

**STATE OF MONTANA
OFFICE OF THE GOVERNOR
EXECUTIVE ORDER No. 4-2019**

**EXECUTIVE ORDER CREATING AN ADVISORY COUNCIL ON INTEGRITY IN
WAGE REPORTING AND EMPLOYEE CLASSIFICATION IN THE CONSTRUCTION
INDUSTRY**

WHEREAS, the construction industry in Montana continues to grow and is a major contributor in Montana's diverse economy. Construction has added significant payroll employment growth over the last five years, adding 4,500 jobs for annual average growth of 3.4 percent;

WHEREAS, Montana has a high number of individuals working within the construction industry who are registered as independent contractors. In 2018, Montana averaged about 28,600 payroll workers in the construction industry. An additional 11,500 individuals working in construction are registered with the Department of Labor and Industry (Department) as independent contractors;

WHEREAS, nationally, there is much attention being placed on the appropriate classification and payment of workers and its impact on taxes, unemployment insurance, and workers' compensation insurance. The construction industry is particularly susceptible to having inappropriate working relationships amongst contactors, sub-contractors, and independent contractors;

WHEREAS, the Department currently has a compliance program focused on identifying misclassified employees and uninsured employers. The primary objectives have been to ensure construction site employees are either working under a workers' compensation policy or have an independent contractor exemption certificate;

WHEREAS, in May 2016, the Montana Legislative Audit Division conducted an audit on the Department's regulation of independent contractors. The overwhelming assessment of the audit was that the Department should better utilize internal data and data from other agencies to improve its methods for identifying misclassification;

WHEREAS, misclassified employees and inappropriate employer/employee relationships result in undue hardship to tax and insurance systems, law-abiding construction contractors and construction workers in Montana. Disingenuous employers and employees who do not report income and do not pay income tax or premiums on insurance or contributions for healthcare create an imbalance on the state's receipt of taxes as well as unfair competitive advantages for construction contracts; and

WHEREAS, there are many stakeholders who would hold a strong interest in ensuring appropriate classifications of employees exist. By working together, these stakeholders could create better systems and processes to produce a far more effective compliance program—one

that levels the playing field where more contractors are compliant, where appropriate tax structures are in place, where proper wage withholdings exist, and where effective social safety nets are established.

NOW, THEREFORE, I, STEVE BULLOCK, Governor of the State of Montana, pursuant to the authority vested in me under the Constitution and laws of the State of Montana, including § 2-15-122, MCA, do hereby create an Advisory Council which shall be called the Task Force on Integrity in Wage Reporting and Employee Classification in the Construction Industry (Task Force), as follows:

PURPOSE

The purpose of the Task Force is to coordinate state and industry resources to assist in identifying inappropriate employment relationships and to ensure proper tax withholdings, insurance contributions, and wage payments are occurring within the construction industry.

DUTIES

1. Review available data from all state agencies to identify appropriate means to uncover potential misclassification of employees. Provide recommendations on sharing data across agencies to assist in identifying noncompliance.
2. Define specific and appropriate strategies and performance measures for state agencies as it relates to payroll fraud and wage theft. Assist in developing processes and procedures for the compliance programs that already exist in state agencies to improve on the discovery of noncompliance.
3. Identify education and outreach opportunities for agency staff to leverage to improve awareness around the issues of wage theft and payroll fraud.
4. Propose policy and/or legislative solutions that may be considered by the Governor or in future legislative sessions.

COMPOSITION AND ORGANIZATION

1. The Task Force members shall be appointed by and serve at the pleasure of the Governor.
2. The Lieutenant Governor, or his or her designee, shall serve as the chair of the Task Force.
3. The Task Force shall be comprised of representatives from the following:
 - a. Lieutenant Governor, Chair
 - b. Commissioner, Department of Labor and Industry
 - c. Director, Department of Revenue
 - d. Three Representatives from the construction contractor community
 - e. Three Representatives from organized labor

4. The Task Force may establish subcommittees to assist in the execution of its duties. The subcommittees shall be given specific deliverables with definite timeframes.
5. The Task Force shall provide a quarterly report on action and activities to the Governor. The first report shall be presented on or before September 1, 2019.
6. The Task Force is attached to the Department of Labor and Industry for administrative purposes.

COMPENSATION

Task Force members eligible for reimbursement shall be reimbursed pursuant to § 2-15-122(5), MCA.

DURATION

The Task Force shall come into existence on April 15, 2019, and expire on or before June 30, 2020, unless rescinded or renewed by subsequent executive order.

This Order is effective immediately.



GIVEN under my hand and the GREAT SEAL of
the State of Montana this 15 day of
April 2019.

A handwritten signature in blue ink, appearing to read 'Steve Bullock', is written over a horizontal line.

STEVE BULLOCK, Governor

ATTEST:

Corey Stapleton, by Ashley Autson
COREY STAPLETON, Secretary of State *deputy*