

The Cook County Wage Theft Ordinance Makes Compliance with Federal and State Wage and Hour Laws Even More Important

Labor & Employment Law Update

By Julie Proscia on March 10, 2015

The Cook County Board of Commissioners recently passed an ordinance which prohibits any company or individual who is found guilty or liable of wage theft from obtaining Cook County procurement contracts, business licenses or property tax incentives for up to five years. The ordinance is effective May 1, 2015. Cook County is now the largest municipal entity in the United States to have passed an ordinance of this nature.

Under the new Cook County Wage Theft Ordinance, businesses found to have violated the Fair Labor Standards Act (FLSA), Illinois Wage Payment and Collection Act, Illinois Worker Adjustment and Retraining Notification (WARN), Illinois Employee Classification Act, and/or any other similar state laws regarding the payment of wages may find themselves ineligible to do business with the County of Cook. This is applicable to any person or entity who, within the prior five-year period, has admitted or has been adjudicated liable in any judicial or administrative proceeding of committing, absent a finding of "good cause," a repeated or willful violation of federal or state wage payment laws. Under the terms of the ordinance, a business violator may:

- become ineligible and/or disqualified from receiving or renewing business licenses in Cook County;
- be barred from contracting with Cook County;
- be found in default under existing Cook County contracts; and/or
- become ineligible for property tax incentives.

As of May 1, 2015, businesses requesting tax incentives from the Cook County Assessor must certify, under oath, that for the past five years they have not been found in willful or repeated violations of federal or state wage and hour laws. Unless an express waiver is granted by the County Board, any person or business that has been found liable for a repeated or willful violation of state or federal wage payment laws will be ineligible for tax incentives. Moreover, if the County

Assessor becomes aware that an employer has violated wage and hour statutes within the prior five years, the Assessor has the authority to revoke the incentive or classification unless the employer cures the violation within 45 days.

The new ordinance also requires that any person seeking to contract with the County of Cook must certify, under oath, that the applicant has not been found to have repeatedly or willfully violated federal or state wage and hour laws anywhere in the country, either by an administrative agency or a court. If a violation is deemed to have occurred, the County Chief Procurement Officer has the authority to issue a notice of default under existing contracts.

Because of the ramifications of the new Wage Theft Ordinance, it is even more important than ever that entities and individuals that do business within and with the County of Cook are in compliance with federal and state wage and hour requirements. It is also important that, if your business has been found in violation of federal or state wage and hour laws in the prior five years, you have any applicable application to the County of Cook reviewed by counsel prior to submission to ascertain if a waiver can be sought or asserted. Lastly, it is imperative to have counsel involved in any settlement agreements that are drafted to ensure that the wording utilized does not inadvertently solve one problem while creating others.

The Cook
County
Wage Theft
Ordinance
Makes
Compliance
with Federal
and State
Wage and
Hour Laws
Even
More Impor-
tant