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Cincinnati Passes Wage Theft Ordinance: Is Your Company Covered?

The City of Cincinnati recently became the first city in Ohio to pass a wage theft ordinance. The Ordinance promises to cancel any City contracts and incentives based on wage violations or worker misclassifications.

This Ordinance is not limited to construction or service contracts. Any entity receiving a benefit or incentive from the City is potentially covered. The implications are much broader, though, as companies that want to do business with a company receiving a benefit or incentive from the City could also find themselves shut out of an opportunity if they are not careful.

Who's Covered?

Any individual or company who has entered into a contract in which the City provides an incentive or benefit of more than \$25,000 must comply with this new ordinance. The ordinance specifically calls out (but is not limited to) job creation tax credits, tax abatements, commercial loans, or below-market land deals as contracts that trigger compliance. But be aware, although the City puts legal obligations on the entities it deals with directly, the Ordinance also pushes those obligations downstream.

What Does the Law Do?

Essentially, the new ordinance is a reporting requirement. Covered companies have to report to the City their own wage and worker misclassification violations as well as the violations of anyone involved in the project or development that is the subject of the City agreement or incentive. This includes violations that occurred in the past as well as violations that may occur during the life of the City contract. In addition to the reporting requirement, the Ordinance gives the City a formal mechanism to investigate any

complaints of wage theft or payroll fraud. Based on the reports or any investigations, the City can avoid entering into contracts or incentive agreements with bad actors, or cancel existing contracts or incentives.

What Must Covered Entities Do?

All covered entities must require anyone involved in the City supported project or development to submit sworn statements of no violation. In these statements, any employers, contractors, or subcontractors involved in the development must swear they have not in the past three years committed wage theft or payroll fraud. The covered entity must also require employers, contractors, or subcontractors to submit an updated statement within thirty days of any wage theft or payroll fraud finding.

Covered entities may also be required to notify the City within thirty days of receiving any complaint of an employer, contractor, or subcontractor engaging in wage theft or payroll fraud.

What Are the Penalties?

Up front, any entity approaching the City for a contract, benefit, incentive, or land deal that has committed wage theft or payroll fraud in the recent past will likely be denied. If the violation was particularly egregious, the City could debar the entity from any future contract or incentive. Under the Ordinance, the City can also report this information to any city department, such as the tax commissioner, or any federal or state agency that may need or want to know.

Once a contract is entered into or a benefit or incentive given, any entity who commits wage theft or fraud may have any contracts terminated or any incentive reduced up to 100%. The City can also deem the entity ineligible for a future contract or incentive until any penalties for violation are paid in full. Additionally, egregious violations may lead to debarment. Reporting to other federal, state, or city agencies is also likely.

Most important, the City may be able to take any of the above actions not only based on the covered entity's violations, but also

because of the violations of any employers, contractor, or subcontractor involved in the City supported project. In other words, the City has co-opted any covered entity to be its eyes and ears for any downstream violations.

For more information on the City's Wage Theft Ordinance or any other aspects of city, state, or federal wage payment laws, please contact [Steven McDevitt](#), [Neal Shah](#) or any other member of Frost Brown Todd's [Labor and Employment practice group](#).

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