# Legislation Details (With Text)

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| **On agenda:** | 1/18/2017 | | | | |
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| **Title:** | A Local Law to amend the administrative code of the city of New York, in relation to training and transparency requirements for certain projects receiving city financial assistance | | | | |
| **Sponsors:** | | | | | |
| **Indexes:** | | | | | |
| **Attachments:** | 1. Summary of Int. No. 1432, 2. January 18, 2017 - Stated Meeting Agenda with Links to Files, 3. Int. No. 1432, 4. Committee Report 1/31/17, 5. Hearing Testimony 1/31/17, 6. Hearing Transcript 1/31/17 | | | | |

| Date | Ver. | Action By | Action | Result |
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| 1/18/2017 | * | City Council | Introduced by Council | |
| 1/18/2017 | * | City Council | Referred to Comm by Council | |
| 1/24/2017 | * | City Council | Re-referred to Committee by Council | |
| 1/31/2017 | * | Committee on Housing and Buildings | Hearing Held by Committee | |
| 1/31/2017 | * | Committee on Housing and Buildings | Laid Over by Committee | |
| 12/31/2017 | * | City Council | Filed (End of Session) | |

Int. No. 1432

By Council Members Kallos, Crowley, Miller and Espinal

A Local Law to amend the administrative code of the city of New York, in relation to training and transparency requirements for certain projects receiving city financial assistance

Be it enacted by the Council as follows:

Section 1. Title 22 is amended by adding a new chapter 9 to read as follows:

CHAPTER 9

TRAINING AND DISCLOSURE REQUIREMENTS FOR PROJECTS RECEIVING CITY FINANCIAL ASSISTANCE

§ 22-901 Definitions.
§ 22-902 Apprenticeship requirement.
§ 22-903 Disclosure requirements.
§ 22-904 Contract threshold.
§ 22-905 Retaliation.

§ 22-906 Enforcement and monitoring.

§ 22-901 Definitions. As used in this chapter:

Administering agency. The term "administering agency" means, with respect to a covered project, the mayor or an agency or office designated by the mayor to administer and enforce the provisions of this chapter for such project.

City economic development entity. The term "city economic development entity" means an entity that provides or administers financial assistance on behalf of the city pursuant to paragraph (b) of subdivision 1 of section 1301 of the New York city charter.

City financial assistance. The term "city financial assistance" means financial assistance that is provided or administered by the city or by a city economic development entity acting on the city's behalf.

Contract threshold. The term "contract threshold" means a dollar amount equal to $35,000 or a different contract threshold established pursuant to section 22-904 of this chapter.

Covered contractor. The term "covered contractor" means, with respect to a covered developer for a covered project, a person who has entered into a contract or other agreement with such developer to perform construction work in connection with such project where the total amount to be paid under all contracts or other agreements for similar work in connection with such project is (i) the contract threshold or more in any year or (ii) three times the contract threshold or more in total over the term of such contracts or agreements, except that the term "covered contractor" does not include the city or a city economic development entity.

Covered developer. The term "covered developer" means a person who receives city financial assistance in connection with a covered project.

Covered project. The term "covered project" means a project that:

1. (i) Is funded in whole or in part with city financial assistance expected to have a present value of $1,000,000 or more and (ii) the agreement for providing any part of such assistance is executed, renewed or substantially amended on or after the effective date of the local law that added this chapter; and



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2. Involves construction work on a building that has, or is expected to have after the completion of such project, (i) more than 100,000 square feet of floor area, as defined in section 12-10 of the New York city zoning resolution, or (ii) more than 50 dwelling units, as such term is defined section 310 of the New York city building code.

Construction work. The term "construction work" means construction, alteration or demolition work, except that the term excludes (i) architectural, engineering, legal, accounting or other professional services; (ii) clerical or other similar office support services; and (iii) the managing, directing or supervising of construction, rehabilitation, alteration or demolition work.

Financial assistance. The term "financial assistance" means money or any other thing of value, including, but not limited to, cash payments, grants or other subsidies; loans; bond financing; tax abatements or exceptions; tax increment financing; debt forgiveness; filing fee waivers or other fee waivers; energy cost reductions; environmental remediation costs; real property conveyance for less than market value; and write-downs in the market value of buildings, lands or leases or the cost of capital improvements related to real property that, under ordinary circumstances, the city would not pay for. The term "financial assistance" includes both discretionary and as-of-right assistance.

Principal investor. The term "principal investor" means, with respect to a covered project, a person who has (i) invested $250,000 or more in furtherance of such project or (ii) entered into one or more contracts or other agreements with one or more other persons, under which $250,000 or more has been or reasonably will be invested in such covered project.

Principal officer. The term "principal officer" means, with respect to an entity, a person who serves as or performs the functions of a chief executive officer, chief financial officer or chief operating officer of an entity.

Principal owner. The term "principal owner" means, with respect to an entity, a person who holds a ten percent or greater ownership interest in such entity or who holds an ownership interest as a general partner, managing partner or other position conducting or participating directly in the conduct of the affairs of such

entity.

§ 22-902 Apprenticeship requirement. No city financial assistance shall be provided for a covered project unless the covered developer for such project executes an agreement with the administering agency for such financial assistance requiring that each covered contractor for such project have, for the duration of such project, an apprenticeship agreement with an apprenticeship program that (i) is appropriate for the type and scope of construction work to be performed on such project, (ii) has been registered with, and approved by, the commissioner of labor of the state of New York pursuant to article 23 of the labor law and (iii) has a certificate of completion issued by the New York state department of labor showing that such program has graduated at least one apprentice in a trade or job title appropriate to the type and scope of construction work to be performed on such project within a time period before such contractor commences construction work on such project, where such time period equals 24 months plus the length of such program.

§ 22-903 Disclosure requirements. a. Each covered developer for a covered project shall provide the following information for such project to the administering agency for such project on a quarterly basis:

1. The name and address of each covered developer, each principal investor and each covered contractor for such project and, for each such developer, investor and contractor that is a corporation or other entity, the name and address of each principal officer thereof and each principal owner thereof;

2. The source, type and amount of city financial assistance provided for such project and, if such assistance was provided or otherwise administered through a government program, the name of such program;

3. The source, type and amount of state and federal financial assistance provided for such project and, if such assistance was provided or otherwise administered through a government program, the name of such program;

4. For projects that involve construction work on a city-owned building that has been leased to a person who is not a city economic development entity, a copy of such lease;

5. For each covered contractor for such project, a description of the construction work performed by



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such contractor in connection with such project;

6. A description of each finding that a covered developer or covered contractor for such project has violated a local, state or federal law or rule relating to employment, wages, employment discrimination, unemployment, workers compensation or workplace safety;

7. Proof, in a manner determined by the administering agency for such project, that each person who performs construction work in connection with such project has been provided with workers compensation insurance coverage and unemployment insurance, as required by law or rule; and

8. The number of such persons, disaggregated by workers compensation insurance coverage classification code.

b. Each person who applies to receive city financial assistance for a covered project shall provide the following information for such project to the administering agency for such project, in a form and manner determined by such agency:

1. If such person is a corporation or other entity, the name and address of each principal officer thereof and each principal owner thereof;

2. The number of full-time jobs and the number of part-time jobs that such applicant expects to be created as a result of such project, disaggregated by job title and industry, and a description of the basis for such expected job creation;

3. The name and address of each person who is or is reasonably expected to be a covered contractor for such project;

4. A description of each finding by a court of competent jurisdiction that such applicant or a person identified pursuant to paragraph 1 or 3 of this subdivision has:

(a) Within the ten years preceding the filing of such application, violated a local, state or federal law or rule relating to employment, wages, employment discrimination, unemployment, workers compensation or workplace safety; or



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(b) Violated a local, state or federal law or rule relating to employment, wages, employment discrimination, unemployment, workers compensation or workplace safety in connection with a covered project;

5. A list of any pending bankruptcy proceedings initiated in the ten years preceding the filing of such application by or against such applicant or a person identified pursuant to paragraph 1 or 3 of this subdivision; and

6. For such applicant and each person identified pursuant to paragraph 1 or 3 of this subdivision, a list of all names that such person has conducted business under in the ten years preceding the filing of such application.

c. The information required by subdivisions a and b of this section shall be submitted electronically to the administering agency in a form and manner to be determined by such agency.

§ 22-904 Contract threshold. If the highest expenditure that a contract for public work may involve and be exempt from the requirement that such contract be awarded to the lowest responsible bidder pursuant to paragraph 1 of section 103 of the general municipal law is amended or repealed on or after the effective date of the local law that added this chapter, the administering agency shall by rule establish a new contract threshold. If the amount of such expenditure has been amended and the new contract threshold proposed by such agency is different than such amended expenditure amount, then the administering agency shall submit to the council, and make publicly available online, the reasons for such difference at least 30 days before such rule takes effect.

§ 22-905 Retaliation. 1. It shall be unlawful for a covered developer for a covered project or any person acting on behalf of such developer to discriminate or retaliate against a person who (i) performs construction work in connection with such project and (ii) seeks information regarding, or enforcement of, this chapter.

2. A person claiming to be aggrieved by a violation of this section and who has not filed a complaint with the comptroller pursuant to section 22-906 of this chapter may, within three years after such violation is

alleged to have occurred, petition any court of competent jurisdiction for (i) damages, including punitive damages; (ii) injunctive relief; and (iii) other appropriate relief, including reinstatement. If such court finds in favor of such person, it shall award to such person, in addition to any other appropriate relief, reasonable attorney's fees and costs.

§ 22-906 Enforcement and monitoring. a. 1. A covered developer who violates this chapter with respect to a covered project shall be subject to a civil penalty of no less than $1,000 and no more than $10,000 for each day until such violation is corrected to the satisfaction of the administering agency and may, at the discretion of such agency, be subject to full or partial disgorgement of city financial assistance provided to such developer in connection with such project.

2. Before imposing a penalty under this subdivision, the administering agency shall comply with the following requirements:

(a) Such agency shall provide such developer with an opportunity to be heard and shall provide notice to such developer and any other affected person at least 14 days before such hearing. Such notice shall be served upon such developer and each such affected person personally or by mail and shall include a copy of any report issued by the comptroller pursuant to subdivision b of this section.

(b) Such agency shall provide such developer with an opportunity to cure such violation within a reasonable period of time determined by such agency. If such developer cures such violation to the satisfaction of such agency within such period of time, no such penalty shall be imposed.

b. 1. In addition to any monitoring of compliance with the requirements of this chapter conducted by the administering agency, the comptroller shall monitor compliance with the requirements of this chapter.

2. Whenever the comptroller has reason to believe that there has been a violation of this chapter or has received a verified complaint in writing, on a form established and made publicly available online by the comptroller, from a person who performs construction work in connection with a covered project, or a representative of such person, claiming a violation of this chapter, the comptroller shall conduct an


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investigation to determine the facts relating thereto, except that no such investigation shall be conducted relating to violations committed more than three years before (i) the commencement of such investigation or (ii) the filing of such a complaint, whichever occurs earlier.

3. The comptroller shall report the results of such investigation, including a copy of any such verified complaint, to (i) the administering agency and (ii) for a covered project in which the city financial assistance relating to such project was administered by a city economic development entity, such entity.

§ 2. This local law takes effect immediately.

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