



NEW YORK CITY COMPTROLLER SCOTT M. STRINGER



PREVAILING WAGE NEWS

SPRING 2015

Comptroller Stringer Wins \$1.3 Million for Security Guards in Prevailing Wage Settlement

Employees worked at various New York City Transit Authority locations

In a settlement reached with Comptroller Stringer in July 2014, Allied-Barton Security Services LLC agreed to pay over \$1.3 million in wages due, plus interest, to 143 armed security workers for the company's failure to pay prevailing wages.

"Standing on guard—protecting New York City Transit (NYCT) employees at their place of work—shouldn't come at a price," said Comptroller Stringer. "Nearly 150 security guards across the City were getting paid at different rates and losing out on crucial benefits because their employer wasn't following existing prevailing wage laws. These men and women deserve their rightful pay for their service to the City."

Prompted by employee inquiries, the Comptroller's Bureau of Labor Law investigated underpayments to employees from October 2010 through March 2013. Prevailing wage

rates had gone from just over \$27 an hour in wages and benefits on the 2009 prevailing wage schedule to about \$32.50 by 2012.

Allied-Barton used the correct prevailing wage rate schedule set by the Comptroller in the first year of its multi-year contract with NYCT. But the company proceeded to pay the same wages and benefits over the life of its contract—relying upon an old policy of the New York State Department of Labor. The Comptroller's policy requires rates on existing contracts to match the most up-to-date wage schedule.

Allied-Barton, which has furnished uniformed armed security guard services for NYCT office locations since April 2008, also paid an additional \$26,759 to the City treasury as part of its settlement of the non-willful violation.



Record Debarments in 2014

In 2014, Comptroller Stringer's Bureau of Labor Law assessed over \$5.6 million in unpaid prevailing wages with interest for workers, and over \$500,000 in civil penalties for the City of New York. It also debarred 15 contractors, a record high for the office.



Comptroller Stringer Vows to Protect Workers' Rights to a Living Wage

On September 30, 2014, the City issued an Executive Order that expanded the coverage of the living wage law passed by the City Council in 2012 and increased the combined living wage and benefit rate under that law to \$13.13 per hour.

This action could raise the wages of nearly 20,000 New Yorkers by the end of the decade. It could also ensure that taxpayer dollars used for economic development have an impact on reducing inequality and lifting up the City's neighborhoods. Comptroller Stringer commends the City for expanding the reach of these laws to thousands of families struggling to make ends meet.

But raising wages and expanding the scope of employees is only half the job. New Yorkers must also be assured that the laws will be enforced with expertise, vigor, and independence—just as the Comptroller has always done.

While the living wage law passed by the City Council in 2012 specifically gave investigatory powers to the Comptroller, this new action does not make clear who will inherit this role for employers newly covered by the Order. Nor does it spell out the Comptroller's authority for investigating violations of the new wage rates proposed by the Mayor.

This is an issue of accountability that affects thousands of workers across New York City, particularly in the wake of the Great Recession. Time and again, the Comptroller has stood as the protector of workers' rights, ensuring that a full day's work equals a full day's pay. The core of that power is the office's ability to investigate violations of the city's prevailing and living wage laws—which set minimum wage and benefit rates for construction, cleaning and other jobs on city-funded projects.

The Comptroller has proudly carried out these investigative responsibilities since 1894, when New York State passed America's oldest continually operating prevailing wage law. The tradition continues: Since January 2014, our office has assessed over \$6 million in prevailing wage violations and has debarred 15 contractors for willful violations of our labor laws—a record high for the Comptroller.

The City has expressed support for the Comptroller's continued oversight function, and has said it does not intend to alter the Comptroller's authority. However, Comptroller Stringer has urged the City Council to amend the statute with precise language—to ensure there is no doubt about who is responsible for investigations and enforcement of the expanded living wage law.

Comptroller Settles Prevailing Wage Dispute with DOE Contractor for Over \$435,000 and Willful Violation

Two workers to receive \$294K and \$102K in unpaid wages

In June 2014, Comptroller Stringer issued a consent order against National Insulation & GC Corp., in which the company admitted to willfully and knowingly failing to pay two employees a prevailing wage for contracted work with the Department of Education (DOE). National Insulation will pay the employees \$435,666.72, including more than \$39,000 in civil penalties to the City.

The two employees, both Latino immigrants, were hired to perform insulation work at New York City public schools between December 2006 and November 2010. An investigation by the Comptroller's Bureau of Labor Law and the DOE revealed allegations of under-reported hours and misclassification of workers.

The employees received checks for \$294,000 and \$102,000, respectively, paid out of funds withheld by the Comptroller from National Insulation's contracts with the DOE. National Insulation was charged with a willful violation of the labor law.

The case was referred to the Comptroller's Bureau of Labor Law by the DOE Division of School Facilities, which assisted with the investigation.



Comptroller Stringer stands with tenant association presidents, advocates and elected officials to announce NYCHA audit.

Comptroller's NYCHA Audit Shows Authority Squandered Opportunities for at Least \$692 Million in Revenue and Savings

In December 2014, Comptroller Stringer released a financial audit of the New York City Housing Authority (NYCHA), which found that the Authority missed out on at least \$692 million in revenue and cost savings opportunities and repeatedly failed to meet revenue and savings projections.

The audit examined NYCHA's efforts to maximize savings and revenue in light of decreasing city, state and federal funding. The Authority did not attain nearly \$700 million in revenue and savings in part because it failed to meet HUD guidelines to secure energy incentives for upgrades to common area lighting and energy-efficient boilers, failed to meet HUD subsidy provisions meant to encourage efficiencies, and failed to convert public housing into Section 8 housing. In addition, NYCHA spent \$10 million on a Boston Consulting Group study that identified \$106 million in cost savings and revenue streams that could be attained by 2014, but never followed up to see if the report's recommendations had been implemented and funds realized.

"This audit reveals unconscionable mismanagement and neglect by NYCHA," Comptroller Stringer said. "The nearly \$700 million that was left on the table

could and should have been used to maintain, repair and rebuild New York's deteriorating public housing stock. The culture of incompetence at NYCHA is an insult to residents and all New Yorkers at a time when the Authority needs all the funds it can get to help fill its crippling funding gaps."

Since at least 2002, NYCHA, which provides housing to low and moderate income New York City residents, has been unable to cover its operating or capital needs. In its Operating and Capital Plans Calendar Years 2014-2018, the Authority reported that it has immediate unmet capital needs for more than \$6 billion and would need approximately \$18 billion to bring all of its developments into good repair.

This is the second NYCHA audit released by Comptroller Stringer this year. A July 2014 audit by the Comptroller found that the Authority had failed to ensure that contractors working on its capital projects complied with federal law and NYCHA's own regulations that mandate hiring of NYCHA residents and low-income New Yorkers. According to the Comptroller's audit, public housing and low-income New Yorkers lost out on hundreds of thousands of dollars in potential wages as a result.

Fencing Contractor and Its Successor Debarred for Off-Books Underpayment of Immigrant Workers

Comptroller Stringer determined in June 2014 that Craft Fence Inc. underpaid \$428,452.61 in prevailing wages and supplements to five Latino immigrant workers, following a default hearing at the Office of Administrative Trials and Hearings (OATH). The workers were hired to install fencing for the Department of Parks and Recreation and street signage for the Department of Transportation.

Craft Fence sought to conceal its violations by employing three of the workers "off the books"—not reporting them on certified payrolls submitted to the agencies—and paying them \$100 to \$120 per day in cash.

Comptroller Stringer barred Craft Fence and its owner Robert Guido from bidding on public works projects in New York for the next five years. The Comptroller applied the same ban to Craft Contracting Group, which the office determined was a successor to Craft Fence within the meaning of prevailing wage law. This determination was made because Craft Contracting Group had the same owner as Craft Fence, was located at the same facility, employed some of the same workers, and also performed fencing work on public works projects.

In addition to wages and supplements, the Comptroller also requested \$278,660.94 in statutory interest payments and levied a \$176,778.39 civil penalty against Craft Fence and its owner, Guido.

The case was originally referred to the Office of the Comptroller by Laborers' International Union of North America Local 1010.

Enforcement Highlights *in 2014*

- The Bureau of Labor Law reached an \$82,665.31 settlement with **Hall Enterprises, Inc.** on behalf of nine misclassified workers who performed landscaping and paving at the Queens Museum of Art under a contract with the Department of Design and Construction.
- After a default hearing at OATH, the Comptroller determined that **Superior Press and Automation, Inc.** underpaid \$20,970.86 in prevailing wages and supplements to two carpenters who installed a clean room at Elmhurst Hospital. In addition to the unpaid wages, the Comptroller assessed \$10,112.26 in statutory interest and a \$7,770.78 civil penalty.
- After a default hearing at OATH, the Comptroller determined that **Delta Iron & Construction, Inc.** underpaid \$3,505.92 in prevailing wages and supplements to ten workers who installed a salt storage pad for the Department of Sanitation. The Comptroller determined that Delta Iron & Construction, Inc. willfully violated prevailing wage law and assessed the maximum civil penalty of twenty-five percent of the underpayment with interest.
- **Mico Cooling Corp.** agreed to pay \$82,942.47 to fourteen employees who performed HVAC maintenance pursuant to contracts with the Department of Correction, Fire Department, and Health and Hospitals Corporation. As part of the settlement, Mico Cooling Corp. paid a \$8,294.25 civil penalty to the City of New York.
- The Bureau of Labor Law reached a \$127,099.89 settlement with the prime contractor Building Maintenance Corp. and three of its subcontractors—**Glenns Plumbing Service, Inc., Sphinx Contracting Corp.,** and **H.N.H. Contractors Corp.**—regarding the construction of a comfort station at the Parade Ground in Brooklyn for the Department of Parks and Recreation. As part of the settlements, Glenns Plumbing Service, Inc. acknowledged that it willfully violated prevailing wage law. Sphinx Contracting Corp. and H.N.H. Contractors Corp. were barred from public works projects for five years for the willful violation of prevailing wage law involving the falsification of payroll records.
- Applied Projects Company, Inc., as prime contractor, agreed to pay \$25,355.27 to three workers who were employed by **Samna Construction and Steel Fabrication** to perform structural ironwork at New York City Transit Authority station in Queens. As part of the settlement, Samna Construction and Steel Fabrication acknowledged that it willfully violated prevailing wage law. Applied Projects Company, Inc. agreed to pay a \$2,535.53 civil penalty to the City of New York.

