



Date received: _____

PRC No. previously issued: _____

Certification For Covered Project

Request For Wage and Supplement Information

Submit this form to certify if a project is covered by LL 224-a or to request a Public Subsidy Board covered project determination. May be mailed to above address or emailed to: labor.sm.5184851870Fax@labor.ny.gov

Complete Fillable Fields or Form Must be Typewritten

Submitted By: Owner Developer

A. Contract to be let by:

1. Name: _____
Complete Address: _____
Telephone: _____ Fax: _____
Email: _____
2. Send Reply to: _____
Complete Address: _____
Telephone: _____ Fax: _____
Email: _____
3. Contract Date: _____
Construction Start Date: _____
(may be approximate if no specific date)
Contract Name or ID Number: _____
4. Prime Contractor(s): _____
List Known Sub-contractors: _____

B. Project Particulars

5. Project Name: _____
Description of Work: _____

6. Location of Project: _____
Address: _____
7. Nature of the Project (check all that apply):

<input type="checkbox"/> New Construction	<input type="checkbox"/> Heavy/Highway
<input type="checkbox"/> Addition to Existing Structure	<input type="checkbox"/> Sewer/Water Line
<input type="checkbox"/> Demolition, Abatement	<input type="checkbox"/> Renewable Energy
<input type="checkbox"/> Reconstruction, Maintenance, Repair, Alteration	<input type="checkbox"/> Thermal Energy Network
<input type="checkbox"/> Other: _____	

8. List All Subsidies and Source: _____

Total Project Cost: \$ _____ **Total Amount of Subsidies: \$** _____

Subsidies Equate to _____ **Percent(%) of Total Project Costs**

9. Name and Title: _____

Signature: _____

**REQUIREMENTS OF ARTICLE 8 SECTION 224-a
OF THE NEW YORK STATE LABOR LAW**

Each owner and developer subject to the requirements of this section shall comply with the objectives and goals of minority and women-owned business enterprises pursuant to article fifteen-A of the executive law and service-disabled veteran-owned businesses pursuant to article seventeen-B of the executive law.

10. Is the Owner a minority, women, and/or service-disabled veteran owned business? _____

11. Is the Developer (if different from owner) a minority, women, and/or service-disabled veteran owned business? _____

12. List all Contractors and Sub-Contractors who are minority, women, and/or service-disabled veteran owned business:

CERTIFICATION / REQUEST FOR DETERMINATION

As of _____ and for a certain project, entitled _____, _____,
(Date) (Project Title) (Name of Certifier)
_____, certifies under penalty of perjury pursuant to NYS Labor Law 224-a.8.a. that:
(Title of Certifier)

It is unknown if this project is subject to the provisions of NYS Labor Law 224-a and a binding determination from the Public Subsidy Board is hereby requested.

This project is subject to the provisions of NYS Labor Law 224-a

This project is not subject to the provisions of NYS Labor Law 224-a
(if not subject, check all that apply)

Total construction project costs are under \$5 million dollars.

Total aggregate public funding equates to less than 30% of total construction project Costs.

The project is exempted by one of the provisions of Subdivision 4 of NYS Labor Law 224-a.
Please specify: _____

The public funding is exempted by one of provisions of Subdivision 3 of NYS Labor Law 224-a.
Please specify: _____

Signature: _____

Address of Certifier: _____

Date: _____

The certification should be signed by members of management who are responsible for and knowledgeable, directly or through others in the organization, about the matters covered by the assertion.

**REQUIREMENTS OF ARTICLE 8
(SECTIONS 220 THRU 224-C)
OF THE NEW YORK STATE LABOR LAW
COVERED PROJECTS SUBJECT TO PREVAILING WAGE:**

A “covered project” means construction work done under contract which is paid for in whole or in part out of public funds where the amount of all such public funds, when aggregated, total at least thirty percent of the total construction project costs and where such project costs are over five million dollars.

“Public funds” shall mean any of the following: (a) The payment of money, by a public entity, or a third-party acting on behalf of and for the benefit of a public entity, directly to or on behalf of the contractor, subcontractor, developer or owner that is not subject to repayment, (b) the savings achieved from fees, rents, interest rates, or other loan costs, or insurance costs that are lower than market rate costs; savings from reduced taxes as a result of tax credits, tax abatements, tax exemptions or tax increment financing; savings from payments in lieu of taxes; and any other savings from reduced, waived, or forgiven costs that would have otherwise been at a higher or market rate but for the involvement of the public entity, (c) money loaned by the public entity that is to be repaid on a contingent basis, and (d) credits that are applied by the public entity against repayment of obligations to the public entity.

“Public funds” shall NOT mean any of the following: (a) benefits under section 421-a of the Real Property Tax Law, (b) funds that are not provided primarily to promote, incentivize, or ensure that construction work is performed, (c) funds used to incentivize or ensure the development of a comprehensive sewage system, provided such work shall be deemed a public work, (d) tax benefits provided for projects the length and value of which are not able to be calculated at the time the work is to be performed, (e) tax benefits related to brownfield remediation or brownfield redevelopment, (f) funds provided pursuant to subdivision 3 of section 2853 of the Education Law, and (g) any other public monies, credits, savings or loans, determined as exempt by the Public Subsidy Board established pursuant to section 224-c of the New York State Labor Law. Such covered projects are subject to the prevailing wage requirements of section 220 and 220-b of the New York State Labor Law.

Exemptions from what constitutes a covert project subject to prevailing wage can be found in section 224-a.4 and include but are not limited to: construction work performed under a contract with certain not-for-profit corporations, construction work performed on certain affordable housing projects, construction work performed under a labor peace agreement, project labor agreement, or pre-hire collective bargaining agreements between an owner or contractor and a bona fide building and construction trade labor organization which has established itself as the collective bargaining representative for all persons who will perform work on such a project, and which provides that only contractors and subcontractors who sign a pre-negotiated agreement with the labor organization can perform work on such a project.

The owner or developer of such covered projects shall certify under penalty of perjury within five days of commencement of construction work whether the project at issue is subject to the provisions of this section using the Certification for Covered Project/Request for Wage and Supplement Information form

The owners or developers of a property who are undertaking a project under private contract, may seek guidance from the Public Subsidy Board and the board may render a binding determination as to any particular matter related to an existing or potential covered project. Requests for a Board determination must be made by submitting this form (PW-39a) to the Bureau of Public Work via mail or the email listed at the top of page 1. All correspondence to the Public Subsidy Board may be sent to:

New York State Department of Labor – Bureau of Public Work
Attn: Public Subsidy Board Secretary
State Office Building Campus
Building 12 – Room 130
Albany, NY 12226

Information regarding the Public Subsidy Board, its bylaws and procedures, meeting agendas, recordings of past meetings, and list of determinations issued by the Board can be found at: <https://dol.ny.gov/public-subsidy-board>

PREVAILING RATE SCHEDULE:

The Labor Law requires public work contractors and subcontractors to pay laborers, workers or mechanics employed in the performance of a public work contract not less than the prevailing rate of wages and to provide supplements (fringe benefits) in accordance with the prevailing practices in the locality where the work is performed.

The prevailing rate schedule of wages and supplements listing the hourly rates for the trades and the occupations of the workers to be employed on the project may be obtained from the Bureau of Public Work of the New York State Department of Labor by completing and forwarding the Certification for Covered Project/ Request for Wage and Supplement Information form. A legible statement of all applicable wage rates and supplements MUST be posted by all contractors and subcontractors in a prominent and accessible place on the site where the work is performed. The posting must be capable of withstanding adverse weather conditions and be titled "Prevailing Rate of Wages," in lettering no smaller than 2 inches in height and 2 inches in width.

All contractors and subcontractors shall notify all laborers, workers or mechanics in their employ in writing on all pay-stubs of the prevailing rate of wage for their job classification(s).

All contractors and subcontractors shall keep original payrolls or transcripts thereof, subscribe and sworn to or affirmed by him or her as true under the penalties of perjury, setting forth the names and addresses and showing for each worker, laborer, or mechanic the hours and says worked, the occupations worked, the hourly wage rates paid and the supplements paid or provided.

WITHHOLDING OF PAYMENTS FROM CONTRACTORS:

If the Bureau of Public Work finds that a contractor or subcontractor on a public work project failed to pay or provide the requisite prevailing wages or supplements, the Bureau is authorized by Sections 220-b of the Labor law to so notify the financial officer of the Department of Jurisdiction that awarded the contract. Such officer MUST then withhold or cause to be withheld from any payment due the prime contractor on account of such contract the amount indicated by the Bureau of Public Work as sufficient to satisfy the unpaid wages and supplements, including interest and any civil penalty that may be assessed by the Commissioner of Labor.

The Department of Jurisdiction shall comply with an order of the Commissioner of Labor or of the Court with respect to the release of the funds so withheld.

STOP WORK ORDERS:

If the Bureau of Public Work finds cause to believe that any person, in connection with the performance of a covered project, has substantially and materially failed to comply with or intentionally invaded the provisions of this article, the fiscal officer may notify such a person in writing of the intention to issue a stop-work order and their right to a hearing. If a stop-work order is issued following a hearing it shall remain in effect until the Commissioner of Labor directs that it be removed, upon a final determination on the complaint or where such failure to comply or evade has been deemed corrected.

CHANGE WORK ORDERS AND COST OVERRUNS:

For projects where within five days of commencement of construction the total construction costs were estimated to be below five million dollars or the total aggregate public funds were below 30% of total construction costs exceeding five million dollars, any change-work orders, cost overruns or an increase in public funding that results in total project costs exceeding five million dollars or public funds exceeding 30% of total construction costs were total costs exceed five million dollars, the provisions of section 224-a will become applicable and the project shall be thereafter deemed a covered project.

The Certification for Covered Project/Request for Wage and Supplement Information form must then be completed and submitted within five business days.