attempt to access, request, use, or modify DOR Information concerning myself for any purpose. I will not access, or attempt to access, request, use, or modify any DOR Information relating to any individual or entity with whom I have a personal or financial relationship, for any reason. I will not, either directly or indirectly, disclose or otherwise make the DOR Information available to any unauthorized person (defined as a person who does not have a legitimate business reason to view, access or use the DOR Information) at any time, either during or after my employment..

I understand that, pursuant to M.G.L. c. 93H, § 3, DOR is required to provide written notification to the Attorney General, the Director of Consumer Affairs and Business Regulation, the Executive Office of Technology Services and Security, the Public Records Division and the affected individual when a person knows or has reason to know of any unauthorized access or use (defined as having no legitimate business reason to access or use) of an individual's personal information.

I also understand that the following Massachusetts Statutes Relating to Confidentiality of DOR Information is being provided to me because as part of my job duties at the U.S. Department of Labor in performing activities of [IDENTIFY applicable U.S. Dept. of Labor program] I may have access to the DOR Information.

**B. SUMMARY OF MASSACHUSETTS STATUTES RELATING TO CONFIDENTIALITY OF DOR INFORMATION**

To the extent not inconsistent with federal law, I agree to comply with all laws relating to confidentiality of the Information, including but not limited to, the following:

- 1) Fair Information Practices Act ("FIPA"), M.G.L. c. 66A: Prohibits the unauthorized disclosure of "personal data," as defined in M.G.L. c. 66A. General Laws chapter 214, section 3B provides for injunctive and other nonmonetary relief for a violation of the statute. General Laws chapter 214, section 3B also provides for injunctive and other nonmonetary relief for violation of this statute.
- 2) M.G.L. c. 62C, § 21: Prohibits unauthorized disclosure of tax information or returns as defined in 830 CMR 62C.21.1. The word "return" is defined very broadly in 830 CMR 62C.21.1 and includes information developed by DOR. A violation of this statute is punishable by a fine of not more than \$1,000 and/or by imprisonment for not more than six months, and by disqualification from holding office in the Commonwealth for a period not exceeding three years.
- 3) M.G.L. c. 62C, § 21B: Prohibits unauthorized willful inspection of tax information or returns as defined in 830 CMR 62C.21.1. The word "return" is defined very broadly in 830 CMR 62C.21.1 and includes information developed by DOR. A violation of this statute is punishable by a fine of not more than \$1,000 per return, document, or taxpayer and/or by imprisonment for not more than one year, and by disqualification from holding office in the Commonwealth for a period not exceeding three years. This section provides that browsing of tax information by an employee of the Commonwealth shall be grounds for dismissal of the employee. This section also provides that browsing by a contractor of the Commonwealth or an employee of a contractor of the Commonwealth is grounds for prohibiting that person from performing services under the contractor's contract with the Commonwealth, as well as cause for terminating the contract and for prohibiting the contractor from entering into a future contract with the Commonwealth.
- 4) M.G.L. c. 62E, § 8: Prohibits unauthorized disclosure of information obtained from the wage reporting and financial institution match system. A violation of this statute is punishable by a fine of \$100 per offense.

### **C. NON-DISCLOSURE AGREEMENT – SECURITY INFORMATION**

Under the Common Interest Agreement, I may also be receiving or accessing information or data from DOR that is confidential, proprietary or sensitive, including, but not limited to, information relating to software, processes, data files, computer programs and materials, source code and object code, regardless of the medium, and information contained therein (hereinafter, collectively, "Security Information."). This Security Information is being provided to me solely in connection with my performance of services under the Common Interest Agreement and I will use this Security Information only in connection with the performance of such services.

If I receive or have access to the Security Information, I will physically safeguard such information at all times. I understand that if I improperly disseminate the Security Information for purposes other than in connection with the performance of my services under the Common Interest Agreement, I may be subject to sanctions.

### **D. BEST PRACTICES FOR SAFEGUARDING DOR INFORMATION**

U.S. DOL Participant Employees should only collect DOR Information that is necessary; access information only for business purposes; use DOR Information only for the purpose for which it is collected; keep the information confidential; and disclose DOR Information only as permitted by this Compliance Agreement and the Common Interest Agreement.

The following are examples of best practices for safeguarding DOR Information:

- Collect or access DOR Information only for legitimate, work-related purposes.
- Use or disclose DOR Information only if authorized for a business need.
- Do not leave DOR Information unattended.
- Do not leave or discuss DOR Information in public areas.
- Share DOR Information only as permitted by this Compliance Agreement and the Common Interest Agreement in accordance with statutory authority.
- Discuss matters concerning DOR Information only with authorized personnel.
- Retain DOR Information only as long as necessary or as required by law.
- Dispose of DOR Information securely (e.g., locked shred bin).
- Follow a “clean desk practice.” Clear your desk of any DOR Information and lock your computer screen when leaving your workspace.
- Ensure fax numbers, email addresses or mailing names and addresses are correct.
- Confirm that the DOR Information being discussed pertains to the person to whom you are speaking.
- Beware of social engineering<sup>1</sup> schemes.

#### **E. REPORTING OF DISCLOSURE RELATED ISSUES**

I will immediately notify my supervisor and/or manager if any DOR or Security Information in my possession is improperly used or accessed, or if I discover any possible disclosure, unauthorized access or browsing of the DOR or Security Information, or unauthorized use of the DOR or Security Information.

#### **F. QUESTIONS**

If I have any questions regarding any of the above, I will contact my supervisor, manager and/or DOR's Administrative Affairs Division at 617-626-2130 or [RMABInformation@dor.state.ma.us](mailto:RMABInformation@dor.state.ma.us).

#### **G. U.S. DOL PARTICIPANT EMPLOYEE SIGNATURE**

Name (print): \_\_\_\_\_

Signature: \_\_\_\_\_

Date \_\_\_\_\_

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<sup>1</sup> Social engineering is the act of stealing personal identification by deceiving people to make unwarranted disclosures.