

TO: SUPERSEDED BY EB 96-027 EFFECTIVE 6/18/96		ENGINEERING BULLETIN NEW YORK STATE DEPARTMENT OF TRANSPORTATION	
		SUBJECT: NYS LABOR LAW, SECTION 220-a LABOR AFFIDAVITS	
		Subject Code 7.30	
Distribution:	30 <input checked="" type="checkbox"/> Main Office	32 <input checked="" type="checkbox"/> Regions	34 <input checked="" type="checkbox"/> Special
APPROVED: <i>K. W. Shiatte</i> K. W. Shiatte, Deputy Chief Engineer (Construction)			Code: EB-89-11 Date: 03/13/89 Supersedes: N/A

This Engineering Bulletin Expires _____

All contracts let after March 1, 1989 are covered by the revised provisions of Section 220a of the NYS Labor Law in regard to the submission of Labor Affidavits. New certifications executed by the prime contractor (Form A&C-2) and each subcontractor (Form A&C-3) will replace the Labor Affidavit (Form A&C-1) in current use. Attached is a February 6, 1989 letter from T.J. O'Brien in the Office of The State Comptroller explaining the new process.

Please insure that this information together with copies of the new certifications are transmitted to the contractor at the pre-construction meeting.

Note that these new requirements apply only to contracts let after March 1, 1989. Contractors on older contracts are still required to submit labor affidavits on Form A&C-1 for themselves and each of their subcontractors.

Attachment

February 6, 1989

Mr. Kenneth Shiatte
Department of Transportation
Construction Division
State Campus, Building #4
Room 101
Albany, NY 12232

Dear Mr. Shiatte:

The following outlines the final certification and reporting procedures required to implement Chapter 698, Laws of 1988 (Labor Affidavits) for all public improvement contracts let after March 1, 1989 (bid opening date).

1. The prime contractor must provide each subcontractor with a copy of the schedule of wages and supplements specified in the contract before the subcontractor's work is started.
2. The prime contractor must immediately obtain the subcontractor's certification (attached). Such certification must be maintained by the prime contractor until the final payment is requested.
3. If revised schedules of wages and supplements are issued, the prime contractor must provide each subcontractor with such revised schedules and obtain a revised subcontractor's certification.
4. The prime contractor must submit a labor affidavit (attached) in support of the payment of wages to its own employees.
5. The subcontractor's certification(s) and the prime contractor's affidavit must be submitted to the State Comptroller's Office with the prime contractor's final payment request. Failure to obtain and provide the required certifications will delay the contractor's final payment.

The above procedures incorporate, where possible, comments received by my office as requested in my letter of January 18, 1989. Please distribute these instructions and copies of the required certifications to all affected contractors.

Thank you for your continued cooperation in this matter.

Sincerely,



Timothy J. O'Brien
Chief Auditor of
State Expenditures

TOB:bmm
Attachments

Office of the State Comptroller
Division of Pre-Audit and Accounting Records
Bureau of State Expenditures

New York State Labor Law, Section 220-a
Prime Contractor's Certification

1. That I am an officer of _____
and am duly authorized to make this affidavit on behalf of the
prime contractor on public contract No. _____.
2. That I fully comprehend the terms and provisions of Section
220-a of the Labor Law.
3. That, except as herein stated, there are no amounts due and
owing to or on behalf of laborers employed on the project by the
contractor. (Set forth any unpaid wages and supplements, if
none, so state).

Name

Amount

4. That the contractor hereby files every verified statement
required to be obtained by the contractor from the
subcontractors.
5. That, upon information and belief, except as stated herein, all
laborers (exclusive of executive or supervisory employees)
employed on the project have been paid the prevailing wages and
supplements for their services through _____, the last
day worked on the project by their subcontractor. (Set forth
any unpaid wages and supplements, if none, so state and utilize
clause 5 (A)).

Name

Amount

- (5A) That the contractor has no knowledge of amounts owing to
or on behalf of any laborers of its subcontractors.

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New York State Labor Law, Section 220-a
Prime Contractor's Certification
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6. In the event it is determined by the Commissioner of Labor that the wages or supplements or both of any such subcontractors have not been paid or provided pursuant to the appropriate schedule of wages and supplements, then the contractor shall be responsible for payment of such wages and supplements pursuant to the provision of Section 223 of the Labor Law.

SIGNATURE

PRINT NAME

TITLE

ACKNOWLEDGEMENT:

STATE OF NEW YORK
COUNTY OF _____ : SS.:

On this _____ day of _____ 19 _____
before me personally came _____ to me
known and known to me to be the person described in an who
executed for foregoing instrument and acknowledged that he executed
the same.

NOTARY PUBLIC

County

If this affidavit is verified by an oath administered by a notary public in a foreign country other than Canada, it must be accompanied by a certificate authenticating the authority of the notary who administers the oath. (See CPLR § 2309(c); Real Property Law, § 311,312).

Office of the State Comptroller
Division of Pre-Audit and Accounting Records
Bureau of State Expenditures

New York State Labor Law, Section 220-a
Subcontractor's Certification

1. That I am an officer of _____
a subcontractor on public contract No. _____ and I am
duly authorized to make this affidavit on behalf of the firm.
2. That I make this affidavit in order to comply with the provisions
of Section 220-a of the Labor Law.
3. That on _____ we received from _____
the prime contractor a copy of the initial/revised schedule of
wages and supplements Prevailing Rate Schedule Case Number
_____ (PRC) specified in the public improvement contract.
4. That I have reviewed such schedule(s), and agree to pay the
applicable prevailing wages and to pay or provide the
supplements specified therein.

SIGNATURE

PRINT NAME

TITLE

ACKNOWLEDGEMENT:

STATE OF NEW YORK
COUNTY OF _____ : SS.:

On this _____ day of _____ 19 _____
before me personally came _____ to me
known and known to me to be the person described in an who
executed for foregoing instrument and acknowledged that he executed
the same.

NOTARY PUBLIC

County

If this affidavit is verified by an oath administered by a notary
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who administers the oath. (See CPLR § 2309(c); Real Property Law, §
311,312).