



NEW YORK CITY COMPTROLLER SCOTT M. STRINGER



Prevailing Wage News

Fall 2019

Previously Debarred Construction Contractor Sentenced to Prison For Continuing Prevailing Wage Violations at City Public Schools

In June 2019, Attorney General Letitia James and Comptroller Stringer announced the sentencing of Vickram Mangru to 30 days in jail, followed by three years of probation, after his felony conviction of failure to pay prevailing wages and benefits. His wife, Gayatri Mangru, was sentenced to a conditional discharge as result of her misdemeanor conviction on the same charge. The defendants both pled guilty in February 2019 to the charge and have paid \$80,000 in restitution. The charge stemmed from their failure to pay prevailing wages to workers employed by companies they owned and operated on construction projects at New York City public schools.

Vickram Mangru (using the trade name “Vick Construction”) had been debarred under the terms of a settlement agreement with the Comptroller’s Office signed in December 2013 for prevailing wage violations on City public school projects. The debarment meant that neither Mangru nor any companies related to him were allowed to work on any new City or State public work contracts for five years. Vickram Mangru incorporated AVM Construction Corp. with his wife in January 2014—24 days after he signed the agreement. Although Vickram Mangru’s wife was listed as the owner of AVM, he managed its day-to-day operations.

Vick Construction and AVM Construction continued to perform interior construction and renovation work, including demolition and removal of building materials, interior framing and drywall installation at New York City public schools, and continuously underpaid numerous employees for years on those projects. Mangru paid his workers as little as \$120 per day—an amount far less than the prevailing wage

rate for that work. To cover up the crime, he falsified certified payroll reports submitted to the New York City Department of Education.

The Attorney General’s Labor Bureau prosecuted the criminal case that resulted in the Mangrus’ guilty pleas and convictions. The Comptroller’s Bureau of Labor Law has commenced civil administrative proceedings against the Mangrus, their various construction companies and their prime contractors on the public school contracts. In their filings, the Bureau alleges that Mangru incorporated a new company—Aradco Construction Corp.—in June 2015, one month after the Bureau’s investigators found Mangru at an AVM Construction job site, and is seeking to recover over \$3 million in additional underpayments, interest and civil penalties.

COMPTROLLER’S PROPOSED REGULATIONS

The Comptroller’s Prevailing Wage Law Regulations are being amended to add fines against contractors for failure to provide prevailing wage notices to employees on City construction sites.

A public hearing on the proposed regulations will be held on Friday November 1, 2019 from 10:00 am to 12:00 pm at One Centre Street, Room 1005, New York, NY 10007.

For more information and a copy of the proposed changes to the regulations, go to the Comptroller’s website at www.comptroller.nyc.gov/wages.

New Prevailing Wage Legislation of Note

Prevailing Supplement Transparency Act

The New York State legislature has passed S5679-A/A2101-A. If signed by the Governor, this bill will amend Labor Law section 220 to require public works contractors that provide fringe benefits to their employees in order to meet prevailing supplement requirements to provide information on each benefit fund, plan or program to the New York State Department of Labor. Contractors would have to provide each employee with weekly pay stubs that itemize the hourly contributions to each benefit fund, plan or program. Contractors would also have to itemize hourly benefit contributions for each employee on weekly certified payroll report forms, which would have to be amended to accommodate this information. Contractors would also be required to file their certified payroll report forms with the New York State Department of Labor (for state contracts) or the New York City Comptroller's Office (for New York City contracts) in addition to the contracting agency on each public work project.

Building Service Prevailing Wages for Utilities

The New York State legislature has passed S6265-A/A8083-A. If signed by the Governor, this bill will amend Labor Law Article 9 to require prevailing wages for building service employees performing work at certain office and plant facilities owned or leased by any utility company "that distributes electric light or power, or gas or steam services at retail rates regulated by the public service commission pursuant to a franchise..."

Building Service Prevailing Wages for Co-ops and Condos Receiving Property Tax Abatements under RPTL § 467-a

The New York State legislature has passed S6219-A/A8082. If signed by the Governor, this bill will amend Real Property Tax Law section 467-a to require prevailing wages for building service employees performing work at "properties held in the cooperative or condominium form of ownership receiving a tax abatement" under that section "with an average unit assessed value" of at least \$60,000. In order to receive the tax abatement, an affidavit certifying that all building service employees at the property will be paid the applicable prevailing wages for the duration of the tax abatement would have to be submitted to the

New York City Department of Finance ("DOF"). DOF would be authorized to promulgate rules to enforce this provision, which may provide for denial, termination or revocation of tax abatements for failure to pay prevailing wages.

Prevailing Wage Expansion Bills

Construction

The New York State legislature referred S1947/A1261 to committee, where it remained at the end of the 2019 legislative session. This bill would have amended Labor Law Article 8 to define "public work" that is subject to prevailing wage requirements. Until now, the law itself has not defined "public work," so the courts have created their own definition: a project primarily involving construction-like labor contracted for by a public agency, paid for with public funds, on facilities that are primarily for the use or other benefit of the general public.

Among other things, the bill defined "public work" to include, regardless of whether the above criteria were met:

- Projects developed on property owned by public entities;
- Office space leased by public entities from private landlords; and
- Publicly-funded affordable housing projects by private developers in which less than 75% of the residential units are considered affordable.

The bill defined "public entity" to include local development corporations, industrial development agencies and interstate authorities. It defined "construction" to include pre and post-construction work, delivery to and hauling from the jobsite of aggregate supply construction materials and off-site custom fabrication. The bill also would have permitted the New York State Department of Labor (but not the New York City Comptroller) to issue "stop work orders" in connection with investigations.

Building Service

The New York State legislature referred S4630/A6064 to committee, where it remained at the end of the 2019 legislative session. This bill would have amended Labor Law Article 9 to require prevailing wages for building service employees performing work on certain properties leased by or from public agencies and properties that were improved or developed with financial assistance from public agencies in the total amount of at least one million dollars.

Comptroller Stringer Issues New Prevailing Wage, Living Wage and Minimum Average Hourly Wage Law Regulations

Comptroller Stringer promulgated new regulations that took effect on July 29, 2018 concerning:

- Prevailing wage rate determinations and compliance for construction and building service work governed by Labor Law Articles 8 and 9, Real Property Tax Law (RPTL) section 421-a, New York City Administrative Code (AC) section 19-142 and City service contract work governed by AC section 6-109;
- Living wage compliance governed by AC section 6-109; and
- Minimum average hourly wage compliance governed by RPTL section 421-a (16)(c).



The regulations are published in Title 44 of the Rules of the City of New York, Chapters 2 and 3. They define how prevailing wage and supplement rates are set annually, establish recordkeeping requirements for employers, explain specific requirements for provision of fringe benefits or supplements and establish procedures for compliance investigations, settlements, hearings and final orders.

Comptroller Stringer's Office Goes the Extra Mile(s) to Reunite Immigrant Worker in Ecuador with Stolen Wages Earned in New York

In August 2018, Comptroller Stringer returned over \$40,000 in unpaid wages and interest to a worker from Ecuador who had worked for a City contractor in New York but returned to his home country. While in New York, he performed concrete and paving work on ten projects at various public schools and a firehouse but was not paid prevailing wage. Most of his co-workers received restitution soon after the Comptroller's Bureau of Labor Law recovered their money from the contractor in 2017. However this particular worker had already returned to Ecuador. With the help of the Ecuadorian Consulate and the worker's former union, the Comptroller's office located the worker in Quito, Ecuador and sent his check using the Consulate's "diplomatic pouch."



New York City Comptroller Scott Stringer and Consul General Linda Machuca.



DID YOU KNOW?

The Comptroller's Bureau of Labor Law works with Consuls General to find underpaid workers on City public work projects who have moved abroad and safely deliver their unpaid wages to them in their home countries.

First Prevailing Wage Settlements Under 421-a Property Tax Exemption Law

In 2019, Comptroller Stringer's Bureau of Labor Law entered into the first prevailing wage settlements under Real Property Tax Law section 421-a, the law that provides property tax exemption benefits to owners of buildings in New York City with at least 30 residential units. The settlements provide for payment of almost \$2 million in unpaid prevailing wages and benefits, plus interest, to over 60 building service employees at 11 tax-exempt properties for work performed over the last several years.

As a condition of receiving partial property tax exemptions, property owners are required to pay their building service employees prevailing wages and benefits, as determined in the annual schedules published by the Comptroller. Building service employees include cleaners, porters, handypersons, doorpersons and security guards. Under the law, which was recently amended, the Comptroller investigates, conducts hearings and/or reaches settlement agreements with property owners, and the New York City Department of Housing Preservation and Development ("HPD"), which administers the tax exemption program, approves settlements and issues final orders.

The Comptroller's investigations revealed that the property owners or their contractors paid the building service workers at the properties far below the prevailing wage and benefit rate—as low as \$10 per hour in wages and no benefits. At some of the properties, workers performing doorperson duties were unlawfully paid the lower security guard prevailing wage rate.

After HPD published regulations to clarify the prevailing wage requirements in 2016, HPD, the Comptroller and the New York State Attorney General sent a mass mailing to all covered property owners notifying them of their prevailing wage obligations and requesting they certify their compliance. Many property owners ignored the notice, so the Comptroller's Office conducted a compliance sweep of buildings that failed to certify. Several of the settlements stemmed from the sweep; others were referred by the building service employee union, Service Employees International Union Local 32BJ.

The Comptroller's Office publishes a list of buildings covered by prevailing wage requirements under 421-a, as well as the prevailing wage and benefit rates for building service employees, on its website at www.comptroller.nyc.gov/wages.

Labor Law Article 8 Enforcement Highlights in 2018 and 2019

Debarments

Contractor	Total Violation	Agency
Beam Construction, Inc.	\$49,978.73	DDC
Shaira Construction Corp	\$20,653.40	DDC
AVI 212 Inc.	\$36,326.90	DOE
Globe Gates, Inc.	\$143,130.63	DEP
Epoch Electrical, Inc.	\$217,591.22	DDC/ CUNY
Heights Elevator Corp.	\$19,222.83	DEP

Willful Violations

Contractor	Total Violation	Agency
Demtac Contracting Corp.	\$34,659.53	NYCTA
Kore Contracting Corp.	\$10,519.28	DDC
Renatus Construction LLC	\$29,742.39	DPR/NYCTA
Kopp Electric Corp.	\$87,719.21	DDC
Stealth Contracting, Inc.	\$9,650.25	NYCTA

If you believe that you have been cheated out of prevailing wages call the Comptroller's confidential Labor Law Hotline.

 **(212) 669-4443**

 **laborlaw@comptroller.nyc.gov**

Comptroller's Mobile-Friendly Website
www.comptroller.nyc.gov/wages

