**Section 100.24 Notice of Violation**

a) After receipt of a complaint or on the Department's initiative, the Director shall review the investigative file to determine whether there has been a violation or violations of which the contractor or subcontractor must be given notice. All information and observations made during an audit, investigation or survey shall be considered and shall constitute the basis for the Department's decision that the Act has been violated and that a notice of violation shall be issued. The notice of violation shall identify the specific violations of the Act.

b) The notice of violation shall state the amount of monies estimated due by the Department to be in controversy based on reasons contained in the investigation file.

c) In making a decision that a contractor or subcontractor has failed to allow the Director access to accurate payroll records, the Director shall rely on the information contained in the investigative file, the certified payroll records filed with the public body in charge of the project or any other information and shall assess a separate violation for each day worked by each worker on the subject project. Each decision of a separate violation under Section 5 of the Act shall be listed in the notice of violation.

d) In deciding that the Act has been violated and that the issuance of a notice of violation is required, the Director shall base the decision on one or any combination of the following reasons:

1) The severity of the violations. The Director will consider the following:

A) The amount of wages that are determined to be underpaid pursuant to the Act.

B) The activity or conduct complained of violates the requirements of the statute and was not merely a technical, non-substantive error. Examples of a technical error include, but are not limited to, a mathematical error, bookkeeping error, transposition of numbers, or computer or programming error.

2) The nature and duration of the present violations as well as prior history of the contractor or the subcontractor related to the Act. The prior history considered cannot exceed seven years before the date of the second notice of violation.

3) Whether the contractor or subcontractor filed certified payroll records with the public body in charge of the project; whether the contractor or subcontractor has kept the payroll records and accurate records for 3 years; whether the contractor or subcontractor produced certified payroll records in accordance with Section 5 of the Act.

4) Whether the contractor or subcontractor has violated any other provision of the Act.

e) The notices of the first and second violations shall be sent by the Department by certified mail, deposited in the United States mail, postage prepaid, addressed to the last known address of the persons, partnerships, associations, or corporations involved. Said notices shall contain a reference to the specific Sections of the Act or this Part alleged to have been violated; identify the particular public works project involved; the conduct complained of; an identification as to first or second notice and a statement of remedies available to the contractor or subcontractor and Department.

(Source: Amended at 30 Ill. Reg. 16293, effective September 26, 2006)