**Section 240.510 Remedies Upon Finding of a Violation**

a) An Administrative Law Judge (ALJ), as part of any final decision finding that a violation has occurred, may:

1) order the contractor to eliminate the unlawful practice;

2) issue a cease and desist order;

3) assess civil penalties as set forth in Section 40 of the Act;

4) collect the amount of any wages, salary, employment benefits or compensation denied or lost to the individual;

5) place the contractor on the debarment list pursuant to Section 42 of the Act; and/or

6) take any other reasonable action to eliminate the unlawful practice and/or remedy the effect of the violation.

b) If an ALJ finds that an employee has been misclassified under the Act, the misclassified employee is entitled to all rights and benefits to which an employee is otherwise entitled under other applicable State laws by virtue of being an employee, including but not limited to all lost wages resulting from not being paid the minimum wage or overtime. An ALJ shall not make a separate finding of employee status under other applicable laws. In addition, an ALJ can order a contractor to reimburse the person for improper deductions, such as lost unemployment or workers' compensation benefits resulting from being misclassified, or order the contractor to make contributions on the employee's behalf.

c) An ALJ may hold, in addition to an individual who is an employer as defined by Section 5 of the Act, any officer or agent of a corporation who knowingly permits the employer to violate the Act individually liable for all violations and penalties assessed under the Act. This subsection shall not apply to an individual who is an officer or agent of a corporation that, on the project under investigation, satisfies the responsible bidder requirements set forth in Section 30-22 of the Illinois Procurement Code [30 ILCS 500/30-22].

d) In determining whether an officer or agent knowingly permits violations of the Act under subsection (c), one of the factors to be considered is the extent and nature of the misclassifications and whether the officer or agent is responsible for the corporation conducting, and/or knowingly allowing the corporation to conduct, its regular course of business activities using a business model of misclassifying employees as independent contractors or has knowledge of that business model and does not take any steps to cause it to cease. An isolated incident of misclassification when the corporation otherwise operates with its own employees, or when a clerical mistake is made, is in and of itself insufficient to establish a knowing violation sufficient to impose individual liability.

(Source: Amended at 38 Ill. Reg. 18500, effective August 21, 2014)