



Commonwealth of Massachusetts

Joint Task Force on the Underground Economy and Employee Misclassification



Annual Report June 2009

1-877-96-LABOR

www.mass.gov/dol/labortaskforce

DEVAL L. PATRICK, GOVERNOR

SUZANNE M. BUMP, SECRETARY OF LABOR AND WORKFORCE DEVELOPMENT

GEORGE E. NOEL, DIRECTOR OF LABOR



THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT

DEVAL L. PATRICK
GOVERNOR

TIMOTHY P. MURRAY
LT. GOVERNOR

SUZANNE M. BUMP
SECRETARY

June, 2009

Dear Governor Patrick:

On behalf of your Joint Task Force on the Underground Economy, we are pleased to present you with the Task Force's Annual Report. In March, 2008, you signed Executive Order #499, establishing the Commonwealth's Joint Task Force on the Underground Economy and Employee Misclassification to address the issue of workplace fraud and misclassification. We are grateful for your leadership and vision by challenging state agencies and constitutional offices to work in collaboration to ensure stronger compliance with the Commonwealth's labor, licensing and tax laws.

From the very beginning, key to the success of the Task Force has been a commitment to collaboration and the sharing of information and resources among all of the partner agencies. These guiding principles make this Task Force unique in being able to diminish the incidences of workplace fraud and misclassification. As a result, Task Force member agencies are now functioning together as a collective force, working smarter in the fight to combat workplace fraud and misclassification.

To make sure that everyone has a chance to speak on this issue, the Task Force has been holding regional "Town Hall" sessions across the Commonwealth to listen to what people are saying about how the underground economy affects their businesses, their constituents and the communities where they live and work. What we are hearing is that the underground economy is a scourge that prohibits legitimate employers from competing fairly and inhibits workers from accessing on-the job protections they rightfully deserve. We are also being told that the creation of the Joint Task Force is the first true acknowledgement by the Commonwealth that this is a serious matter and that the state is going to use its full enforcement powers to enforce the rules for everyone.

Since being launched in May 2008, the Underground Economy Task Force toll-free referral line, 1-877-96-LABOR, has received over 500 calls from people with allegations ranging from wage and hour violations to more complex employee misclassification issues. Working with our agency partners, we have taken action, including referring complaints to the appropriate

agency for follow-up, sending an investigator to further investigate the allegations being raised, or assessing a fine or penalty against a non-compliant employer.

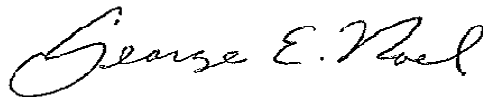
We would like to take this opportunity to thank all our executive branch partners, as well as the Office of the Attorney General's Fair Labor Division, Insurance Fraud Bureau, and the Office of the Treasurer's Alcoholic Beverages Control Commission for their ongoing contributions. Working together, restoring fairness to our economy will help legitimate employers, workers, taxpayers, and consumers thrive in the commonwealth.

We are pleased to present you with this Annual Report, which details the work of the Underground Economy Task Force to date. Attached to the Executive Summary is a chart highlighting information about the funds recovered by the task force. The main body of the report documents calls made to its toll-free referral line, investigations, as well as first-hand perspectives from a range of stakeholders from business, labor and community groups, as to how the Underground Economy affects their everyday lives.

Sincerely,

A handwritten signature in black ink, appearing to read "Suzanne M. Bump". The signature is fluid and cursive, with the first name being the most prominent.

Suzanne M. Bump
Secretary of Labor and Workforce Development

A handwritten signature in black ink, appearing to read "George E. Noel". The signature is cursive and elegant, with the last name being the most prominent.

George E. Noel
Director of Labor

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EXECUTIVE SUMMARY

In March 2008, Governor Deval Patrick signed Executive Order #499 which formed the Joint Task Force (JTF) on the Underground Economy and Employee Misclassification, in an effort to coordinate the Commonwealth's attempt to eliminate workplace fraud and employee misclassification. The JTF is the first-of-its-kind in Massachusetts. To achieve that, the Executive Order brings together a number of efforts from across the state's enforcement agencies.

The underground economy and employee misclassification is not a new problem or one that just affects Massachusetts. Such illegal activity is in large part the result of individuals and businesses that willfully and intentionally avoid labor, license and tax laws. Moreover, such activity goes largely unreported, making it impossible to fully measure the cost of the underground economy in actual dollars and cents.

The Joint Task Force is singular in its focus and collaborative in its approach. Participation has grown from the original 9 member agencies to 17 state agencies, including representatives from multiple constitutional offices coming together with a common purpose; looking to right our economy by ensuring greater compliance with applicable state labor, licensing and tax laws.

By concentrating our enforcement efforts on the underground economy, Massachusetts has made significant strides toward reinstating equity and balance across all sectors of the state's economy. We want to be absolutely clear that most employers in Massachusetts are law-abiding, responsible employers. They pay their fair share of the cost of doing business, treat their employees fairly and appropriately and stand behind the goods and services they sell. However, as we have seen over the past twenty years or more, a thriving underground economy has emerged; an economy in which unscrupulous employers pursue every opportunity to compete unfairly by paying workers sub-minimum wages "off the books", illegally misclassifying their employees so as to avoid paying for unemployment or workers' compensation insurance and refusing to withhold taxes.

The creation and initial success of the Task Force confirms what many have suspected about the growth of the underground economy. By coordinating the exchange of information and pursuing coordinated enforcement actions we have uncovered a trove of businesses that undermine the legitimate efforts of responsible employers to compete. In its first year of operation, the JTF has recovered in excess of \$1 million (see chart, page 5). It should be noted that all references in this report to funds recovered means monies that have been recovered through the cooperative efforts of the JTF and represent monies above and beyond what the partner agencies collect through their ordinary enforcement efforts.

As of March 21, 2009 the JTF has received 515 complaints. The vast majority of these complaints (453) were received through the telephone referral line. The remainder were received through either regular mail (33) or electronic mail (28). Among the telephone line complaints, 29% of complaints were launched against businesses in the Services sector, 21% in the Retail Trade sector, while 21% were in the Construction sector.

Among all of the complaints received, the majority contained enough information to warrant referral to one or more partner agencies for investigation. Those complaints that were not investigated either lacked sufficient information for follow-up or lacked relevance to the mission of the JTF. Some were forwarded to other state agencies such as the Massachusetts Commission Against Discrimination (MCAD) and the Massachusetts Board of Registration in Medicine (BORIM). It is important to note that pursuant to a directive issued by Director of Labor and Joint Task Force Chair George Noel, that the JTF will not forward any complaints to federal immigration authorities, under any circumstances. As a result, no complaints were forwarded to the U.S. Office of Immigration and Customs Enforcement (ICE).

The work of the JTF in investigating these 515 complaints has so far produced the following results:

- The Division of Industrial Accidents (DIA) issued 25 stop work orders for lack of workers' compensation coverage. As a result, 419 workers received workers' compensation coverage. DIA has collected \$24,750 in fines through stop work orders.
- The Division of Unemployment Assistance (DUA) recovered \$737,439 in lost unemployment insurance (UI) contributions. Fifty employers were brought into Fair Share compliance, resulting in \$239,742 in new Fair Share contributions.
- The Attorney General's Office (AGO) investigated 32 cases, 7 of which have been closed and 25 which remain open. Five civil citations were issued ordering \$163,825 in restitution and imposing \$54,100 in fines. Four criminal investigations have been initiated. In total, AGO has collected \$200,425 in fines imposed from civil citations it issued.
- The Department of Revenue (DOR) reviewed 97 cases for audit for suspected payroll, income, corporate, sales, or meals tax evasion and misclassification of employees. Fifteen of these cases have been closed with \$233,468 in overdue taxes collected. Forty-three cases are still pending and thirty-nine cases have been closed with no tax change.
- The Division of Occupational Safety (DOS) investigated 29 cases, 20 of which were alleged misconduct on the part of employment or temporary staffing agencies. The remaining nine cases involved lead or asbestos abatement. The DOS has collected \$1,500 in new application fees from unlicensed or unregistered businesses.
- The Division of Apprentice Training (DAT) investigated 5 cases, suspending 3 apprentice sponsorship programs for violations such as apprentice ratios, proper wages, and failure to report the correct number of journeymen on certified payrolls.
- The Division of Professional Licensure (DPL) investigated 33 cases involving unlicensed individuals or businesses. The DPL has collected \$1,700 in fines from unlicensed or unregistered businesses. Additionally, 21 individuals have been criminally charged.
- The Insurance Fraud Bureau (IFB) received a total of 9 referrals for potential criminal violation of workers' compensation premium avoidance fraud. Three (3) were reviewed

and closed with no further investigation required, two (2) were referred to the Attorney General's Office for prosecution charging an employer with premium avoidance, and four (4) cases are currently under investigation for possible premium avoidance.

Some specific examples of the Task Force at work to date include:

- A \$160,000 fine paid by the L&H Company to workers for violation of wage and hour laws as well as \$20,000 in civil fines and fees for unintentional misclassification. Additionally, the company has since agreed to a voluntary one year debarment from bidding on publicly-funded work projects. As a result, all certifying agencies in Massachusetts that are also members of the Task Force including the State Office of Minority and Women Owned Business Assistance (SOMWBA), Division of Capital Asset Management (DCAM) and Department of Housing and Community Development (DHCD) have since decertified that company.
- A Joint Task Force referral to the Attorney General's office led to a \$10,000 fine against Pinto Drywall, a Richmond, Virginia company and its owner for violation of the Massachusetts Independent Contractor/Misclassification Law. The company and owner were each cited for misclassifying 17 employees as independent contractors.
- A Somerville construction company, Design & Development, has paid nearly \$10,000 in fines and back wages to employees for unintentional misclassification and wage hour violations.
- Collective action against a Excel Home Care, Inc., a Tewksbury based home health care agency, which is believed to owe state agencies including the Department of Industrial Accidents, Division of Unemployment Assistance and others as much as \$2M. The Office of the Attorney General has issued a civil citation against the firm's owner and has fined Excel in the amount of \$14,000. In addition, Excel was ordered to pay employee restitution in excess of \$7,800. To date, the owner has been cited criminally and is due to appear at Lowell District Court in August, 2009. Excel paid a fine of \$6,500 to the Department of Industrial Accidents in order to close the civil portion of the case. The criminal matter is still pending. On June 12, 2009, the Office of Medicaid under the Commonwealth's Executive Office of Health and Human Services terminated Excel Home Care's participation as a MassHealth provider due to the Department of Industrial Accidents' action of placing the company on its Debarment List under M.G.L. c. 152, § 25C(10).
- Citations have been issued by the state Attorney General's Office (AGO) against three construction companies and settlement agreements have been entered into with two other companies which performed work at several sites developed by Avalon Bay Communities, Inc., a national company headquartered in Virginia with offices in Massachusetts. These contractors will pay a total of over \$36,000 in fines. The construction companies were

found to have violated the Massachusetts Independent Contractor/Misclassification Law as well as the state's Wage and Hour Laws.

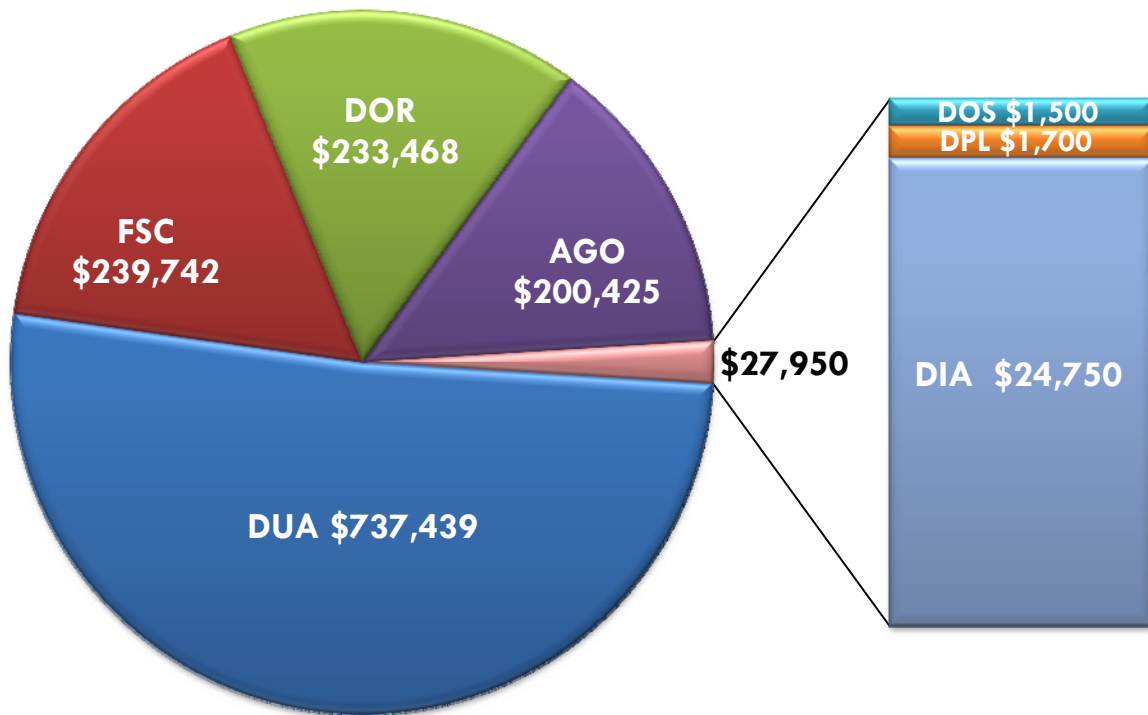
- The assignment of 97 Joint Task Force-related cases by the state Department of Revenue (DOR) for further audit review for alleged or suspected underreporting or non-reporting of withholding, income, corporate, sales, or meals taxes and misclassification of employees. Of the 97 Task Force cases under review, 15 have been completed with \$233,468 in overdue tax collections assessed.
- Working to increase compliance among firms in the employment/staffing industry as well as the lead and asbestos abatement industries, the Division of Occupational Safety (DOS) received 29 cases. 20 of the cases were for alleged misconduct on the part of employment or temporary staffing agencies. Investigation of these cases has netted \$1,500 in new application fees from agencies that were operating without proper licensure or registration.

As the Task Force enters into its second year, it is just getting started in achieving results for the Commonwealth and its citizens. For additional information, visit the Task Force website at www.mass.gov/dol/labortaskforce.

RECOVERED FUNDS

Revenue Generated Directly Through the JTF

TOTAL: \$1,439,024



- Collection of new UI taxes from newly-registered employer
- New contributions collected through collaborations with JTF
- Assessments for overdue tax collections
- Civil citations issued and fines imposed from these citations
- New application fees collected from unlicensed/unregistered agencies
- Fines collected from unlicensed individuals/businesses
- Fines collected through stop work orders issued

INTRODUCTION

Executive Order No. 499

On March 12, 2008, Governor Deval L. Patrick signed Executive Order No. 499 establishing the Joint Task Force on the Underground Economy and Employee Misclassification. The JTF, which has grown to include 17 partner agencies, is charged with coordinating agency actions to identify and stamp out fraudulent employment activities and to bring those workers under the protective umbrella of statutes and regulations that protect their rights and ensure a safe working environment. Part of this work entails bringing employers that evade the labor, licensing, and tax laws of the Commonwealth into compliance, in order to create a level playing field for all businesses to compete and contribute to the economic well-being of our state.



PHOTO COURTESY OF MASSACHUSETTS BUILDING TRADES COUNCIL

JTF Objectives

- Eliminate unfair business competition
- Protect workers by ensuring that they receive all benefits & protections due to them under the law
- Protect consumers by ensuring that businesses are properly licensed & adhere to consumer protection regulations
- Reduce the burden on law-abiding citizens & businesses by ensuring that all businesses & individuals comply with the Commonwealth's licensing, regulatory & tax laws
- Increase compliance with the Commonwealth's tax laws to maximize revenue

WHAT IS THE UNDERGROUND ECONOMY?

In general, the underground economy consists of individuals and businesses that willfully avoid labor, licensing, and tax laws by dealing in cash and/or other "off the books" schemes. Misclassification of employees—treating workers who would otherwise be wage or salaried employees as independent contractors in order to conceal their activities and true tax liability from licensing, regulatory, and tax agencies—is a common practice by businesses in the underground economy.

In the construction and cleaning industries, in particular, we've observed a trend in misclassification of employees and establishment of sham businesses using immigrant workers to serve as the employer/fall guy, when, in fact, they are simply misclassified employees. We are also seeing a trend in businesses that have been shut down or sanctioned, resurfacing under different names when the entity has remained the same, and under the direction of the past controlling parties.—AGO

Impacts of the Underground Economy

The effects of the underground economy and employee misclassification are felt not only by the exploited workers, but also by responsible businesses who must try to compete on an uneven playing field, individual taxpayers who shoulder an unequal share of the cost of services, and the whole community. Businesses that attempt to conceal these activities often do so to avoid taxes, safety regulations, and required insurance premiums. Operating outside the legitimate economy exposes the employees of these businesses to the possibility of uninsured injuries and denial of unemployment benefits, and eliminates incentives to operate their businesses safely. Workers at companies without workers' compensation insurance cost the Commonwealth and its legitimate businesses millions of dollars each year in payouts from the Department of Industrial Accident's uninsured employers Trust Fund. Similarly, avoiding unemployment insurance (UI) contributions

TASK FORCE IMPACT

Leveraging Resources for Results

Since the creation of the Joint Task Force by Governor Patrick, information is being shared regularly among partner agencies to ensure greater compliance with existing labor, licensing and tax laws in Massachusetts.

Finding ways to collaborate to better detect and reduce workplace fraud is what the Task Force is all about—and for good reason. Businesses that do not pay their fair share of costs in one area may often evade other requirements under the law, driving up costs for legitimate businesses trying to compete and grow their businesses.

Today, investigative information is cross-checked among partner agencies including the Department of Industrial Accidents (DIA), the Department of Revenue (DOR), the Division of Unemployment Assistance (DUA), the Division of Occupational Safety (DOS), the Division of Professional Licensure (DPL), the Division of Capital Asset Management (DCAM), as well as the State Office of Women and Minority Owned Business Assistance (SOMWBA).

For example, from January 2009 to March 2009, DCAM assisted the DUA in bringing 15 DCAM-certified contractors into compliance. DCAM has halted the processing of several other requests for Certificates of Eligibility for those contractors who remain in a non-compliant status with the DUA. DCAM continues to assist the DUA in bringing DCAM-certified contractors with outstanding liabilities, into compliance with the DUA.

creates costs for the Division of Unemployment Assistance Solvency Account that artificially raises UI premiums for responsible employers. When employers deliberately avoid their responsibilities, the harm caused by this behavior is often exacerbated by payment of sub-minimum wages and exploitation of workers who are more hesitant to report violations to authorities.

Evading legal responsibilities allows unscrupulous businesses to exploit an unfair advantage by unlawfully lowering their overhead costs, enabling them to underbid their responsible competitors. This denies opportunities to law-abiding businesses and their employees who are trying to make an honest living. Businesses that avoid paying

their fair share of taxes deprive every community of revenue that should rightfully be collected to

help fund our schools, repair roads and bridges, and provide services to the people of Massachusetts. Over the course of the past year, members of the Joint Task Force heard directly from businesses, unions, community groups and individuals who shared their experiences with the underground economy and its impact on their lives and livelihoods.

Cooperation and Collaboration



The key to success for the Joint Task Force (JTF) is cooperation and collaboration among the partner agencies. This allows licensing, regulatory, and enforcement agencies to maximize their effectiveness and extend their reach beyond that which their resources would otherwise allow. In the time since the JTF was established, the investigative staffs from the partner agencies have met weekly to share leads, develop investigative targets, and pursue cooperative investigations.

The Task Force received over 500 complaints during its first year of operation—the majority of which provided enough information for an investigation by at least one of the partner agencies. Although many of the complaints were specific to one issue—failure to carry workers' compensation insurance, non-payment of wages, or lack of proper licensure—some were broad enough that they could be Joint Task Force actions, involving the coordinated enforcement of at least two partner agencies. Those investigations range in substance from construction companies misclassifying their employees as independent contractors, to unlicensed workers performing skilled trade work, putting themselves, their co-workers, and the public at risk, to an asbestos abatement company applying for licensure with one state agency while facing over \$350,000 in liabilities owed collectively to the Division of Unemployment Assistance and the Fair Share Contributions Unit. This collaborative approach enabled the JTF to respond to fraudulent employer practices in a much more comprehensive and effective manner than before the Task Force was established.

Sub-Teams

The operation and growth of the Joint Task Force has evolved since its inception. For example, while there were only nine enforcement agencies involved at the outset, our effort at successful coordinated enforcement has required us to invite a number of other agencies onto our working groups. As an example of how effective that strategy has been, some hospitality establishments that failed to pay their Fair Share contribution responded very quickly when faced with the inability to renew their liquor licenses due to the cooperation of the Alcoholic Beverage and Control Commission with the Task Force.

Right now we are seeing a lot of our companies calling us to see if they comply with all state agencies.—DAT

The JTF, modeled on successful task forces in other states, has organized a large part of its work into five (5) sub-teams listed below. Each team consists of staff members from partner agencies who meet regularly to achieve the overall objectives of the JTF.

- **Targeting, Enforcement, Audit and Monitoring:**
Develops leads; plans and executes joint action fairness inspections
- **Legal:** *Addresses legal issues arising in connection with the implementation of the Executive Order as well as changes in statutes and regulations to better facilitate the JTF objectives*
- **Communications:** *Keeps the public informed of JTF activities and develops multi-lingual documents*
- **Information Technology:** *Identifies and develops effective ways to share data collected by JTF partner agencies*
- **Reporting:** *Coordinates and develops a report to the Governor as required by the Executive Order*

A special note must be made concerning temporary staffing agencies, labor contractors, and the construction industry. The underground economy is flourishing in those sectors and major resources must be allocated to uncover and prosecute those illegal operators.—DIA

Restaurants and small to mid-sized businesses appear to be the biggest violators of the wage compliance statutes.—DOR

Process Changes Leading to Improvement

- The Division of Capital Asset Management (DCAM) has begun cross-checking the Department of Industrial Accident's (DIA) Stop Work Order database, the State Office of Minority and Women Business Assistance's (SOMWBA) decertification and withdrawal listings, and the Division of Unemployment Assistance's (DUA) listing of contractors with outstanding liabilities, and continues to cross-check the Attorney General's Office (AGO) debarment listings as part of their contractor

Prevailing wage and misclassification violations / citations being issued from the AG's office are occurring more frequently. We are aware of the violations and citations because contractors are required to disclose this information in their annual application for DCAM certification. If a contractor fails to disclose the violation or citation, we are able to discover the information through notices provided to us by the AGO of recent violations and citations issued by their office.—DCAM

application processing to ensure the contractor seeking to be certified has not been debarred from public work or decertified by another state agency. Additionally, as part of the standard certification process, each contractor application received is checked against the JTF case tracking database prior to issuing a contractor Certificate of Eligibility to perform public work.

Temporary staffing agencies appear to have a significant role in the underground economy by misclassifying workers as independent contractors. Some also prey upon low-skilled workers and non-English-speaking workers.—DOS

- The Division of Occupational Safety (DOS) has instituted a compliance check form to be used by all employment agency license applicants to affirm compliance with workers' compensation law. The form is designed to surface indicators of employee misclassification.
- All of DOS's licensing programs now check DOR's list of individual and business tax delinquencies greater than \$25,000, before issuing a license.
- DOS has piloted a system with DUA and FSC units to obtain their agencies' sign-off that applicants for licenses from DOS are compliant with unemployment insurance and fair share contributions.

TASK FORCE IMPACT

In December of 2008, the Massachusetts Department of Labor received information that unlicensed tradespersons were being supplied by a temporary staffing agency and were working at a construction site in Hopkinton. Agency investigators from JTF partner agencies—DIA, DOS, DPS, and DUA—conducted a two-pronged site investigation. DIA, DOS, and DUA met at the business trailer, questioned the managers about the operation, and reviewed available records. DPS proceeded to the construction site to speak with the workers.

From this one investigation, DOS found that 5 out of 7 temporary staffing agencies onsite were not properly licensed or registered with the Commonwealth; DPS found 1 person working as an unlicensed hoisting operator as well as fraudulent activity on the part of a licensee who was supposed to be at the site; DUA found 8 businesses onsite that were not in compliance with their agency—one business owed \$4,400 in unemployment insurance (UI) taxes and the other 7 businesses were not registered with DUA and were therefore not paying UI taxes; DIA confirmed that all businesses onsite had workers' compensation insurance.

After the onsite investigation, DPL and DAT suspected potential violations of their laws and regulations as well. Both of these agencies investigated the businesses involved.

- Since joining the JTF, the Department of Revenue (DOR) has identified every business in Massachusetts that claims to have no employees, in an effort to root out misclassification.

- DOR has developed a Wage Enforcement Training Program that all field auditors are required to attend. All field auditors are also required to document the worker status/number of employees on every audit.

- DOR is in the process of developing a custom view on our Discovery Tax Program to more easily identify withholding and reclassification audit candidates.

- DAT is currently developing various measures that will give them more authority to make apprentice sponsorship dependent upon adherence to state agency regulations to support the initiatives of the JTF. DAT has committed, that any company found to be in violation of any other state agency's regulations, will not receive apprenticeship program approval until all violations have been satisfactorily addressed.
- DAT has enhanced its apprentice program application by asking applicants to affirm that all state taxes have been paid, and is working with DUA in cross-checking registered programs with the names of companies that owe unemployment taxes to DUA.
- DIA is now checking lists of employers supplied by DUA, DCAM, and DOS for workers' compensation coverage; DOR has made arrangements to check DIA databases and files.
- The DIA 3-year debarment list is now posted on the JTF website and on the home page of the DIA's website. DCAM, SOMWBA, and DHCD are now comparing their vendors with the debarment list.
- DUA has undertaken a successful data exchange initiative between FSC and ABCC, resulting in the collection of \$9,000.00 in new Fair Share contributions.

REGIONAL FORUMS

To learn more about the full extent of the challenges faced by those affected by the underground economy, the JTF held regional "Town Hall" style meetings across the Commonwealth in 2008 and 2009, ensuring that all geographic regions of the state were covered. Forums were held in Holyoke, Pittsfield, Haverhill, Worcester, Fall River, Framingham, Quincy, and Lynn. An additional session will take place in Boston later this month in order for the JTF to hear from even more people.

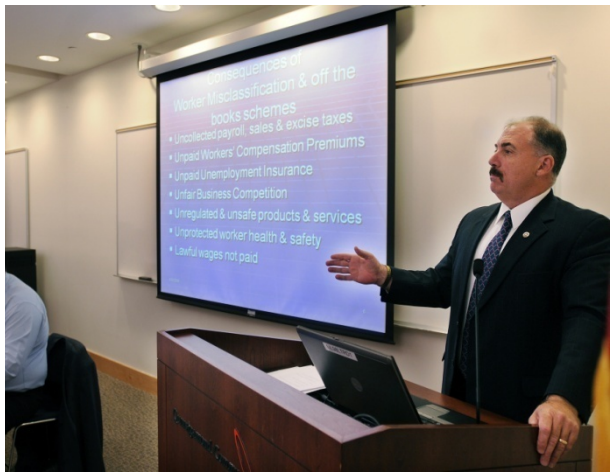
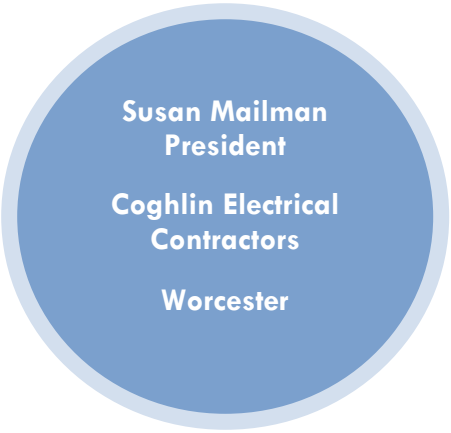


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Collectively, hundreds of people attended these forums, where a wide range of stakeholders, including workers, employers, labor leaders, community organizers, and representatives from industry, state, and local governments provided JTF members with compelling testimony about their experiences with the underground economy. Some attendees provided leads and tips about activities going on in their communities. Various business owners employing carpenters, cosmetologists, hairdressers, roofers, accountants, and laborers shared their

own industry-specific observations about how sharply skewed competition is by the pervasiveness of those businesses that are not playing by the rules. Advocacy organizations read translated testimony from clients whom they had helped to recover wages. Academics spoke about the need to educate workers on the reality of what they are sacrificing when they are drawn to the allure of “under the table” cash-wage jobs.

Based upon the feedback from those who testified, it appears that the forums were largely successful in that they encouraged individuals from various perspectives to speak out and be heard. Here is what some of the forum participants have had to say about the underground economy and the JTF initiative:



Susan Mailman
President
Coghlin Electrical Contractors
Worcester

“As President of Coghlin Electrical Contractors, an electrical contracting company employing 200-300 people in Central Massachusetts, the underground economy is an important subject...Enforcement efforts can be targeted towards checking for proper licensing to the individual and for the company. Regulations have been set up by the state of Massachusetts for proper reasons—to assure customers of proper construction and maintenance methods and even more importantly to protect the people that work in these trades each day.”

“As a third generation salon owner from Norwell, where I employ 23 people, the underground economy and worker misclassification are both significant issues for the professional salon industry. The majority of salons are independent businesses with fewer than 10 workers. In many cases, those workers are not classified as employees. That creates significant concerns in areas such as public safety, worker protections, and tax compliance. The overriding issue for employers in the industry, such as myself, is the cost disadvantage to competitors who misclassify workers, pay under the table, or otherwise avoid the legitimate costs of labor...”



Frank Zona
Owner
Zona Salons
Norwell

**Chair, Government Affairs Committee,
Professional Beauty Association**



**Eva Millona
Executive Director**

**Massachusetts
Immigrant and Refugee
Advocacy Coalition
(MIRA)**

"The MIRA Coalition represents over 100 organizational members across the state, including community-based organizations, health centers, hospitals, unions and legal service providers. MIRA is a multi-ethnic, multi-racial coalition, which serves a voice for fairness and justice for immigrants and refugees in the Commonwealth. MIRA and our partners...look forward to continuing our cooperation with the state to ensure that the Task Force accomplishes its objectives without negatively impacting our state's workers or economy. We strongly urge this Task Force to do everything within its power to protect the rights of victims of abusive employers. Massachusetts needs to be supportive of its hardworking immigrant and refugee workforce, especially the workers that are coming into this state and building our economy."

"Construction clearly demonstrates the dangers and pitfalls of the underground economy because the industry is a straight-forward business of labor and materials. Since materials are generally the same for all bidders, companies can only undercut one another with higher productivity or lower labor costs. Many small businesses who operate legally are finding it next to impossible to compete against their cheating competitors. How bad is the problem? It's impossible to measure precisely because much of this economic activity is unreported. The current estimate of the "tax gap" is \$290 billion and an Internal Revenue Service (IRS) spokesman says 30% of this is attributable to misclassification. The General Accounting Office suggests misclassification reduces federal income tax revenues by as much as \$4.7 billion. There is also a human side of this public policy crisis. Companies that cheat on taxes and workers' compensation premiums are also more likely to cut corners and expose their workers to unnecessary risks and dangers. A New York study reported a 40% increase in construction fatalities in 2006 compared to the previous five years, a spike that the authors attributed to practices in the underground economy. By working together, the agencies engaged in the Task Force on the Underground Economy can be much more effective in sending a message that the Commonwealth is serious about ending unfair business practices and the exploitation of workers."



**Mark Erlich, Executive
Secretary-Treasurer**

**New England Regional
Council of Carpenters**



Pam Richardson
State Representative
Framingham

“Right now, we are facing one of the most difficult economic times in recent history. It is imperative that we make every effort to work with our employees, make sure they are protected and being treated fairly. At the same time, it is imperative that we work with our employers and make sure that they understand the laws and are operating within these laws. In conversations with individuals in my community, the fear of immediate termination from employment silences employees, forcing them further underground. We need to continue to provide assistance to workers who are mistreated and exploited by their employers. Legitimate businesses have voiced their frustrations in that they pay their employees fairly, pay business costs and follow the rules and regulations which govern their industries, and yet, they are penalized later when bidding for jobs, or competing for business with informal businesses which do not.”

“I have a fairly broad perspective of the impact of the underground economy. I am Youth Council Director at the Greater New Bedford Workforce Investment Board; I am a Freetown Selectman, and I am a member of the Freetown-Lakeville Regional School Committee. As Youth Council Director, I see the impact of the Underground Economy in lost job opportunities, slow economic development, and serious safety concerns for young workers. I feel the revenue impact as a town official. When employers who do pay workers’ compensation and unemployment insurance are subsidizing those who do not, and when we lose significant tax revenue for schools, roads, and services, I would say we have a problem.”



Jean C. Fox
Freetown Selectman

Youth Council Director
Greater New Bedford
Workforce Investment
Board



Mary Vogel
Executive Director

**The Construction
Institute**

“The Construction Institute fully supports the Task Force's efforts to address the issue of the underground economy and the vast problems it creates for workers, employers, and insurers as well as for policy enforcement. A path-breaking 2004 study by researchers at Harvard University used Massachusetts state unemployment insurance audits of employers to estimate the share of employees who were misclassified as independent contractors. The researchers estimated that in the Massachusetts construction industry, 14 percent of workers were misclassified and that this cost taxpayers \$7 million in lost income taxes and nearly \$11 million in unpaid unemployment tax and workers' compensation premiums. Employers engaging in misclassification and off-the-books activity do not really save costs; they just shift them onto workers, other businesses, government and society at large.”

“My name is Anderson. I came to the U.S. with the same dreams as so many others: work hard to make a better life. In one of these undertakings, I and twenty other Metrowest carpenters worked for six months but only received payment for a few of the weeks we worked. When we said we would stop working until we were paid, our supervisor told us that if we stopped work, we would never receive the months of backwages the contractor owed us. Faced with that threat, we continued. When they paid us anything, the check amount didn't correspond to the total hours worked, much less reflect the value of the overtime hours which we worked week after week. On public jobs, we generally were paid the same hourly wage as on the regular jobs, and our employer told us to lie if an inspector asked about our hourly wage. There



**Testimony translated
by the
MetroWest Immigrant
Worker Center**

Framingham

was never a complaint about the quality of the work I performed or that performed by my co-workers, but the owner and the supervisor always complained if we asked for our wages. We worked and needed the money to sustain our families, pay our bills on time and comply with our obligations. But the right to be paid for our work was inhibited by the threats to call the police. The disregard of this employer, made me feel like a machine helping to enrich him at the cost of suffering and injury to the health of the workers who --for fear of reprisals or a lack of information about their rights-- did not speak out. I also suffered a workplace accident and could not seek treatment by a doctor because the company was letting go workers at the time and I was afraid I would lose my job. I worked for thirty days in great pain, until finally the employer told me to go see a doctor, though he did not assist me in obtaining payment of my medical bills or time lost through workplace

insurance. With the purpose of saving a few dollars, many employers simply ignore the safety and health of their employees. Today, I have been able to resolve my problems, but I had to go to before a DIA judge to get my my rights. There are thousands of dollars owed me for hours worked that are still unpaid. We just want to have the assurance that our rights as workers will be respected.”

MAKING NEWS

Since its start a little over a year ago, the JTF has been making headlines in its work to combat workplace fraud and employee misclassification in the Bay State. A provision in Executive Order No. 499 requires that the JTF make every effort to publicize its activities. Here are some excerpts of JTF press coverage:

March 12, 2008 Executive Office of Labor and Workforce Development – press release

GOVERNOR PATRICK SIGNS EXECUTIVE ORDER TO REDUCE EMPLOYMENT FRAUD IN BAY STATE

New joint task force will take steps to increase worker protections and fair business competition

Governor Deval Patrick today signed an Executive Order establishing a joint task force to promote the sharing of investigative information and increased enforcement against employers who misclassify their employees and engage in other fraudulent business practices. “Unfortunately, Massachusetts is not immune from this troubling nationwide trend,” said Governor Patrick. “We must act now to restore fairness to our state’s economy and help those who go to work each day to earn an honest day’s wage but also help those employers who obey the law so they can continue to grow their business and create new jobs.”

May 21, 2008 Patriot Ledger

PATRICK ADMINISTRATION STEPS UP EFFORTS TO ADDRESS STATE’S UNDERGROUND ECONOMY

Hotline set up for tips on labor, wage law violations

The Patrick administration is stepping up its efforts to shine some light on the state’s “underground economy.”

The administration...unveiled a new hotline for anonymous tipsters to report examples of employers paying workers under the table, avoiding mandatory insurance payments or misclassifying employees as independent contractors.

Bert Durand, communications director for the New England Regional Council of Carpenters in South Boston, said he’s been impressed with the efforts that the Patrick administration and Attorney General Martha Coakley’s office have undertaken so far. “We think they’ve done a great job of listening and learning about the problem and have taken proactive steps to enforce the laws on the books,” Durand said. “There’s significant revenue that’s being lost when tax laws are being ignored.”

June 28, 2008 **Berkshire Eagle**

SHADY LABOR TACTICS DECRIED

State officials yesterday delivered a warning message to employers: The “underground economy” that churns with shady employee pay schemes, unpaid taxes and worker protections is under scrutiny. In a presentation at Berkshire Community College, the director of the state Department of Labor outlined the intent behind Gov. Deval L. Patrick’s new joint task force on the “underground economy,”.... Director George Noel, speaking with a panel of business, labor and community leaders, stressed that the new task force is aimed at employers—not employees—to ensure that workers’ rights are protected.

Labor and business leaders lauded the task force as a major step toward boosting the competitive edge of business operators who may lose on contract bids that go to lower-priced employers who don’t play by the rules.

September 23, 2008 **Worcester Telegram and Gazette**

‘UNDERGROUND’ NOTES

Skirting of state hiring laws focus of forum

Misclassification practices mean the state could be missing out on \$12.6 million to \$35 million in unemployment assistance taxes that employers are supposed to pay, and as much as \$91 million to \$152 million in state income taxes that workers are supposed to pay, according to the (2004 Harvard University) study.

Employers’ improper practices mean that they avoid responsibilities and place a greater financial burden on legitimate businesses, “said Lt. Governor Timothy P. Murray. “We know the companies that suffer are the ones that play by the rules,” he said.

October 17, 2008 **Boston Herald**

TASK FORCE SMOKES OUT UNDERGROUND ECONOMY

The letter arrived filled with eye-popping details about a nail salon owner who takes in \$3 million a year in cash, and doesn’t pay taxes on any of it.

What’s more, the letter writer said, many of the people who work at the salon receive welfare benefits while also earning up to \$1,000 a week in “off the books” cash payments.

The shocking allegations were recently sent to the state’s new Joint Task Force on the Underground Economy and Employee Misclassification, a coalition of state agencies dedicated to rooting out tax fraud.

“That’s our best one so far,” said Michael Bradley, a former prosecutor with the Norfolk County District Attorney’s Office. He now oversees the task force’s day-to-day operations.

Since its formation this past spring, the group has launched 100 multi-faceted investigations into reports of tax and insurance fraud, and other types of employment abuse.

New complaints come in each day, Bradley said. "What we are looking to do is reclaim revenue for the state, help legitimate business owners compete and help workers who have been exploited."

October 21, 2008 New Bedford Standard-Times

STATE TASK FORCE TARGETS UNDERGROUND ECONOMY

"Responsible companies are forced to compete with employers that avoid withholding payroll taxes, fail to pay workers' compensation and unemployment insurance and give employees substandard wages," said state director of labor George E. Noel.

"It's unfair to expect employers to operate with an uneven playing field," Mr. Noel said.

A 2004 Harvard University study on the underground economy in the Massachusetts construction industry estimated the state lost nearly \$100 million in unpaid income tax payments and another \$100 million in unpaid workers' compensation contributions from 2001 to 2003 alone.

Nationally, the Internal Revenue Service estimates taxpayers in 2001 shortchanged the government

"That's half a bailout," Freetown Selectman Jean Fox told the audience, comparing the revenue loss with the government's \$700 billion economic rescue plan.

October 22, 2008 MetroWest Daily News

STRUGGLING TO COMPETE WITH UNDER-THE-TABLE WORK

Framingham resident Allen Grome, who owns AG Reliable Remodeling, told state officials that he struggles to earn a living when others in his profession cut corners.

"It's difficult to compete when other people aren't following the rules," Grome told members of the state Task Force on the Underground Economy and Employee Misclassification.

Off-the-books work also exploits workers, burdens the taxpayer, and offers consumers unregulated services—all topics touched on by the task force.

Posted December 14, 2008 The MetroWest Daily News

TAKE CAUTION WITH CLASSIFICATION by Jack Merrill

For many workers, the distinction between being hired for a new job as an "employee" or an "independent contractor" may not mean much.

They are happy to be employed, of course, and likely to accept whatever label their new companies place on them. Far more important are the type of work they'll be doing and how much they will be paid each week. Any effect of job classification is commonly learned after work starts.

Too often, the result of this ambivalence causes financial hardships to Massachusetts workers. That's because the distinction between independent contractors and employees is important when it comes to the wages and benefits an employer provides.

In an effort to put a stop to all this, Massachusetts amended its independent contractor law in 2004. The revised statute makes it almost impossible to legally classify workers as independent contractors. Earlier this year, Gov. Deval Patrick put some real teeth into the new law. He created a task force to investigate the misuse of independent contractors, a system problem that, in his view, undermines the state's tax revenue collections, gives abusers an unfair competitive advantage, and harms consumers.

The task force now has a Web site that provides information on important wage laws and a hot line to report alleged violations of the independent contractor law. The force has already launched hundreds of investigations and imposed substantial fines on law breakers.

Winter 2009 MassINC

TASK FORCE TARGETS UNDERGROUND ECONOMY by Gabrielle Gurley

Last March, the governor set up the Joint Enforcement Task Force on the Underground Economy and Employee Misclassification, which consists of representatives from 16 state agencies plus the Attorney General's Office.

According to George Noel, Director of the state Department of Labor and head of the task force, the group sought broad representation because the underground economy crosses so many jurisdictional lines. The Division of Industrial Accidents had tracked just workers' compensation insurance evasion, while the Attorney General focused on wage and hour violations. "Everybody stayed in their lane," Noel says.

Now their coordinated work is reaping dividends. The task force has hundreds of ongoing investigations and has closed several major cases. Under settlements worked out through the attorney general's office last fall, Lillian Gately and her company, Medford's L&H Construction, agreed to provide restitution to workers after failing to pay them lawful wages on public construction projects at several Boston area schools and housing authorities. A Virginia drywall company owner and his company must pay \$10,000 in civil penalties for misclassifying workers as independent contractors.

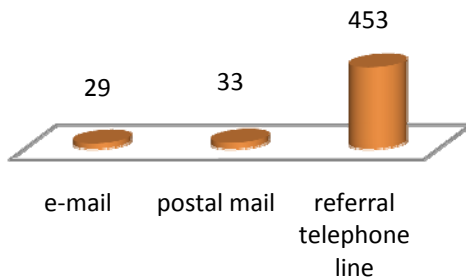
ACHIEVING RESULTS

REPORTING SUSPECTED CASES OF FRAUD AND MISCLASSIFICATION TO THE TASK FORCE

Complaints • Referrals

The website of the Joint Task Force on the Underground Economy and Employee Misclassification, www.mass.gov/dol/labortaskforce, was launched shortly after the signing of the Executive Order. Thousands of people have visited the site to obtain information about the underground economy, and in some cases to take action when it comes to getting help with suspected cases of workplace fraud and employee misclassification. The webpage provides the public with a form that can be completed and submitted to the JTF for suspected cases of fraud and misclassification. All information provided to the JTF is considered confidential and is not subject to public disclosure.

Referral Source

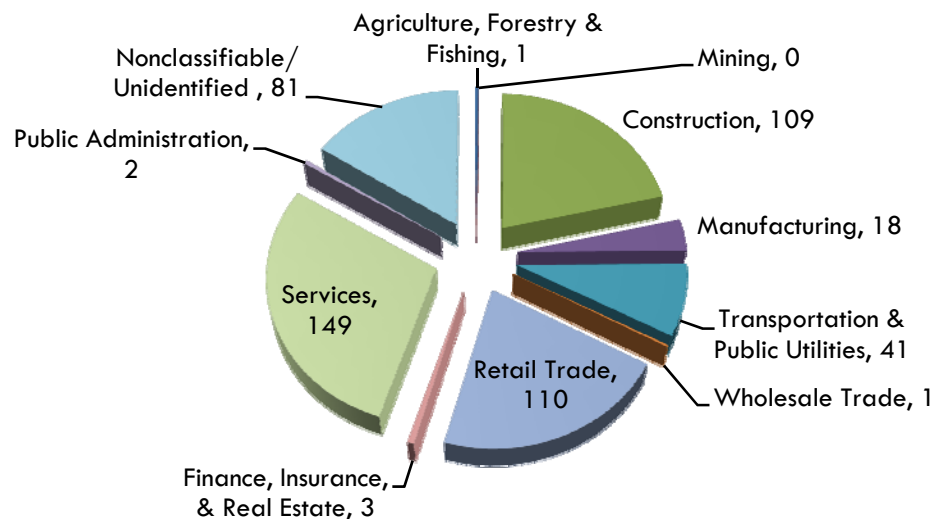


Toll-Free Referral Line

On May 20, 2008, the JTF established 1-877-96-LABOR, an anonymous referral telephone line to accept complaints about businesses operating within the underground economy. As of March 31, 2009, 515 complaints were lodged with the JTF. The vast majority of

complaints (453) were received through the telephone referral line, while 33 complaints were received by the JTF by postal mail, and 29 by e-mail. Among the telephone line complaints, 29% of complaints were launched against businesses in the Services sector, 21% in the Retail Trade sector, while 21% were in the Construction sector.

Number of Referral Line Complaints by Sector

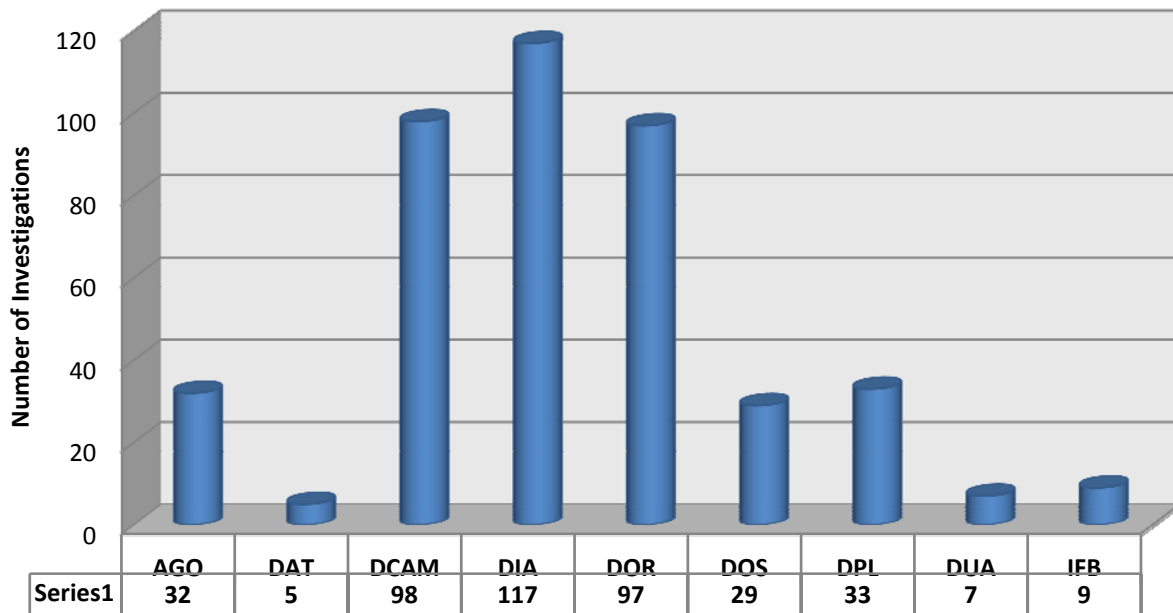


Among all of the complaints received, the majority contained enough information to warrant referral to one or more partner agencies for investigation. Those complaints that were not investigated either lacked sufficient information for follow-up or lacked relevance to the mission of the JTF. Some were forwarded to other state agencies such as the Massachusetts Commission Against Discrimination (MCAD) and the Massachusetts Board of Registration in Medicine (BORIM). It is important to note that pursuant to a directive issued by Director of Labor and Joint Task Force Chair George Noel, that the JTF will not forward any complaints to federal immigration authorities, under any circumstances. As a result, no complaints were forwarded to the U.S. Office of Immigration and Customs Enforcement (ICE).

Investigations · Audits

Since the formation of the JTF and the receipt of complaints, JTF partner agencies that have some degree of enforcement authority for matters that involve the mission of the task force have tracked their activities with regard to referrals and quantifiable metrics for analysis. From May 2008 through March 31, 2009, JTF partner agencies commenced over 400 agency investigations of JTF referrals. These investigations, conducted on top of the agencies' regular investigatory and enforcement work, ranged from single-agency audits to multi-agency actions, with results ranging from no violation(s) found, to stop work orders issued, to prosecution of persons for egregious infractions. It should be noted that since white collar crime investigations can require months of investigation and/or litigation, the results of many investigations may not be available until long after referrals are made.

Number of Investigations Commenced by Partner Agencies from JTF Referrals May 2008 - March 31, 2009



TASK FORCE IMPACT

At a weekly meeting of the Joint Task Force Investigations and Audit sub-team, the DAT was notified of an electrical company in Hingham that owed \$29,261 in unemployment taxes to the DUA. This company had agreed to a payment plan with the DUA, but had yet to make its first payment. DAT, after noting the company had a registered apprentice program, had sent written notice to the company of intent to suspend its apprentice program if it did not come into compliance with the DUA. Following a hearing in April 2009, the company agreed to suspension of their apprentice program without further hearing if they breached their payment agreement with DUA. At press time, the DAT has notified the company of the suspension of their apprentice program due to non-compliance with the DUA. This situation, an example of swift and coordinated action among JTF partner agencies, continues to be monitored by the Task Force.

The Attorney General's Office (AGO) reviewed cases for potential violations of minimum wage and child labor laws; nonpayment of wages; prevailing wage violations; misclassification of employees, overtime pay violations; payroll record-keeping; workers' compensation and unemployment insurance fraud. The AGO investigated 32 cases, 7 of which were closed and 25 of which remain under active investigation. Among the cases that were closed, 5 civil citations were issued, with \$163,825.00 in restitution ordered as a result of these civil citations and settlements, and \$54,100 in fines were imposed from these civil citations. Two settlement agreements were entered into between the AGO and the respondent, and 4 criminal investigations have been initiated.

The Division of Apprentice Training (DAT) reviewed 5 cases in which businesses about whom a complaint was lodged were registered sponsors of apprentices. DAT reviewed these cases for potential violations of apprentice ratios and wages as well as required Occupational Safety & Health Administration (OSHA) training. Of these 5 cases investigated, 3 sponsorship programs were suspended for violations such as apprentice ratios, proper wages, and failure to report the right number of journeyman on certified payrolls. One of these 3 programs was reinstated after the business began making payments for the more than \$85,000 in unemployment insurance taxes it owed to the Division of Unemployment Assistance (DUA).

The Division of Capital Asset Management (DCAM) investigated 98 cases involving contractors that were referred to the JTF for potential underground economy activities. These 98 contractor names were cross-referenced with DCAM's list of certified contractors who are eligible to bid on public construction contracts. Of the 98 names, 9 were DCAM-certified; no de-certifications resulted. DCAM has committed that when the AGO debars a contractor that is currently certified with DCAM, they will follow the AGO's action by decertifying the contractor.

TASK FORCE IMPACT

In September 2008, news media reported a workplace fatality in which a worker, a native of Brazil named Romulo Santos, was electrocuted at a renovation project at a Walmart site in Walpole. Joint Task Force partner agencies, DIA and DPL, quickly teamed up to investigate the businesses involved.

As a result of this collaborative effort, the DPL issued a cease and desist order to the company onsite due to its discovery that an unlicensed electrician and two laborers from out-of-state were performing electrical work at the site. The company had a Massachusetts-licensed electrician sign for the electrical permit with the Town of Walpole, yet there was no Massachusetts-licensed electrician onsite performing the electrical work. The DPL is now in the process of taking a license action against the licensee and his company for aiding the work of unlicensed electricians.

The DIA issued two Stop-Work Orders to two of the companies at the site for lack of workers' compensation insurance. Moreover, the employer for whom this victim worked did not have workers' compensation insurance.

The US Occupational Safety and Health Administration has since cited and fined Santos' employer, Italo Masonry, for seven serious violations, and the electrical company, M and T Electric for six serious OSHA violations, with combined fines totaling just over \$15,000. According to a Massachusetts Coalition for Occupational Safety and Health (MassCOSH) press release, while Walmart's general contractor, Kekoka Construction, was not cited by OSHA, it was responsible for the selection of the subcontractors and a foreman was on site at the time of the fatality.

Additionally, the Office of the Attorney General cited Italo Masonry \$10,000 in March 2009 for failure to provide payroll records. The company subsequently failed to pay or appeal the citation and a lien was placed upon real estate owned by the company's owner.

The Department of Industrial Accidents (DIA) staff reviewed all 515 complaints received by the JTF and checked each for workers' compensation coverage. Of the 515 complaints, 317 employers had current workers' compensation insurance policies, 81 of the complaints had no identifiable employer, and 117 cases were referred for field inspection for alleged or suspected lack of workers' compensation insurance coverage. Of the 117 cases, 92 employers were in compliance and 25 stop work orders were issued by the DIA; \$ 24,750 was collected in related fines. All 25 of these businesses to which a stop work order was issued subsequently obtained a workers' compensation insurance policy to cover their employees, resulting in insurance coverage for 419 employees who were previously uncovered. Had any of those uncovered employees sustained an accident on the job, they would have turned to the state's workers' compensation insurance trust fund to cover their medical expenses. This represents an unfair dynamic for businesses that are dutifully paying their insurance premiums to operate in compliance with the state's workers' compensation laws.

The Department of Revenue (DOR) assigned 97 JTF cases for further audit review for alleged or suspected underreporting or non-reporting of withholding, income, corporate, sales, or meals taxes and misclassification of employees. Of the 97 Task Force cases under review, 15 have been completed with \$233,468 in overdue tax collections assessed. There have been 39 cases closed with no tax change. The other 43 cases are still under active review by DOR.

The Division of Occupational Safety (DOS) received 29 cases—20 for alleged misconduct on the part of employment or temporary staffing agencies and 9 for allegations involving lead or asbestos abatement workers and businesses. Eleven (11) employment/staffing agency cases have been investigated and closed, resulting in the discovery of 12 agencies that had been operating without required licensure or registration, and 6 investigations of currently-licensed agencies resulting in the finding of no violations of DOS's regulatory purview. Investigation of the 11 cases netted \$1,500 in application fees from agencies that were required to file applications. Nine (9) employment/staffing agency cases are still open and under investigation.

Four (4) asbestos/lead cases were investigated and closed by DOS. In one of these cases, DOS issued violations to unlicensed individuals who performed improper abatement work. Three (3) of these cases were investigated, but no violations were found and the cases were closed. Five (5) asbestos/lead cases are still under investigation by the JTF and DOS is providing a supporting role by providing information such as job notifications, sign in logs, payroll records, contracts, etc., to those agencies conducting the investigation. DOS did not renew the asbestos contractor license for one of the companies under investigation, until the company paid a \$22,000 tax liability to DUA. DOS is also assisting DUA in collecting a \$390,000 debt owed by an asbestos abatement contractor for unemployment insurance taxes.

The Division of Professional Licensure (DPL) investigated 33 cases involving unlicensed individuals or businesses performing services that require professional licensure by the Commonwealth of Massachusetts. Of those 33 cases, 21 individuals were taken to court on criminal charges of unlicensed practice and were docketed in the Massachusetts court system. In addition to cease and desist orders issued, \$1,700 in fines were collected by DPL related to these cases. Twelve (12) of the 33 cases are still under active investigation by DPL.

The Division of Unemployment Assistance (DUA) reviewed 7 JTF cases looking for Unemployment Insurance (UI) tax and Fair Share Contribution (FSC) violations such as failure to file, underreporting, failure to register, and/or failure to pay in full. Among the 7 cases, DUA registered one new employer, collecting \$737,439 in UI taxes, and brought 50 employers into required FSC reporting compliance, resulting in \$239,742 in new FSC contributions collected by DUA.

The Insurance Fraud Bureau (IFB) received a total of 9 referrals for potential criminal violation of workers' compensation premium avoidance fraud. Three (3) were reviewed and

closed with no further investigation required, two (2) were referred to the Attorney General's Office for prosecution charging an employer with premium avoidance, and four (4) cases are currently under investigation for possible premium avoidance.

Proactive Measures to Reduce Underground Economy Activity

In addition to the investigative and enforcement measures undertaken by the JTF's regulatory agencies, there have been numerous efforts that germinated at the agency level to surface the underground economy. Many of these efforts involve an unprecedented level of communication and cooperation between agencies. Prior to the formation of the JTF, few of the partner agencies had engaged in formal, systematic, cooperative efforts with other state agencies. By dismantling the institutionalized approach of operating within agency silos, the JTF is able to address its core mission to combat the underground economy. Section 4 of Executive Order No. 499 requires that the JTF, "...identify successful preventative mechanisms for reducing the extent of the underground economy and employee misclassification, thereby reducing the need for greater enforcement." The following list of activities highlights the JTF's work over the past 10 months to reduce and prevent the exploitative transactions occurring within the underground economy.

INTER-AGENCY COOPERATION

- Sharing Information: The AGO is affirmatively sharing information with the partner agencies of the task force; maintaining an ongoing dialogue during the course of investigations, and meeting on a weekly basis with fellow investigators from JTF member agencies. The AGO's legal team has been meeting with the legal heads of the JTF partner agencies to discuss legal issues arising from / pertaining to collective actions.
- Case Referrals: The Department of Public Safety's (DPS) Building Division has received one referral from the JTF in early January. Since the formation of the task force, DPS has provided assistance with looking up construction supervisor license and home improvement contractor registration information, confirming validity and expiration dates for licenses and registrations, providing descriptions of each DPS program and other information that has proven useful to JTF members.



- Safety Training: DOS's Massachusetts Workplace Safety & Health Program offered a free OSHA-10 training course to all JTF investigators, so that investigators could recognize workplace safety hazards on construction sites and report unsafe conditions to OSHA or DOS. All participants received OSHA-10 training certificates.
- Regulation Enforcement: DAT is working with the various JTF licensing authorities to connect some of the missing links between DAT and other agencies in the area of state agency regulation enforcement. Proposed apprentice program suspensions may provide a needed incentive for companies to follow state agency regulations related to the underground economy.
- Developing Procedures: The Targeting, Enforcement, Audit and Monitoring sub-group crafted a standard operating procedure for conducting joint on-site investigations involving multiple agencies. The procedure establishes a protocol for each investigation requiring the presence of more than one partner agency. Given the varying purviews of regulatory authority, it became evident that pre-planning and establishing the parameters of an on-site investigation were necessary in order to conduct safe and effective investigations for all parties involved.
- Expanding Operations: When the DIA conducts its regional operations, several other agencies are now participating. In addition, operations have been expanded beyond JTF agencies to include joint operations with the Massachusetts State Police Commercial Vehicle Enforcement Team and local building officials.
- Stronger Enforcement: Enforcement coordination efforts among partner agencies has led to several coordinated actions by JTF agencies involving major violators of law, ranging from construction companies to retail chain stores to delivery and distribution services.

EDUCATION AND OUTREACH

- Over the past year, members of the Joint Task Force have been actively conducting outreach to businesses, labor and community groups to let them know how the Commonwealth of Massachusetts is working to help businesses, workers, consumers and taxpayers by addressing workplace fraud. In addition to holding regional public information sessions and hearings of its own throughout the Commonwealth, members of the Task Force have participated in numerous Town Hall style forums sponsored by the Office of Small Business and Entrepreneurship in coordination with local Chambers of Commerce and community organizations. These sessions have provided an opportunity to communicate directly with the public and businesses about ongoing efforts. Additionally, Task Force staff have addressed the:

A public awareness campaign may be necessary in order to get more small businesses informed of the issues that the Task Force is trying to address.—Office of Small Business and Entrepreneurship

- Insurance Fraud Bureau of Massachusetts Seminar on Emerging Trends in Insurance Fraud
- Internal Revenue Service Small Business Forum
- Massachusetts AFL-CIO
- Massachusetts Association of Public Accountants
- Massachusetts Building Trades Annual Conference
- Massachusetts Building Officials Educational Conference
- Massachusetts Business Roundtable
- Massachusetts Workers' Compensation Rating Inspection Bureau Governing Committee
- Massachusetts Division of Unemployment Assistance Advisory Council
- Massachusetts Workers' Compensation Advisory Council
- New England Regional Council of Carpenters
- Southeastern Massachusetts Building Officials Association
- State of Maine Labor Officials
- State of New Hampshire Task Force
- State of Rhode Island Misclassification Commission
- State of Vermont Workers' Compensation, Employee Classification, Coding and Fraud Task Force
- Tewksbury Town Business Day, sponsored by The Greater Lowell Chamber of Commerce

INTERSTATE INTEREST

Other New England states are looking to Massachusetts as a leader in taking steps to combat the underground economy through a joint task force. Recently, the Vermont State Legislature requested that Director of Labor George Noel meet about the initiative. Leaders from New Hampshire, Rhode Island, and Maine have also met with Director Noel to discuss forming a task force in their respective states. Given that the underground economy workforce is often fluctuating and jobs are often transitory, the economy moves readily across state borders. By enlisting the support and bolstering the efforts of other New England states, it is hoped that we could address some of the challenges presented by the underground economy on a regional level. Massachusetts is poised to take a leadership role in that effort.

- The Division of Career Services (DCS) posted information about the JTF referral line in every one of its 37 career centers in Massachusetts, providing a valuable resource to a daily audience of thousands of job-seekers.

- The Department of Revenue has advised its Citizen Complaint Hotline operators to encourage informants to also contact the Joint Task Force Referral Line.

- As they meet with numerous outside groups through the course of their daily work, Attorney General's Office Fair Labor Division staff members discuss their involvement in the efforts of the JTF so that

there is a broader understanding of the issues involved and how they affect the public at large.

- Since being an active participant in the series of regional forums held in various parts of the state, DPL reports that they have had several people utilize their complaint process as a direct result of making connections with people around the state.
- In addition to enforcement activities in coordination with JTF, DPL staff members have also increased their educational efforts. DPL is actively working to bring those individuals and businesses that are not intentionally unlicensed, into compliance. It has recently embarked on an initiative visiting vocational schools across the Commonwealth, informing students, teachers, and parents of the need to be educated and properly licensed in the various professions it regulates.
- The Office of Small Business and Entrepreneurship (OSBE) invited JTF members to participate in statewide meetings with small business owners to educate the public about the Joint Task Force.
- The Insurance Fraud Bureau offered reduced-cost enrollment to JTF partner agencies for a seminar in November on “Emerging Trends in Insurance Fraud,” to increase awareness of fraudulent activities on the part of unscrupulous individuals and businesses.
- The Massachusetts Office of Refugees and Immigrants (MORI) continues to ensure that JTF members are sensitive to and aware of the many constituencies affected by the underground economy—many of whom have little choice due to language barriers and dire economic circumstance. MORI staff has provided access to translation services and has helped to ensure that the JTF heeds the concerns of immigrant advocacy groups.

We know that the minority community is adversely impacted by a lack of understanding about their obligations. The fact that the state does not even have a unified definition as to independent contractor versus employee poses substantial issues for the clients of our agency.—SOMWBA

RECOMMENDED ADMINISTRATIVE, LEGISLATIVE, AND REGULATORY CHANGES

Since the creation of the JTF, partner agencies have had an opportunity to recognize areas in which the work of the JTF could be greatly enhanced with administrative, legislative, and regulatory changes. We recognize that some changes are easier to attain than others. Nonetheless, the following ideas shed light on a path where the JTF hopes that it can travel over the course of the next year.

- Enact statutory changes to enable partner agencies to openly share investigatory information, the sharing of which would otherwise be impermissible.

- Solidify clear authority for all licensing agencies to deny a license or certification to individuals or businesses that are not in compliance with another state agency; this would strengthen the JTF's operations and enforcement efforts.
- Coordinate efforts across agencies to ensure that all construction tradespersons are duly licensed, registered, and insured.
- Require that all licensing or permitting authorities across the Commonwealth utilize the same language on license applications to inform applicants that the licensing authority will deny the issuance or renewal of a license if the applicant is not in compliance with workers' compensation insurance law.
- Require that all licensing or permitting authorities across the Commonwealth utilize standard language on license or permit applications to certify compliance with M.G.L. c. 151A, § 19A (a), the unemployment insurance law.
- Amend the Employment Agency Statute, M.G.L. c. 140, §§ 46A-46R, so that all temporary staffing agencies would be further regulated.
- Apply the same standard for determining a true independent contractor relationship, and have one state agency responsible for making determinations as to whether the assertion of that relationship is true.
- Engage in a public awareness campaign targeted to small businesses and minority based employers to inform them of the issues that the JTF is trying to address.
- Amend M.G.L. c. 152 to allow the Department of Industrial Accidents enhanced authority to investigate and determine suspected misclassification and premium fraud and refer the matter to the Insurance Fraud Bureau, Attorney General's Office, or other appropriate agency.
- Harness technology to allow easier transfer and sharing of data that will improve the investigative and reporting process among partner agencies. A major source of data to enhance investigations is in wage records, which are reported by employers to the state's Department of Revenue (DOR). In conjunction with DOR, the JTF is moving forward with plans that call for housing aggregated data within that agency's infrastructure. Creating an aggregated data source in the name of working smarter will yield benefits. For example, data-sharing could allow investigators to compare the number of employees reported to DOR for wage purposes against the number of employees reported as part of procuring workers' compensation insurance. Any significant difference in employee count could give rise to further investigation by the Task Force.

NEXT STEPS

2009 GOALS / ACTION PLAN

- **Establish a JTF Advisory Committee.** Over the past 12 months, the JTF has had an opportunity to hear from many workers, businesses, labor leaders, academics, and elected officials about their own experiences with the underground economy. Taking the collective insights from these varying interests will bring broader perspective to the JTF partner agencies as we investigate leads, develop enforcement plans, craft new administrative procedures, and formulate strategies to stem the tide of businesses that are making profits by shirking their legal responsibilities, exploiting workers, and placing undue burdens on the taxpayers of the Commonwealth.
- **Devise a plan to balance anonymous reporting with building solid cases.** From an enforcement perspective, it is useful to have cooperating witnesses from the outset of a case investigation. In that regard, the JTF may want to consider proffer letters and/or other ways of encouraging those with knowledge of violations to come forward other than through a promise of perpetual anonymity. In addition, in criminal litigation, all witness statements must be turned over for mandatory discovery purposes. Further, under the Massachusetts Public Records Laws, once a case is closed, there is likely no reason a witness statement / identity would not be subject to disclosure.
- **Develop a more defined JTF standard for how information needs to be captured, tracked, and reported.** Partner agencies need to have a uniform understanding of how this information should be maintained at the agency level.
- **Expand the capabilities of the current JTF case-tracking database.** This is helpful to ensure that information gathered from each partner agency can be stored in one universal, central location for JTF tracking and reporting purposes.
- **Build stronger communication with municipal building officials.** Municipal building officials should know that the JTF is a resource for them for issues related to building project personnel.
- **Construct a more detailed and robust JTF webpage.** Enhance the webpage of the JTF to include linking up with partner agencies and providing educational content for workers, businesses, and the general public.
- **Encourage licensing and permitting agencies to follow DPL's lead by recognizing that, in some cases, individuals are unlicensed because the process to be licensed can be burdensome.** DPL tracks and requires that all new businesses, upon receipt of a completed application, be inspected and licensed in fewer than 10 business days. For example in December of 2008, the DPL received 118 new cosmetology shop applications and opened 113 in fewer than 10 business days. This task was accomplished with 4 inspectors traveling the state. The end result satisfied business owners, properly licensed

businesses in accordance with state law, supported job creation, and enhanced revenues for the Commonwealth.

- **Launch a public awareness and education campaign about employee misclassification and employer responsibilities in Massachusetts.** There are many small businesses just starting out who want to operate within the law but are simply unaware of or confused about their legal obligations with regard to hiring employees. Additional efforts need to be focused on educating the public about workplace fraud and misclassification. These efforts are just as important as rooting out violators of the various labor, licensing, and tax laws.
- **Design a formal JTF training program, identify no-cost training providers in areas such as investigator safety, investigatory techniques, construction practices, legal issues, and field communication procedures.** Agency investigators benefitted from the Division of Occupational Safety-sponsored OSHA-10 training class and the Insurance Fraud Bureau's training seminar on internet investigation techniques.

IMPORTANT CONTACT INFORMATION

Joint Task Force on the Underground Economy & Employee Misclassification

1-877-96-LABOR

www.mass.gov/dol/labortaskforce

APPENDICES

Appendix A: *Executive Order 499*

Appendix B: *Partner Agencies*

Appendix C: *Office of the Attorney General Advisory on M.G.L. c. 149, §148B*

Appendix D: *Joint Task Force-Supported Legislation*

Appendix E: *Presentation Slides – George E. Noel, Director, of Labor and JTF Chair*

APPENDIX A

By His Excellency

DEVAL L. PATRICK, GOVERNOR
EXECUTIVE ORDER NO. 499

**Establishing a Joint Enforcement Task Force
on the Underground Economy and Employee Misclassification**

WHEREAS, the health of the Commonwealth's economy, its workers and its businesses is harmed by the existence of an illegal underground economy in which individuals and businesses conceal their activities from government licensing, regulatory and taxing authorities;

WHEREAS, individuals and businesses that operate in the underground economy do so in violation of labor, employment, tax, insurance and occupational safety laws, by failing to pay required wages, carry workers' compensation insurance, comply with health, safety and licensing requirements, or pay income taxes and payroll taxes that fund unemployment insurance, disability insurance, and Medicare and Social Security benefits;

WHEREAS, certain businesses also improperly classify their employees as "independent contractors" (referred to as "employee misclassification") and hire undocumented workers to avoid compliance with labor, employment, tax, insurance and regulatory requirements;

WHEREAS, the underground economy and, in particular, the practice of employee misclassification: (1) exploits vulnerable workers and deprives them of legal benefits and protections; (2) gives unlawful businesses an unfair competitive advantage over lawful businesses by illegally driving down violators' taxes, wages, and other overhead costs; (3) defrauds the government of substantial tax revenues; and (4) harms consumers who suffer at the hands of unlicensed businesses that fail to maintain minimum levels of skills and knowledge;

WHEREAS, a recent study based on audits of Massachusetts unemployment records for construction employers between 2002 and 2005 found that up to 14% of the employees covered by the audits were estimated to have been misclassified by employers;

WHEREAS, efforts to combat the underground economy and employee misclassification historically have been divided among various agencies, diminishing the timeliness, efficiency and effectiveness of such efforts; and

WHEREAS, the creation of joint task forces has proven to be an effective mechanism for enhancing interagency cooperation, information sharing, and the prosecution of violators;

NOW, THEREFORE, I, Deval L. Patrick, Governor of the Commonwealth of Massachusetts, by virtue of the authority vested in me by the Constitution, Part 2, c. 2, § 1, Art. I, do hereby order as follows:

Section 1. There is hereby established the Joint Enforcement Task Force on the Underground Economy and Employee Misclassification (the "Task Force").

Section 2. The Task Force shall consist of the following members or their designees: the Director of Labor, the Commissioner of Revenue, the Commissioner of the Department of Industrial Accidents, the Chief of the Attorney General's Fair Labor Division, the Commissioner of the Division of Occupational Safety, the

Commissioner of the Department of Public Safety, the Director of the Division of Professional Licensure, the Director of Apprenticeship Training and the Director of the Division of Unemployment Assistance. The Director of Labor shall chair the Task Force.

Section 3. The Task Force shall coordinate joint efforts to combat the underground economy and employee misclassification, including efforts to: (a) foster compliance with the law by educating business owners and employees about applicable requirements; (b) conduct joint, targeted investigations and enforcement actions against violators; (c) protect the health, safety and benefit rights of workers; and (d) restore competitive equality for law-abiding businesses.

In fulfilling its mission, the Task Force shall:

- a. Facilitate timely information sharing between and among Task Force members, including through the establishment of protocols by which participating agencies will advise or refer to other agencies matters of potential investigative interest;
- b. Identify those industries and sectors where the underground economy and employee misclassification are most prevalent and target Task Force members' investigative and enforcement resources against those sectors, including through the formation of joint investigative and enforcement teams;
- c. Assess existing investigative and enforcement methods, both in Massachusetts and in other jurisdictions, and develop and recommend strategies to improve those methods;
- d. Encourage businesses and individuals to identify violators by soliciting information from the public, facilitating the filing of complaints, and enhancing the available mechanisms by which workers can report suspected violations;
- e. Solicit the cooperation and participation of district attorneys and other relevant enforcement agencies, including the Insurance Fraud Bureau, and establish procedures for referring cases to prosecuting authorities as appropriate;
- f. Work cooperatively with employers, labor, and community groups to diminish the size of the underground economy and reduce the number of employee misclassifications by, among other means, disseminating educational materials regarding the applicable laws, including the legal distinctions between independent contractors and employees, and increasing public awareness of the harm caused by the underground economy and employee misclassification;
- g. Work cooperatively with federal, commonwealth, and local social services agencies to provide assistance to vulnerable populations that have been exploited by the underground economy and employee misclassification, including but not limited to immigrant workers;
- h. Identify potential regulatory or statutory changes that would strengthen enforcement efforts, including any changes needed to resolve existing legal ambiguities or inconsistencies, as well as potential legal procedures for facilitating individual enforcement efforts; and
- i. Consult with representatives of business and organized labor, members of the General Court, community groups and other agencies concerning the activities of the Task Force and its members and ways of improving its effectiveness, including consideration of whether to establish an advisory panel under the secretary of labor and workforce development.

Section 4. The Task Force shall transmit an annual report to the Governor summarizing the Task Force's activities during the preceding year. The report shall, without limitation: (a) describe the Task Force's efforts and accomplishments during the year; (b) identify any administrative or legal barriers impeding the more effective operation of the Task Force, including any barriers to information sharing or joint action; (c) propose, after consultation with representatives of business and organized labor, members of the legislature and other agencies,

appropriate administrative, legislative, or regulatory changes to strengthen the Task Force's operations and enforcement efforts and reduce or eliminate any barriers to those efforts; and (d) identify successful preventative mechanisms for reducing the extent of the underground economy and employee misclassification, thereby reducing the need for greater enforcement. The Task Force also shall take appropriate steps to publicize its activities.

Section 5. To the extent permitted by law, every agency within the Executive Branch shall make all reasonable efforts to cooperate with the Task Force and to furnish such information and assistance as the Task Force reasonably deems necessary to accomplish its purposes.

Section 6. Nothing in this Executive Order shall be construed to require action inconsistent with any applicable state or federal law.

Section 7. This Executive Order shall continue in effect until amended, superseded, or revoked by subsequent Executive Order.

Given at the Executive Chamber in Boston this 12th day of March in the year of our Lord two thousand and eight and of the Independence of the United States, two hundred and thirty-two.

DEVAL L. PATRICK
GOVERNOR
Commonwealth of Massachusetts

WILLIAM FRANCIS GALVIN
Secretary of the Commonwealth

GOD SAVE THE COMMONWEALTH OF MASSACHUSETTS

APPENDIX B

PARTNER AGENCIES

Executive Office of Labor and Workforce Development

Division of Apprenticeship Training (DAT)

The Division of Apprenticeship Training is the office of record for the registered apprentices in the Commonwealth of Massachusetts. DAT develops materials and conducts public awareness programs to secure the adoption of training in skilled occupations and related training policies and practices used by employers, unions, and other organization. Another goal of the DAT is to develop policies and plans that increase minority and female participation in skilled training as well as coordinate the effective use of federal government, organized labor, and other resources to create a clear training-to-employment corridor for customers of the workforce development system.

Division of Career Services (DCS)

The Department of Workforce Development's Division of Career Services (DCS) administers and oversees a wide range of federal and state employment and employment training programs, and serves as a conduit of grant funds to 16 local Workforce Investment Boards and 37 career centers across the Commonwealth. DCS sets applicable workforce policy in compliance with applicable laws and regulations at the direction of the Executive Office of Labor and Workforce Development. DCS provides information about the Task Force to employers and job seekers and directs service staff to counsel victims of the underground economy about the Task Force referral line and website.

Department of Industrial Accidents (DIA)

The Department of Industrial Accidents administers the law related to the Massachusetts workers' compensation system. This law balances the provision of prompt and fair compensation to workers with occupational injuries and illness arising out of and in the course of employment, with the needs of employers to manage workers' compensation insurance costs. The Department also administers the Workers' Compensation Trust Fund, which provides benefits to injured workers when their employer fails to properly insure or provide these benefits.

DIA's investigative unit works to ensure that businesses and industries are in compliance with the workers' compensation statute. One enforcement tool employed by the DIA is the issuance of immediate Stop Work Orders to violators, who are subject to prosecution for failing to provide their employees with workers' compensation benefits.

Division of Occupational Safety (DOS)

The mission of the Division of Occupational Safety is to promote and protect workers' safety and health, wages, and working conditions. In collaboration with public and private entities, DOS protects workers by means of education and training, workplace safety and health consultation and assessment, occupational injury and illness data collection and analysis, as well as consistent and responsible administration and enforcement of its statutes and regulations. DOS carries out its objectives in a manner that supports employers and strengthens the Commonwealth's

communities and economy. DOS administers state laws and regulations related to asbestos and lead abatement, the operation of employment agencies, determining prevailing wage rates, and interpreting minimum wage law. As the agency that regulates employment and staffing agencies in the Commonwealth, DOS has assumed a vibrant role in the work of the JTF given the ubiquitous element of temporary staffing agency activity in the underground economy.

Division of Unemployment Assistance (DUA)

The Division of Unemployment Assistance administers the unemployment insurance program in Massachusetts, providing temporary financial assistance to workers who lose their jobs through no fault of their own. Funding for unemployment insurance benefits comes from contributions paid by the state's employers; no deductions are made from workers' salaries. Employers pay quarterly contributions to the Massachusetts DUA.

Protecting the integrity of the unemployment insurance program is a responsibility taken seriously by the DUA. Working with Joint Task Force partners, progress is being made in preventing, detecting, investigating and prosecuting those who defraud or attempt to defraud the unemployment insurance system. This includes employers that evade paying their fair share of unemployment insurance costs by intentionally misclassifying their employees as independent contractors.

Office of the Attorney General

Fair Labor Division

The Office of Attorney General's Fair Labor Division enforces various laws that protect workers, including the prevailing wage, minimum wage, payment of wages, overtime, payroll record keeping, employee misclassification, tip pooling, child labor, Sunday and holiday premium pay laws. The Fair Labor Division also investigates allegations of violation of the State's public bidding laws in order to protect the integrity of the process of awarding public works construction contracts. In addition to prosecuting employers who fail to follow the Commonwealth's wage and hour laws, the Fair Labor Division works to protect employees from being exploited by an employer by educating both employers and employees about the law and employees' rights. The Attorney General aims to set a level playing field for employers and employees throughout the State. The Attorney General's specific jurisdiction to enforce the Commonwealth's wage and hour laws, both criminally and civilly, as well as its general jurisdiction to enforce criminal laws, including insurance and tax laws, larceny and embezzlement, allows it to take a holistic approach to prosecuting cases involving the underground economy. Its broad jurisdiction enables it to work in partnership with fellow member agencies on the JTF in order to effectively investigate and prosecute cases, as warranted.

Executive Office of Administration and Finance

Division of Capital Asset Management (DCAM)

The Division of Capital Asset Management is charged with providing professional and comprehensive services to state agencies in the field of public-building design, construction, maintenance and real estate. DCAM's scope of services includes planning, design, construction,

capital repairs and improvements, asset management, contractor certification and compliance, leasing, acquisition and disposition, and maintenance.

DCAM serves the JTF by reaching out to DCAM-certified contractors who have become non-compliant with other state agencies in an effort to bring the contractors back into compliance with state laws. DCAM utilizes contractor information obtained from various agencies of the JTF as part of their certification process and final determination on whether or not the contractor meets the qualifications to be certified to perform public work.

Department of Revenue (DOR)

The mission of the Massachusetts Department of Revenue is to achieve maximum compliance with the tax, child support and municipal finance laws of the Commonwealth. The Department is dedicated to enforcing these laws in a fair, impartial and consistent manner by providing professional and courteous service to all its customers. The Department is also committed to the objectives of the Underground Economy Task Force to enforce employee classification laws through increased public awareness and enforcement. Misclassification of employees by employers has resulted in millions of dollars in lost tax revenue. Both with the Task Force and independently, DOR will be assigning more resources to employee misclassification and other withholding audits.

Executive Office of Public Safety and Security

Department of Public Safety (DPS)

The Department of Public Safety is a licensing and regulatory agency whose mission is to reduce the risk to life and property by promoting safety in the design, construction, installation, inspection, operation, repair and alteration of boilers, pressure vessels, elevators, and buildings. The DPS licenses individuals in many areas, including elevator mechanics, construction supervisor licenses, fireman and engineering licenses, as well as licenses for sprinklerfitters, pipefitters and refrigeration technicians and hoisting operators. In order to ensure compliance with the laws of the Commonwealth, the Department is committed to sharing its resources in a cooperative effort with other state agencies to ensure that workers in these industries are not exploited by business owners through misclassification or other means of skirting labor, tax and occupational safety laws.

Executive Office of Health and Human Services

Massachusetts Office for Refugees and Immigrants (MORI)

The statutory purpose of the Massachusetts Office for Refugees and Immigrants (MORI) is to promote the full participation of refugees and immigrants as self sufficient individuals and families in the economic, social and civic life of the Commonwealth. The primary responsibility of the office is to administer the federally funded refugee resettlement program in Massachusetts, which provides assistance to refugees, such as case management, employment services (including English language training), transitional cash and medical assistance, health screening, and foster care for unaccompanied minors. MORI also administers a state funded citizenship assistance program to assist legal permanent residents in Massachusetts to become naturalized U.S. citizens. MORI serves the Task Force in an advisory capacity, providing information on understanding

cultural issues, identifying immigrant community groups to facilitate Task Force outreach, as well as identifying translation resources.

Executive Office of Housing and Economic Development

Department of Housing and Community Development (DHCD)

The Department of Housing and Community Development acts as the leading advocate for local governments and community agencies. Its mission is to strengthen cities, towns and neighborhoods to enhance the quality of life of Massachusetts residents and provide leadership and professional and technical assistance. It provides both state and federal financial resources to promote safe, decent affordable housing opportunities, economic vitality of communities and sound municipal management. DHCD responds to the needs of low-income citizens by administering the state's public housing programs and coordinates anti-poverty efforts.

Through its referral line, the JTF has enabled DHCD to identify contractors who are performing work on DHCD-funded projects that have complaints filed against them for violation of statutory requirements in connection with payment of prevailing wages, workers' compensation, unemployment insurance and proper licensing. DHCD has also been a resource to the JTF by sharing information with agencies such as the Attorney General's Office, Department of Labor, and Division of Occupational Safety, which has been instrumental in the decertification and/or debarment of contractors participating in the public construction arena.

Division of Professional Licensure (DPL)

The Division of Professional Licensure, under the Office of Consumer Affairs and Business Regulation, oversees the state's 29 Boards of Registration, and regulates more than 40 trades and professions and over 330,000 individuals, corporations and partnerships. Its mission is to protect the public health, safety and welfare by licensing qualified individuals who provide services to consumers and by fair enforcements of statutes and regulations of the boards of registration. Each board can revoke or suspend a license after investigation of serious complaints. An Office of Investigations and an Office of Prosecutions are charged with handling consumer complaints. The DPL seeks to aggressively pursue unlicensed practices, working with participating Joint Task Force agencies and Courts throughout the Commonwealth.

Office of Small Business & Entrepreneurship (OSBE)

The Office of Small Business & Entrepreneurship coordinates and promotes a comprehensive set of resources to support small business performance and growth statewide. This Office creates and leads programs that recognize the role of small businesses in job creation and regional economic development. The OSBE works with the Commonwealth's many service providers of technical assistance and financing, as well as directly with small businesses to provide an atmosphere of success. The OSBE works to understand small business needs, provide appropriate programs, and advocate policies that stimulate growth and job creation

State Office of Minority and Women Owned Businesses (SOMWBA)

SOMWBA creates opportunities for minority and women owned business by growing the number of state and federally certified businesses and offering business insurance and advocacy programs.

Office of the Treasurer

Alcoholic Beverages Control Commission (ABCC)

The Alcoholic Beverages Control Commission regulates the alcoholic beverages industry in Massachusetts, directly licensing the statewide activities of liquor manufacturers, transporters, wholesalers and brokers. The ABCC also regulates interstate and international alcoholic beverage businesses by issuing certificates of compliance. The ABCC investigates applications for licenses, prosecutes violations of pertinent statutes and regulations and adjudicates disputes among members of the industry.

Other Partners

Insurance Fraud Bureau (IFB)

The Insurance Fraud Bureau of Massachusetts (IFB) was authorized by Massachusetts statute in 1990 to criminally investigate suspected fraudulent insurance transactions. The IFB became operational in 1991. The jurisdiction of the IFB was expanded effective January 1, 1992 to specifically include the criminal investigation of workers' compensation fraud, workers' compensation claim fraud, and workers' compensation premium evasion cases presented by misclassification of employees—schemes to affect experience modification or unreported or underreported payroll. Under existing law, anyone who is licensed under Massachusetts General Law (M.G.L.) Chapter 175, exempt from the licensing requirements of M.G.L. c. 175, or otherwise engaged in the business of insurance, and who becomes aware of suspected insurance fraud, is required to report it to the IFB. In addition to incarceration, the restitution orders on workers compensation premium evasion cases total over \$41 million. Referrals can be made through the IFB website at www.ifb.org or via the IFB hotline, 1-800-32-FRAUD.

APPENDIX C

AN ADVISORY FROM THE ATTORNEY GENERAL'S FAIR LABOR DIVISION

ON M.G.L. C. 149, §148B

2008/1¹

The Office of the Attorney General (AGO) issues the following Advisory regarding M.G.L. c. 149, s. 148B, the Massachusetts Independent Contractor Law or the Massachusetts Misclassification Law (the "Law"). This Advisory provides guidance with respect to the Attorney General's understanding of and enforcement of the Law. This Advisory is not a formal opinion. Opinions of the Attorney General are formal documents rendered pursuant to specific statutory authority. M.G.L. c. 12, s. 3, 6, and 9. The Advisory is intended to provide guidance only and does not create any rights or remedies.

I. INTRODUCTION

A. The Need for Enforcement

The need for proper classification of individuals in the workplace is of paramount importance to the Commonwealth.² Entities that misclassify individuals are in many cases committing insurance fraud and deprive individuals of the many protections and benefits, both public and private, that employees enjoy. Misclassified individuals are often left without unemployment insurance and workers' compensation benefits. In addition, misclassified individuals do not have access to employer-provided health care and may be paid reduced wages or cash as wage payments.

Similarly, entities that misclassify individuals deprive the Commonwealth of tax revenue that the state would otherwise receive from payroll taxes. In addition, as a result of misclassification, the Commonwealth often incurs additional costs, such as providing health care coverage for uninsured workers. Other potential costs for the Commonwealth include providing workers' compensation benefits paid by the Workers' Compensation Trust Fund, and unemployment assistance without employer contribution into the Division of Unemployment Assistance fund, among other indirect costs.

Finally, businesses that properly classify employees and follow all of the relevant statutes regarding employment are likely to be at a distinct competitive disadvantage when vying for the same work, customers or contracts as those businesses that do not play by the rules. Further, by paying the proper taxes and insurance premiums, businesses following the Law are, in effect, subsidizing those businesses that do not. Misclassification undermines fair market competition and negatively impacts the business

¹ This Advisory supersedes the Attorney General's prior Advisories regarding M.G.L. c. 149, s. 148B, including "An Advisory from the Attorney General, Amendments to Massachusetts Independent Contractor Law," Advisory 2004/2; and an "Advisory from the Attorney General's Fair Labor and Business Practices Division on the Issue of Employee Versus Independent Contractor," Advisory 94/3.

² The Commissioner of Revenue is charged with administering the Massachusetts wage withholding laws under M.G.L. c. 62B, which provides a different definition of employee than M.G.L. c. 149, s. 148B, for purposes of Massachusetts income tax withholding. See *Department of Revenue TIR 05-11: Effect of New Employee Classification under M.G.L. c. 149, s. 148B on Withholding of Tax on Wages under M.G.L. c. 62B*. In addition, a definition similar but not identical to M.G.L. c. 149, s. 148B, exists for unemployment insurance purposes. M.G.L. c. 151A, s. 2. The Massachusetts Workers' Compensation Law also provides a different definition of employee. M.G.L. c. 152, s. 1(4).

environment in the Commonwealth. The AGO expects businesses to contract only with businesses that properly classify their workers.

B. The History of the Law

The proper classification of employees has long been an issue of great concern in the Commonwealth. Under common law, a number of factors determined the existence of an employer/employee relationship based on the totality of the relationship. See, e.g., *Commonwealth v. Savage*, 31 Mass. App. Ct. 714 (1991). Those factors included the degree of control, the opportunity for profit and risk of loss, the employee's investment in the business facility, the permanency of the relationship, the skill required and the degree to which the employee's services were integral to the business.

In 1990, Massachusetts enacted the first version of the Law. By enacting the Law, the Legislature established that notwithstanding that a working relationship could be considered to be one of independent contractor under common law, the worker may still be deemed in employment for the purposes of the Law. *Boston Bicycle Couriers v. Deputy Director of the Division of Employment and Training*, 56 Mass. App. Ct. 473, 477 (2002).

Subsequent to its enactment in 1990, the Law has undergone several amendments including: Section 214 of Chapter 286 of the Acts of 1992; Section 165 of Chapter 110 of the Acts of 1993; Section 12 of Chapter 236 of the Acts of 1998; and Section 26 of Chapter 193 of the Acts of 2004. The 2004 amendment was part of legislation making broad changes to the laws governing the public construction industry. However, the Law, including the 2004 amendment, applies more broadly to a wide range of industries. The 2004 amendment kept intact, in large part, the standard for determining whether an individual is an employee, but made several changes from the earlier version of the statute. The amendment deleted the element "or is performed outside of all places of the business of the enterprise" as an alternative factor in prong two. In addition, the first element of prong two of the Law had read: "such service is performed ... outside the usual course of business for which the service is performed..." After the 2004 amendment, the element reads: "the service is performed outside the usual course of business of the employer." Finally, the amendment added "trade" to the list of activities eligible for independent contractor status in prong three.

II. THE LAW

M.G.L. c. 149, s. 148B, provides a three-part test which requires that all three elements (commonly referred to as prongs one, two and three or the A, B, C test) must exist in order for an individual to be classified other than as an employee. The burden of proof is on the employer, and the inability of an employer to prove any one of the prongs is sufficient to conclude that the individual in question is an employee. M.G.L. c. 149, s. 148B (using the term "unless"). See also *Scalli v. Citizens Financial Group*, 2006 WL 1581625, *14 (D. Mass. 2006); *Rainbow Development, LLC v. Com., Dept. of Industrial Accidents*, 2005 WL 3543770, *2 (Mass. Sup. Ct. 2005).

Courts have had a limited opportunity to interpret M.G.L. c. 149, s. 148B. In *College News Service v. Department of Industrial Accidents*, 21 Mass.L.Rptr. 464, 2006 WL 2830971, the Superior Court noted that M.G.L. c. 149, s. 148B is almost identical to M.G.L. c. 151A, s. 2, the statute used by the Division of Unemployment Assistance, and therefore relied on the case law analyzing M.G.L. c. 151A, s. 2, to interpret M.G.L. c. 149, s. 148B. See *4 ("If the Legislature uses the same language in several provisions concerning the same subject matter [e.g., the definition of an employee in distinction from an independent contractor], the courts will presume it to have given the language the same meaning in each provision.").

See also *Commonwealth v. Germano*, 379 Mass. 268, 275-76 (1979). Because prongs one and three of M.G.L. c. 149, s. 148B and M.G.L. c. 151A, s. 2 are nearly identical and because prong two of M.G.L. c. 149, s. 148B contains one of the two steps of prong two in M.G.L. c. 151A, s. 2, Massachusetts case law interpreting M.G.L. c. 151A, s. 2 provides a useful guide to interpreting M.G.L. c. 149, s. 148B.

A. The Three Prong Test

Prong One: Freedom from Control

The first prong of M.G.L. c. 149, s. 148B provides that the individual must be “free from control and direction in connection with the performance of the service, both under his contract for the performance of service and in fact” in order for the individual to be an independent contractor. In *Commissioner of the Division of Unemployment Assistance v. Town Taxi of Cape Cod*, 68 Mass. App. Ct. 426, 434 (2007), the Court noted in interpreting the nearly identical language of prong one of M.G.L. c. 151A, s. 2 that:

The first part of the test examines the degree of control and direction retained by the employing entity over the services performed. The burden is upon the employer to demonstrate that the services at issue are performed free from its control or direction. The test is not so narrow as to require that a worker be entirely free from direction and control from outside forces.

Id. (citations omitted).

The first prong of the test includes a determination of the employer’s actual control and direction of the individual. See M.G.L. c. 149, s. 148B (using the phrase “in fact”). An employment contract or job description indicating that an individual is free from supervisory direction or control is insufficient by itself to classify an individual as an independent contractor under the Law. To be free from an employer’s direction and control, a worker’s activities and duties should actually be carried out with minimal instruction. For example, an independent contractor completes the job using his or her own approach with little direction and dictates the hours that he or she will work on the job.

Prong Two: Service Outside the Usual Course of the Employer’s Business

Prong two of M.G.L. c. 149, s. 148B(a)(2) provides that the service the individual performs must be “outside the usual course of business of the employer” in order for the individual to not be classified as an employee. Prior to the 2004 amendment, the employer could alternatively demonstrate that the work was performed “outside of all places of the business of the enterprise.” The Law does not define “usual course of business” and Massachusetts courts have had limited opportunities to do so. In *Athol Daily News v. Division of Employment and Training*, 439 Mass. 171, 179 (2003), the Court found that newspaper carriers were performing the “usual course of business” of the newspaper relying on the employer’s own definition of its business. In *American Zurich v. Dept. of Industrial Accidents*, 2006 WL 2205085, *4 (Mass. Super. 2006), Judge Paul Troy noted that “a worker whose services form a regular and continuing part of the employer’s business” and “whose method of operation is not such an independent business” through which workers’ compensation costs can be channeled, “should be found to be an employee.” *Id.* Yet, “if the worker is performing services that are part of an independent, separate, and distinct business from that of the employer,” prong two is not implicated. *Id.*

Prong Three: Independent Trade, Occupation, Profession or Business

Prong three provides that the individual “is customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the service performed” in order for the individual to be classified other than as an employee. M.G.L. c. 149, s. 148B(a)(3). “Under the third prong, the court is to consider whether the service in question could be viewed as an independent trade or business because the worker is capable of performing the service to anyone wishing to avail themselves of the service or, conversely, whether the nature of the business compels the worker to depend on a single employer for the continuation of the services.” *Coverall v. Division of Unemployment Assistance*, 447 Mass. 852, 857-58 (2006) (interpreting prong three of M.G.L. c. 151A, s. 2). The court went on to note in *Coverall*:

Although the court can consider whether a worker is capable of performing the service to anyone wishing to avail themselves of the services, the court may also consider whether the nature of the business compels the worker to depend on a single employer for the continuation of the services [citation omitted]. In this regard, we determine whether the worker is wearing the hat of the employee of the employing company, or is wearing the hat of his own independent enterprise.

Id.

B. Issues Deemed Irrelevant

An employer’s failure to withhold taxes, contribute to unemployment compensation, or provide worker’s compensation is not considered when analyzing whether an employee has been appropriately classified as an employee. M.G.L. c. 149, s. 148B(b). Hence, an employer’s belief that a worker should be an independent contractor has no relevance in determining whether there has been violation of the Law. Similarly, the Law deems irrelevant the status of a worker as a “sole proprietor or partnership,” for the purpose of obtaining workers’ compensation insurance. M.G.L. c. 149, s. 148B(c).

C. Violation of the Law

M.G.L. c. 149, s. 148B(d) provides that an employer violates the statute when two acts occur. First, the employer classifies or treats the individual other than as an employee although the worker does not meet each of the criteria in the three prong test. Second, in receiving services from the individual, the employer violates one or more of the following laws enumerated in the Law:

- The wage and hour laws set forth in M.G.L. c. 149.
- The minimum wage law set out in M.G.L. c. 151, s. 1A, 1B, and 19; 455 CMR 2.01, *et seq.*
- The overtime law set forth in M.G.L. c. 151, s. 1, 1A, 1B, and 19.
- The law requiring employers to keep true and accurate employee payroll records, and to furnish the records to the Attorney General upon request as required by M.G.L. c. 151, s. 15.
- Provisions requiring employers to take and pay over withholding taxes on employee wages. M.G.L. c. 62B.³
- The workers’ compensation provisions punishing knowing misclassification of an employee. M.G.L. c. 152, s. 14.

The statute authorizes the Attorney General to impose substantial civil and criminal penalties, and in certain circumstances, to debar violators from public works contracts. M.G.L. c. 149, s. 27C(a)(3). The penalties and length of debarment depend upon the nature and number of violations. M.G.L. c. 149, s.

³ As noted in footnote 2, for purposes of income tax withholding, M.G.L. c. 62B provides a definition of employee that differs from the three prong test in M.G.L. c. 149, s. 148B.

148B(d) also creates liability for both business entities and individuals, including corporate officers, and those with management authority over affected workers.

III. ENFORCEMENT GUIDELINES

A. General Enforcement Guidelines

The AGO recognizes that enforcement guidelines are useful to employers, entities and individuals who must determine whether a particular situation or individual has employee status. When enforcing the Law, the AGO attempts to protect workers, legitimate businesses and the Commonwealth, consistent with the goals of the Law outlined in the Introduction.

The Law is focused on the misclassification of individuals. In the event that all individuals performing a service are classified and legitimately treated as employees of an entity (paid W-2 income, received W-2 tax forms, subject to withholdings for federal and state taxes, covered by workers' compensation insurance, eligible for unemployment compensation benefits, etc.) and are performing the service as an employee, then there is no misclassification of those workers. Accordingly, in determining whether the Law has been violated, the initial question is whether an individual or individuals are classified other than an employee. For example, if painting company X cannot finish a painting job and hires painting company Y as a subcontractor to finish the painting job, provided that all of the individuals performing the painting are employees of company Y, then the Law does not apply. However, if painting company X hires individuals as independent contractors to finish the painting job, then this would be a violation of prong two and a misclassification under the Law.

The AGO is cognizant that there are legitimate independent contractors and business-to-business relationships in the Commonwealth. These business relationships are important to the economic wellbeing of the Commonwealth and, provided that they are legitimate and fulfill their legal requirements, they will not be adversely impacted by enforcement of the Law. The difficulty arises when businesses are created and maintained in order to avoid the Law. The AGO will enforce the Law against entities that allow, request or contract with corporate entities such as LLCs or S-corporations that exist for the purpose of avoiding the Law. In these situations, the AGO will consider, among other factors, whether: the services of the alleged independent contractor are not actually available to entities beyond the contracting entity, even if they purport to be so; whether the business of the contracting entity is no different than the services performed by the alleged independent contractor; or the alleged independent contractor is only a business requested or required to be so by the contracting entity.

In reviewing situations for misclassification, the AGO considers certain factors to be strong indications of misclassification that warrant further investigation and may result in enforcement. These include:

- Individuals providing services for an employer that are not reflected on the employer's business records;
- Individuals providing services who are paid "off the books", "under the table", in cash or provided no documents reflecting payment;
- Insufficient or no workers' compensation coverage exists;
- Individuals providing services are not provided 1099s or W-2s by any entity;
- The contracting entity provides equipment, tools and supplies to individuals or requires the purchase of such materials directly from the contracting entity; and
- Alleged independent contractors do not pay income taxes or employer contributions to the Division of Unemployment Assistance.

Since it is not feasible to address in this Advisory every situation that could occur and since each case involves its own set of facts, it should be recognized that each potential enforcement action shall be reviewed by the AGO on a case-by-case basis, consistent with the Law.

B. Prong Two Guidelines

Due to the nature of prong two and the lack of judicial precedent, the AGO recognizes the complexity that prong two presents and the concerns regarding legitimate independent contractors, particularly among certain segments of the workforce.

As discussed above, the AGO emphasizes that the initial question in determining whether the Law has been violated is whether an individual or individuals are classified other than as an employee. Only when an individual or individuals are classified other than as an employee will there be a determination of whether any of the prongs – including the complex prong two – are violated.

In *Athol Daily News*, the Court advised that no prong should be read so broadly as to render the other factors of the test superfluous. 439 Mass. at 180. Thus, prong two should not be construed to include all aspects of a business such that prongs one and three become unnecessary.

In its enforcement actions, the AGO will consider whether the service the individual is performing is necessary to the business of the employing unit or merely incidental in determining whether the individual may be properly classified as other than an employee under prong two.

Some examples of how the Attorney General will apply prong two⁴:

- A drywall company classifies an individual who is installing drywall as an independent contractor. This would be a violation of prong two because the individual installing the drywall is performing an essential part of the employer's business.
- A company in the business of providing motor vehicle appraisals classifies an individual appraiser as an independent contractor. This would be a violation of prong two because the appraiser is performing an essential part of the appraisal company's business.
- An accounting firm hires an individual to move office furniture. Prong two is not applicable (although prongs one and three may be) because the moving of furniture is incidental and not necessary to the accounting firm's business.

IV. CONCLUSION

As this Advisory reflects, the AGO will carry out its enforcement responsibilities to serve the goals of the Law as articulated in the Introduction. The Law has been passed and amended over time to address serious abuses by various entities, and the AGO's goal is to prevent and remedy those practices without disrupting legitimate business activity.

⁴ In interpreting the Illinois independent contractor law, the Supreme Court of Illinois noted in *Carpetland U.S.A., Inc. v. IL Dept. of Employment Security*, 201 Ill.2d 351, 386-88 (2002):

The washing of windows or mowing of grass for a business is incidental. But when one is in the business of selling a product, sales calls made by sales representatives are in the usual course of business because sales calls are necessary. When one is in the business of dispatching limousines, the services of chauffeurs are provided in the usual course of business because the act of driving is necessary to the business.

Although the Illinois statute is not the same as the Massachusetts statute, the court's analysis is useful for guidance on how the Attorney General will undertake prong two enforcement.

APPENDIX D

2009-2010 Legislation

Joint Task Force Supported Legislation

House Bill 17 – AN ACT RELATIVE TO STRENGTHENING THE ENFORCEMENT OF STOP WORK ORDERS UNDER THE WORKERS' COMPENSATION STATUTE.

Summary – This bill would enable the investigation unit at the Department of Industrial Accidents (DIA) to broaden its authority to obtain information to determine whether or not an employer was in compliance with the law or misclassifying its employees as independent contractors. It would also increase certain related penalties.


House Bill 18 – AN ACT AUTHORIZING THE DEPARTMENT OF UNEMPLOYMENT ASSISTANCE TO SHARE INFORMATION WITH THE JOINT TASK FORCE ON THE UNDERGROUND ECONOMY.

Summary – This bill would amend Chapter 151A, Section 46 to expand the list of other EOLWD member agencies with which DUA could share confidential data to assist the Joint Task Force in its enforcement efforts.

APPENDIX E

PRESENTATION SLIDES

GEORGE E. NOEL, DIRECTOR OF LABOR AND JTF CHAIR



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

**JOINT TASK FORCE ON THE UNDERGROUND
ECONOMY AND EMPLOYEE MISCLASSIFICATION**

1-877-96-LABOR
www.mass.gov/dol/labortaskforce

**Boston Town Hall Meeting
June 19, 2009**

Deval L. Patrick, Governor
Timothy P. Murray, Lieutenant Governor

Suzanne M. Bump, Secretary
George E. Noel, Director of Labor,
Commonwealth of Massachusetts
and Chair, Joint Task Force on the
Underground Economy

1

WHAT IS THE UNDERGROUND ECONOMY?

► Individuals and businesses that:

- Willfully avoid labor, licensing and tax laws
- Deal in cash and/or other “off the books” schemes
- Engage in misclassification of employees in order to conceal their true tax liability from licensing, regulatory and tax agencies

2

WHAT IS EMPLOYEE MISCLASSIFICATION?

- ▶ Misclassification occurs when employers classify workers who are otherwise waged or salaried employees as independent contractors (self-employed)
- ▶ Misclassification also occurs when an employee is intentionally and improperly classified with regard to their specific job duty

3

THE LAW – M.G.L. c.149 s.148B

- ▶ The three prong or “A, B, C” Test
- ▶ The burden of proof is on the employer
- ▶ To be classified as an independent contractor one must meet all three tests
 - Freedom from control
 - Service outside the normal course of business
 - Independent trade, occupation, profession or business

4

CONSEQUENCES OF WORKER MISCLASSIFICATION AND FRAUD

- ▶ Uncollected payroll, sales & excise taxes
- ▶ Unpaid workers' compensation premiums
- ▶ Unpaid unemployment insurance
- ▶ Unfair business competition
- ▶ Unregulated, unsafe products & services
- ▶ Unprotected worker health & safety
- ▶ Unpaid lawful wages

5

WHO IS AFFECTED BY THE UNDERGROUND ECONOMY?

- ▶ The Commonwealth's tax payers
- ▶ Exploited workers
- ▶ Responsible employers and their workers
- ▶ Consumers who unknowingly purchase potentially unregulated and unsafe goods and services

6

GOALS OF THE JOINT TASK FORCE

- ▶ Eliminate unfair business competition
- ▶ Protect workers by ensuring that they receive all benefits and protections due to them under the law
- ▶ Protect consumers by ensuring that businesses are properly licensed and comply with consumer protection regulations
- ▶ Reduce the burden on law-abiding citizens & businesses by ensuring that all businesses & individuals comply with the Commonwealth's licensing, regulatory & tax laws
- ▶ Increase employer compliance with the Commonwealth's tax laws to recover lost revenue

7

COLLABORATION ACROSS MULTIPLE STATE AGENCIES

Executive Office of Labor and Workforce Development	Department of Labor Department of Industrial Accidents Division of Apprentice Training Division of Career Services Division of Occupational Safety Division of Unemployment Assistance
Executive Office of Administration and Finance	Division of Capital Asset Management Department of Revenue
Executive Office of Health and Human Services	Massachusetts Office for Refugees and Immigrants
Executive Office of Housing and Economic Development	Department of Housing and Community Development Division of Professional Licensure Office of Small Business & Entrepreneurship State Office of Women and Minority Owned Businesses
Executive Office of Public Safety and Security	Department of Public Safety
Office of the Attorney General	Fair Labor Division
Office of the Treasurer	Alcoholic Beverages Control Commission
Insurance Fraud Bureau	

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