

Office of the
New York City Comptroller
John C. Liu

DEP SEWAGE PLANT WORKERS SETTLE CONTRACT DISPUTES WITH CITY

Two groups of workers who run New York City Department of Environmental Protection (DEP) sewage treatment plants have settled their long-standing prevailing wage disputes with the City's Office of Labor Relations. Senior Stationary Engineer Electric (SSEE) plant managers, represented by IBEW Local 3, had been out of contract since 1995; City employees in the underlying Stationary Engineer Electric (SEE) title had been out of contract since 2000. Senior Sewage Treatment Workers and Sewage Treatment Workers (SSTW/STW), represented by DC 37 Local 1320, had been out of contract since 2002.

The City of New York is required to pay prevailing wages in accordance with Labor Law 220 to its own employees such as these DEP workers who are classified in Occupational Group 38 – the Skilled Craftsman and Operative Service. If the civil service unions representing these municipal employees are unable to negotiate a settlement with the City, they may petition the Comptroller's Bureau of Labor Law to determine prevailing wages for their job titles. The DEP settlements for the SSTWs and STWs were based on the Comptroller's position that these workers should be paid commensurate with certain Con Edison Local 1-2 Utility Worker titles. The settlements for the SSEE and SEE titles were based on International Union of Operating Engineers agreements.

REPORT: LABOR LAW VIOLATIONS COST NYC WORKERS MILLIONS

According to a report by the National Employment Law Project, minimum wage, overtime and other labor law violations costs 317,000 low wage workers in the five boroughs more than \$18 million a week. These workers are cheated out of nearly 15 percent of their earnings because they are paid less than minimum wage, receive no overtime, or have no access to workers compensation when injured. Immigrants are particularly vulnerable to such exploitation. The study suggests that new legislation should be enacted to strengthen enforcement tools and close loopholes that exclude certain workers from key protections. The complete report is available at www.nelp.org.

PRELIMINARY WAGE SCHEDULES TO BE PUBLISHED ON JUNE 1

The Comptroller publishes prevailing wage and living wage schedules for New York City public works, building services, and certain other contracts annually on July 1st as required by law. However, we publish on June 1st – for public review and comment - preliminary wage schedules in the City Record.

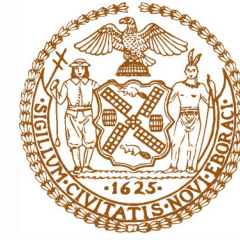
To ensure that our wage schedules accurately reflect current industry rates and practices, we recently asked the “prevailing unions” listed in our schedules to provide the Bureau of Labor Law with their most recent Collective Bargaining Agreements and any wage and benefits allocation sheets as soon as possible.

We encourage readers of the “Prevailing News-NYC” to review the preliminary schedules when they are published on June 1st to ensure accuracy for all work classifications. Please note that our policy is to issue a semi-annual addendum for each schedule, if needed, on or about January 1st.

PATRICIA SMITH FINALLY GOES TO WASHINGTON *Colleen Gardner Tapped to be Next New York Labor Commissioner*

Nearly a year after President Barack Obama nominated her to be the U.S. Department of Labor's top enforcement officer, Patricia Smith finally went to Washington DC. The Senate voted 60-37 in February to confirm the former New York State Labor Commissioner to be the Solicitor of this federal agency.

Patricia Smith and her staff at the New York State Department of Labor worked closely with the Comptroller's Bureau of Labor Law to enforce the prevailing wage law in the five boroughs. Governor Paterson has appointed Colleen Crawford Gardner to be Ms. Smith's replacement as the State's Commissioner of Labor. Ms. Gardner has worked for the Department since 2007 after 23 years at the New York State AFL-CIO. Like Patricia Smith, Ms. Gardner has championed vigorous enforcement of wage standards.



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May 2010

DEAR NEW YORKER:

Substantial economic challenges continue throughout New York City. These troubles have extended to the building trades as an increasing number of municipal contractors try to cut corners by cheating workers out of their legal wages and benefits. My office continues to work diligently to facilitate a level playing field for honest contractors and ensure a fair, decent wage for New Yorkers employed on public projects.

The Bureau of Labor Law, with General Counsel and Deputy Comptroller Ricardo Elias Morales at its helm and a team of talented staff, are ready, willing and able to help, should you have any questions or need assistance. Mr. Morales has served in my administration since Day One and brings with him decades of legal and high level executive experience from both private and public sectors.

Enforcing prevailing wage law in New York City remains an important responsibility as Comptroller. To protect hard-working New Yorkers, we've insisted on compliance with prevailing wage laws, collected hundreds of thousands in back wages and penalty fines from municipal contractors and debarred companies who just didn't want to play by the rules.

Looking forward, my office will work closely with unions, contractor associations, law enforcement and other municipal agencies to enforce and strengthen our labor laws. Together we can protect the rights of vulnerable workers, close the legislative loopholes that make enforcement challenging, promote fair competition and build a better New York. Thank you for this opportunity to serve.

Sincerely,

John C. Liu

IRONWORK CONTRACTOR ARRESTED & DEBARRED

In 2009, the Manhattan District Attorney's Office arrested Gelsomina Tassone, the owner of A&T Iron Works, Inc. She pled guilty to six counts of Offering a False Instrument for Filing, a Class E felony and an automatic debarment. The arrest and debarment were the culmination of in-depth investigation performed by the Comptroller's Bureau of Labor Law which brought the case to the District Attorney for prosecution in 2009.

A&T Iron Works built fences and performed ornamental ironwork for the New York City Department of Design & Construction, the

Department of Parks and Recreation, the Transit Authority, the School Construction Authority, the Housing Authority and the Port Authority of New York & New Jersey. The firm falsified payroll records to hide that it underpaid its employees by more than \$240,000. As part of the plea agreement, workers will now receive restitution from A&T Iron Works. The company is debarred from doing business with the City or State for five years. All the aforementioned agencies assisted with the case, as did the Port Authority's Office of Inspector General.



PREVAILING NEWS

Publication about Prevailing
Wage and Living Wage
Enforcement

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The New York City Comptroller, an independently elected official, is the Chief Fiscal Officer of the City of New York.

John C. Liu
New York City Comptroller

HPD CONSTRUCTION MANAGER PAYS \$246K IN BACK WAGES, FINES

Subcontractor Accepts Willful Violation

The Bureau of Labor Law has entered into a stipulation of settlement with Pro Management Associates (“Pro Management”), Erin Construction & Development Inc. (“Erin”) and Casur Corporation (“Casur”) to resolve a labor law case.

The NYC Department of Housing Preservation & Development (HPD) contracted with Pro Management to serve as construction manager for repairs and renovations at 824 St. Nicholas Avenue in Manhattan. The company hired Erin to act as a general contractor on the job. Erin, in turn, hired Casur to perform carpentry, steel, and window installation work in the building.

The Bureau’s investigators visited various HPD construction projects as part of the Bureau’s ongoing efforts to ensure compliance with the prevailing wage law. Several workers at the St. Nicholas Avenue location indicated they were being paid \$7 per piece of sheetrock installed or \$100 per day. Based on these allegations, the Bureau launched an investigation and uncovered numerous violations.

As the construction manager for the project, Pro Management assumed financial responsibility for ensuring that its contractors and subcontractors complied with the labor law. Pro Management thus paid over \$246,000, covering the back wages and interest owed to the workers and a civil penalty for the City of New York. Casur agreed it had failed to pay prevailing wages and benefits to its employees on the project, and the company accepted a willful violation of the labor law as part of the settlement.

PLA PROJECTS OUT TO BID

The Bloomberg Administration and the Building and Construction Trades Council of Greater New York (BCTC) have signed five Project Labor Agreements (PLA’s) covering groups of City projects to bid over the next four years. A PLA is a comprehensive pre-hire collective bargaining agreement that is negotiated between a project’s owner (such as the City of New York) and a labor organization (such as the BCTC) which sets out

standardized terms and work conditions for a project or projects. Bidders that assent to the PLA need not be signatory to any other union agreement; thus open shop contractors without union agreements can still accept the terms of the PLA and bid on covered City projects. To be approved for work, non-union subcontractors retained by prime contractors on a City contract must also agree to the terms of the PLA.

The PLA agreements all provide for labor cost savings in overtime, shift work, holiday standardization and work schedules. They also provide an exemption from Wicks Law bidding requirements where applicable. Three agreements cover specified new construction managed by Department of Design and Construction, Department of Sanitation and Department of Parks and Recreation. There is a separate agreement covering Department of Environmental Protection buildings/plants within New York City and a PLA covering many building renovation and repair projects for 12 other mayoral agencies. Please see the Mayor’s Office of Contract Services website for more information: www.nyc.gov/html/mocs/html/vendors/pla.shtml

DEBARRED: RISINGTECH

In 2010, the Bureau of Labor Law entered into a stipulation of settlement with Risingtech, Inc., a second-tier electrical subcontractor to Northrop Grumman Corporation (NG). Risingtech was underpaying workers who were installing NG antennas and broadband equipment in City-owned buildings. The firm submitted falsified payroll records to cover-up its wrongdoing. To resolve the case, Risingtech wrote a check for nearly \$25,000 for back wages, interest and a ten percent civil penalty. Because this matter involved the falsification of payroll records, Risingtech is now debarred from public work for a period of five years.

Several years ago, the NYC Department of Information Technology and Telecommunications (DoITT) awarded a \$500 million contract to Northrop Grumman to construct and operate a broadband mobile wireless network for emergency communications between City agencies. NG in turn hired contractors that subcontracted this work to firms such as Risingtech. The Bureau of Labor Law became concerned about this



The Comptroller’s Office is committed to protecting and enhancing the rights of all New Yorkers.

Ricardo E. Morales
Deputy Comptroller for Legal Affairs
General Counsel

MORE CONTRACTORS HIT WITH WILLFUL VIOLATIONS

Second Willful Leads to Debarment

The New York State Labor Law prohibits debarred contractors from bidding on or being awarded public work projects or building service contracts for five years. A contractor is debarred when two final determinations have been rendered within any consecutive six-year period that it has willfully failed to pay the prevailing rate, or one final determination has been rendered involving the falsification of payroll records or the kick-back of wages and/or supplements. A contractor may be found guilty of willfully violating Article 8 or Article 9 of the New York State Labor Law if it knew or should have known that it failed to pay the prevailing rates of wages and supplements.

The Bureau of Labor Law recently settled two cases at the Office of Administrative Trials & Hearings (OATH) with the issuance of a willful violation and an agreement with the contractor to pay back wages, interest and civil penalty:

United Fence on the Hook for \$100K

At an OATH settlement conference, a judge facilitated the resolution of a case that the Bureau brought against the United Fence and Guard Rail Corporation. The firm agreed to pay three of its workers and the City of New York \$100,000 in back wages, interest and a civil penalty.

It also accepted a willful violation of Labor Law 220. Pursuant to a contract with the NYC Department of Transportation, United Fence employees erected school crossing signs in the Bronx and Queens.

Parks Plumbing Contractor Pays Price

An OATH judge helped the Bureau settle a case with Bissetta & List Plumbing & Heating, Inc. In lieu of a trial, the firm accepted a willful violation of Labor Law 220 and agreed to pay \$41,289 to one of its workers and the City of New York in back wages, interest and a civil penalty. Manhattan-based Bissetta & List had a contract to perform work for the NYC Department of Parks and Recreation.

project because DoITT did not initially put the standard labor law language in the NG contract. The Bureau met several times with NG, Corporation Counsel, DoITT and the Mayor’s Office of Contract Services. NG subsequently agreed to ensure that its subcontractors pay the prevailing wage for each job classification on this massive public works project in the future.

NG and DOITT officials actively facilitated the labor law investigation of Risingtech.

DEBARRED: VISHAL CONSTRUCTION

Earlier this year, Vishal Construction Inc. signed a settlement with the Comptroller’s Bureau of Labor Law. It paid nearly \$30,000 to the Bureau for back wages, interest and penalties and agreed that the firm willfully violated the labor law. Because this was the second time Vishal had willfully violated labor law, and because this case involved falsification of payroll records, the company is now debarred from bidding on or being awarded any public work contract for five years.

Vishal had a contract with the NYC Health & Hospitals Corporation (HHC) to perform demolition and asbestos removal work in the basement of Bellevue Hospital. An underpaid worker on this project was not listed on any payroll records made available to the Bureau.

The firm also had a NYC Department of Parks & Recreation (DPR) contract to perform renovations in Kaiser Park in Brooklyn. Vishal had an employee work eight hours daily on this project but listed only three or four hours a day on the certified payrolls; the employee was later fired for speaking with organizers from Laborers Locals 79 and 1010. With the Locals’ assistance, the worker filed a charge with the National Labor Relations Board and received a favorable Decision and Order reinstating him to his job. However, Vishal failed to comply. Union organizers then helped him file a verified complaint with the Comptroller’s Office, leading to a recovery of back wages owed. There were also allegations that one or more workers had to “kick-back” money to a foreman to keep their jobs.

Staff members from the DPR and HHC were instrumental in assisting this successful labor law investigation.