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Int. No. 165

By Council Members Yassky, Jackson, Brewer, Clarke, Comrie, Gioia, Koppell, Lopez, Monserrate, Nelson, Reed, Sanders, Gerson, Gentile and James

A Local Law to amend the administrative code of the city of New York, in relation to requiring contractors entering into leaseback arrangements with the city to pay the prevailing wage to their employees who perform work under such arrangements.

Be it enacted by the Council as follows:

Section 1. Chapter 1 of Title 6 of the administrative code of the city of New York is hereby amended to add a new section 6-129 to read as follows:

§6-129. Prevailing Wage For Leaseback Arrangements. a. Definitions. For purposes of this section, the following terms shall have the following meanings:

(1) "Agency" shall mean a city, county, borough, or other office, position, administration, department, including, but not limited to, the department of education, or any division, bureau, board or commission, or a corporation, institution, or agency of government the expenses of which are paid in whole or in part from the City treasury.

(2) "Contractor" shall mean any individual, sole proprietorship, partnership, joint venture, corporation or any other form of doing business.

(3) "Employee" shall mean any person who performs paid construction work for a contractor including, but not limited to, carpentry, plumbing, painting, electrical work, masonry, ironwork, cleaning, carting and any other form of manual or machine labor attendant to the process of building construction, demolition, renovation or repair.

(4) "Leaseback" shall mean any agreement between an agency and a contractor to convert, renovate or alter some or all of an existing, privately owned building located within the city of New York so as to make it suitable for use by the city and for a city purpose.

(5) "Prevailing wage" shall have the same meaning as the term "prevailing rate of wages" in subdivision 3 of section 220 of the labor law.

b. Prevailing wage requirement for leasebacks.

(1) All leasebacks shall include a provision requiring the contractor and its subcontractors to pay their employees the prevailing wage, to maintain payroll records in order to comply with this section, and to comply with regulations promulgated by the city pursuant to this section.

(2) All contractors and their subcontractors shall maintain original payroll records reflecting the days, times and wages paid to each employee working under a leaseback. The contractor shall submit copies of such records certified by such contractor under penalty of perjury to be true and accurate to the contracting agency with every requisition for payment. The contracting agency shall maintain submitted payroll information in the agency contracting file and shall make it available for public inspection.

c. Whenever the comptroller has reason to believe that a worker has been paid less than the prevailing wage, or upon a verified complaint in writing from an employee affected by the provisions of this section, the comptroller shall conduct an investigation. In conducting such investigation, the comptroller shall have the same investigatory, hearing and other powers as are conferred on the comptroller by sections 234 and 235 of the labor law.

d. Application. (1). This section shall apply to all leasebacks whether or not any given leaseback is considered a "public work" within the meaning of section 220 of the New York state labor law.

(2). This section shall only apply to leasebacks entered into after the effective date of the local law that added this section.

e. The mayor may promulgate rules to implement the requirements of this section.

§ 2. If any subsection, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of the local law that added this section, which remaining portions shall remain in full force and effect.

§ 3. This local law shall take effect 60 days after enactment.

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