

Memorandum

To: Unemployment Insurance Advisory Council
From: Mike Myszewski
Cc: Janell Knutson
Date: February 19, 2015
Re: **Worker Misclassification Summary**

The following is a written summary of the worker misclassification update I provided to the Unemployment Insurance Advisory Council at its October 7, 2014, meeting:

Worker Classification Web Site:

The worker classification web site went into production in July of 2013. The web site has been used extensively by the public. For example, between March 30, 2014, and July 12, 2014, the Unemployment Insurance section of the web site has had 71,743 hits from unique Internet protocol addresses.

The web site has received 51 actionable complaints. Those complaints are categorized as follows:

Questions only: 18
Cases investigated and referred to Teams: 6
Cases investigated and referred to Field Audit: 20
Cases still under investigation: 7

LIRC has suggested updates to the web site that reflect new case law. Those changes are in the process of being implemented.

Worker Classification Grants:

In 2013, BOLA received \$100,000 from the federal Supplemental Budget Request (SBR) grants. This grant provides 2000 investigate hours for the period January of 2014, through September of 2015.

In 2014, BOLA received \$104,000 from the SBR grant. This grant provides 2,086 investigative hours for the period October 2014, through September of 2016.

BOLA submitted a \$500,000 competitive misclassification grant application to the U.S. Department of Labor in August of 2014. BOLA was awarded funding in September of 2014, for the period October 2014 through September 2016. The grant will provide

funding for 4,160 investigative hours, the hiring of a new Field Auditor to conduct audits resulting from classification investigations, in-state travel for investigations, and two educational videos.

BOLA has hired two LTE investigators, both of whom are experienced criminal investigators who have retired from the Wisconsin Department of Justice. BOLA is in the process of hiring additional LTE investigators, and Field Audit is in the process of hiring the auditor.

Worker Classification Investigations:

The first worksite investigation took place in May of 2013. 82 worker classification investigations have been conducted, 22 in 2013 and 60 in 2014.

The types of businesses investigated are as follows:

Construction: 51
Not for Profit: 7
Other: 24

The status of those investigations is as follows:

Referred to Field Audit: 30
Referred to Teams for subjectivity investigations: 9
Still under investigation, pending referral to Field Audit: 23
No violation: 20

The number of misclassified workers found on job sites has ranged from as few as one to as many as 37.

Plans for 2015:

BOLA will complete the hiring process for the new investigators, train them, and assign them to investigations in the field.

Since construction traditionally slows down in the winter months, BOLA will focus on non-construction sectors that have engaged in misclassification.

The educational videos will be produced and distributed. The first video will cover the steps an employer needs to take to properly classify a worker as an employee or an independent contractor. The second video is a mock appeal hearing that will be used in presentations to employers.

BOLA will continue to do public presentations on worker classification at Labor Law Clinics, Friday Fundamentals, and for any other organizations requesting presentations.