

Waterman, Robert - WHD

From: Lori Gentillon <lori.gentillon@dwinc.org>
Sent: Friday, September 25, 2015 8:27 PM
To: WHDPRAComments
Subject: Comments
Attachments: DOL Comments-14(c) Application.pdf

Please find attached prepared comments on the proposed changes to the 14(c) application forms - control number 1235-0001.

Thank You.

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Lori Gentillon
Development Workshop, Inc.
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***The secret of change is to focus all of your energy not on fighting for the old,
but building the new.***

***Courage and perseverance have a magical talisman, before which
difficulties disappear and obstacles vanish into air.***

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September 25, 2015

Ms. Helen Applewhaite, Branch Chief
Family and Medical Leave Act and Other Labor Standards
Wage and Hour Division
United States Department of Labor

Re: Comments on Proposed Revision to the Section 14(c) certificate application forms – Control Number 1235-0001

Ms. Applewhaite:

On behalf of Development Workshop, Inc. and the people with disabilities we serve, I appreciate the opportunity to submit comment on the proposed changes to the 14(c) application forms.

As noted in the Field Operations Handbook published by the Wage and Hour Division of the Department of Labor, Chapter 64 "*Section 14(c) of the Fair Labor Standards Act (FLSA) has contained provisions to employ workers with disabilities at special minimum wages (SMWs) since it was enacted in 1938. An SMW is a wage paid a worker with a disability that is commensurate with that worker's individual productivity as compared to the wage and productivity of experienced workers who do not have disabilities performing essentially the same type, quality, and quantity of work in the vicinity where the worker with a disability is employed. The commensurate wage is always a special minimum wage.* There is no reference to the term subminimum wage which is referenced and used in the title of the proposed application W226 and the Supplemental Data sheet W226A. The Division should remove the reference to subminimum wage and title the document consistent with the law. This should be adhered to throughout out the document as well. If any reference is needed it should be to paying less than prevailing wage.

On the supplemental form, the data requested extends beyond the need of the Division in determining fair wage payment to the individual and compliance with the law. Much of this data is not necessary for the proper performance of the functions of the agency, including the practical utility. Column B is not necessary; Column C requests data that may not be available to the organization completing the form; Column D is addressed through the wage determination process; Columns E, F, G, again are not relevant to the determination of an organization's compliance with the law and respective procedures. If this is data that the Division is being asked to collect, this should be called out separately and the purpose clearly defined.

Lastly, the estimate of the burden of the proposed collection of information is inaccurately listed at 120 minutes. If an organization does not have access to sophisticated payroll software, the collection of this information will be substantially longer and could easily exceed 300 minutes. Our most recent application took well over 360 hours to complete and included data for 45 individuals.

Sincerely,


Lori Gentillon

Vice President of Rehabilitation

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