

# CITY OF LOS ANGELES



## RULES AND REGULATIONS IMPLEMENTING THE FREELANCE WORKER PROTECTIONS ORDINANCE

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Note: These Rules and Regulations are guidelines to help Freelance Workers and Hiring Entities understand their responsibilities and rights. We anticipate that these Rules and Regulations will be updated and encourage those subject to the Freelance Worker Protections Ordinance to check <https://wagesla.lacity.gov/> regularly for the latest guidance available from the Office of Wage Standards. A court enforcing this Ordinance may disagree with this guidance and therefore employers should rely upon the advice of their legal counsel.

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**SCOPE OF OWS AUTHORITY**

The Department of Public Works, Bureau of Contract Administration, Office of Wage Standards (“OWS”) promulgates these Rules and Regulations as the Designated Administrative Agency (“DAA”) pursuant to Section 189.112 to Article 10 of Chapter XVIII of the Los Angeles Municipal Code (“LAMC”) effective July 1, 2023. The OWS may also amend or revise these Rules and Regulations from time to time, consistent with applicable law.

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## DEFINITIONS

The following definitions, as provided in Section 189.101 of Article 10, Chapter XVIII of the LAMC shall apply to these Rules and Regulations:

**“City”** means the City of Los Angeles.

**“DAA” or “Designated Administrative Agency”** shall mean the Office of Wage Standards of the Bureau of Contract Administration within the Department of Public Works.

**“Freelance Worker”** means an individual person (or an entity whose legal and beneficial interests and whose work is performed and held entirely by no more than one individual natural person), An individual person who is hired or engaged as a bona fide independent contractor to perform services for a Hiring Entity in exchange for compensation.

**“Hiring Entity”** means an entity regularly engaged in business or commercial activity.

# **RULES AND REGULATIONS IMPLEMENTING THE FREELANCE WORKER PROTECTIONS ORDINANCE**

## **REGULATION #1: DETERMINING WHO IS A FREELANCE WORKER**

A Freelance Worker is an individual person (or legal entity owned by one natural person) that is hired or engaged as an independent contractor to perform services for a Hiring Entity in exchange for compensation. The work or services must be performed entirely by no more than one individual person.

A Freelance Worker does not include an individual person or entity that:

1. Is required by the California Business and Professions Code or any other law to have a written agreement or contract to provide services in exchange for compensation;
2. Is already an Employee of the Hiring Entity as defined in the Los Angeles Minimum Wage Ordinance (LAMC Section 187.00 et seq.);
3. Agrees to perform services for a Hiring Entity for no pay; or
4. Has employees other than themselves

A person who owns a company with employees may be covered as a Freelance Worker if the scope of the freelance work is distinct and separate from the type of work performed by their company with employees. For example, a person who works full time as the owner and manager of an accounting firm with employees may be covered as a Freelance Worker for photography work they provide on a freelance basis on the weekends.

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**REGULATION #2: DETERMINING WHO IS A HIRING ENTITY**

A Hiring Entity is an entity regularly engaged in business or commercial activity (such as owning or operating the business, or representing itself as engaging in the business). A Hiring Entity can include an entity that owns or operates a not for profit business, but does not include entities that hire app-based drivers for transportation and delivery services.

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### **REGULATION #3: ORDINANCE APPLICABILITY**

This Ordinance applies to any written or oral contract that is entered into on or after July 1, 2023 by a Freelance Worker and a Hiring Entity. It applies to work performed in the City of Los Angeles by a Freelance Worker valued at \$600 or more in a calendar year for the same Hiring Entity, either by an individual job or cumulative jobs.

Example 1: A Hiring Entity located at an office in the City of Montebello hires a Freelance Worker that lives in the City of Long Beach. However, per their contract, the work (which has been valued at \$650) will be performed at an event in Downtown Los Angeles. The Ordinance shall apply to their contract.

Example 2: A Hiring Entity located in the City of Los Angeles hires a Freelance Worker for a one-time assignment that involves writing a product manual. The Freelance Worker performs this work at their home in Idaho. This agreement would not be covered by the Ordinance because the work is performed outside of the City of Los Angeles.

Example 3: A Hiring Entity hires a Freelance Worker to complete three photo shoots in the same calendar year for a product launch. Each photo shoot will be invoiced separately at a cost of \$1,000 each for a total contract value of \$3,000. The first photo shoot is located in the City of Los Angeles, and the others are located outside the City. The contract would be covered by the Ordinance because it includes \$600 or more of work in the City of Los Angeles.

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## **REGULATION #4: CONTRACT REQUIREMENTS**

The Ordinance requires that certain contracts for freelance work be in writing. Specifically, a written contract is required when a Freelance Worker performs work in the City which is valued at \$600 or more. The valuation of work can be based on a single contract or the cumulative value of previous written or oral contracts between the Hiring Entity and the Freelance Worker in the same calendar year, so long as they occur on or after July 1, 2023.

The written contract shall include the below information:

1. The name, mailing address, phone number, and, if available, the email address of both the Hiring Entity and the Freelance Worker;
2. A list of all the services to be provided by the Freelance Worker, the value of the services to be provided, and the rate and method of compensation; and
3. The due date of payment by the Hiring Entity or the manner by which the due date will be determined.
  - a. Example: Payment will be provided once the job has been completed by today, July 27<sup>th</sup> 2023, at 5 pm.

A waiver by a Freelance Worker of any protections under the Ordinance will be deemed contrary to public policy and will be void and unenforceable.



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**REGULATION #5: PAYMENT**

**TIMELY PAYMENTS**

The Hiring Entity is required to provide full payment to the Freelance Worker on or before the date that is agreed upon in the written contract. If the written contract does not have a specific due date or if there is no written contract, then payment is due no later than 30 calendar days after services have been rendered.

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**REGULATION #6: RECORDKEEPING**

Both the Hiring Entity and Freelance Worker shall keep written records related to work covered by the Ordinance for four (4) years. Those written records include but are not limited to contracts, payment records, and any other written or electronic records to show compliance.

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## **REGULATION #7: COMPLAINTS**

### **Reporting Violations**

Freelance Workers may file a complaint with the Bureau of Contract Administration, Office of Wage Standards (OWS), or bring a civil action in a court of law to enforce or recover damages for violations. Any complaints filed with OWS must be submitted before the one-year anniversary of the alleged violation.

A Freelance Worker is not required to file a complaint with the OWS before filing a civil action.

### **OWS' Response**

Upon receipt of a complaint, OWS shall contact the Hiring Entity named in the complaint to inform them of the requirements of the Ordinance and to request any information and documents relevant to the complaint received. The OWS shall provide the information received to the Freelance Worker, who may choose to file a claim in Superior Court.

If the Hiring Entity does not provide the requested documents within 20 calendar days, Freelance Workers receive a "rebuttable presumption" in their favor when they file a lawsuit in court. This means the court may presume that the Hiring Entity committed the alleged violation(s) in the complaint, and the Hiring Entity will bear the burden of proving there was no violation.

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**REGULATION #8: ENFORCEMENT**

A Freelance Worker claiming a violation of the Ordinance may bring a civil lawsuit against the Hiring Entity to recover damages.

If the Freelance Worker prevails in court, they will be entitled to damages described in LAMC Chapter XVII, Art. 10, Sec. 189.111, reasonable attorney's fees and costs.

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### **REGULATION #9: RETALIATION**

The Ordinance prohibits a Hiring Entity from retaliating against a Freelance Worker for exercising their rights under the Ordinance. For example, a Hiring Entity cannot discharge or reduce the compensation of a Freelance Worker for attempting to comply with the Ordinance. The Ordinance specifically prohibits retaliation against a Freelance Worker who participates in proceedings related to the Ordinance, opposes any practice(s) (of the Hiring Entity) which violate the Ordinance, seeks to enforce their rights under the Ordinance, or otherwise asserts their rights under the Ordinance.