

LOCAL LABOR POLICY

TOWN OF MONTGOMERY INDUSTRIAL DEVELOPMENT AGENCY

The Town of Montgomery Industrial Development Agency (the "Agency") was created for the purpose of creating employment opportunities for, and to promote the general prosperity and economic welfare of, the residents of the Town of Montgomery, Orange County, New York. The Agency offers economic incentives and benefits to qualified applicants who wish to locate or expand their businesses or facilities in the Town of Montgomery. When the Agency approves a project, it enters into agreements to extend these incentives and benefits to the applicant.

Construction jobs, though limited in time duration, are vital to the overall employment opportunities and economic growth in the Town of Montgomery specifically and in Orange County generally. The Agency believes that companies benefiting from its financial assistance programs should employ local laborers, mechanics, craft persons, journey workers, equipment operators, truck drivers and apprentices (hereinafter "construction workers"), including those who have returned from military service, during the construction phase of projects. In this way, the Agency can generate significant benefits to advance the Town of Montgomery's general prosperity. It is also the goal of the Agency to promote the use of local veterans on projects receiving Agency benefits. By partnering with local contractors, local contractor groups, local trade unions and contractors awarded work on Agency projects, there are opportunities for veterans to gain both short term and long term careers in the construction industry.

It is, therefore, the policy of the Agency that firms benefiting from its programs shall employ workers from the Town of Montgomery and the "local labor" market during all project phases, including the construction phase. For the purpose of this policy (" Policy"), the "local labor" market for construction workers shall be defined as those individuals living in Orange, Ulster, Sullivan, Dutchess, Putnam, Rockland and Westchester Counties. The Agency encourages each applicant receiving financial assistance to utilize labor from the Town of Montgomery and/or Orange County to the extent possible. Each applicant (" Applicant") receiving Agency financial assistance (collectively, "Agency Benefits") shall ensure that contractor(s) and developer(s) engage or hire at least 85% from the "local labor" market for their approved projects. The 85% shall be by-borne by each primeprimary contractor including their subcontractors and in total at the time of completion of the project. The contractor/developer is mandated to keep daily logsheets of all field workers, commencing on the date of application. Any work performed after application shall be included in the determination of overall compliance with the 85% hiring requirements of this Policy. A third-party auditing firm will be engaged to monitor construction work commencing on the date Agency Benefits are granted by resolution of the Agency. Each Applicant will be responsible for the payment of such auditing firm.

The Agency recognizes, however, that the use of local labor may not be possible for several reasons, and the Applicant may request an exemption on a particular contract or trade scope for the following reasons:

1. ~~1~~-Warranty issues

- a. In the case a specialized manufacturing warranty is required by the applicant in which no local labor can manufacture an "or-equal"the product

b. In the case an installation warranty is required by the applicant in which no local labor can install an "or-equal" the product related to installation of specialized equipment whereby the manufacturer requires installation by only approved installers;

2. Specialized construction is required and no local contractors or local construction workers have the required skills, certifications or training to perform the work;

3. Cost Differentials:

a. For projects whose project cost are equal to or in excess \$15,000,000, significant cost differentials in bid prices whereby the use of local labor and materials significantly increases the sub contract or contract of a particular trade or work scope by ~~20~~30%. Every reasonable effort should be made by the Applicant and or the Applicants' contractor to get below the ~~20~~30% cost differential including, but not limited to, communicating and meeting with local construction trade organizations, such as the local Contractor Associations;

(1) If the applicant or applicants' contractors cannot get below the ~~25~~30% cost differential, the applicant must give the ~~lowest otherwise preferred~~ local bidder one final chance to get ~~get~~ below the ~~30~~25% cost differential. This effort must be documented and presented to the Agency's third-party local labor monitoring firm.

~~b. b-~~ For projects whose project cost is less than \$15,000,000, significant cost differentials in bid prices whereby the use of local labor and materials significantly increases the sub contract or contract of a particular trade or work scope ~~by 10~~by 150% or more. Every reasonable effort should be made by the Applicant and or the Applicants' contractor to get below the 150% cost differential including, but not limited to, communicating and meeting with local construction trade organizations, such as the local Contractor Associations

(1) If the applicant or applicants' contractors cannot get below the 15% cost differential, the applicant must give the otherwise preferred local bidder one final chance to get below the 15% cost differential. This effort must be documented and presented to the Agency's third-party local labor monitoring firm.

4. No labor is available for the project; and

5. The contractor requires key or core persons such as supervisors, foreman or "construction workers" having special skills that are not available in the "local labor" market.

The request to secure an exemption for the use of non-local labor must be received from the Applicant on the exemption form provided by the Agency or the third-party monitor and received in advance of work commencing. The request will be reviewed by the third-party monitor and forwarded to the Agency, at which time the Agency's Audit Committee shall have the authority to approve or disapprove the exemption. The third party monitor shall report each authorized exemption to the Board of Directors at its' bi-monthly meeting.

In addition, Applicants receiving Agency financial assistance, as well as contractor(s)/developer(s) on the project, shall make every effort to utilize vendors, material suppliers, subcontractors and professional services from the Town of Montgomery and the surrounding counties identified above. Applicant(s), contractor(s) and developer(s) shall be required to keep records of those local vendor(s), material supplier(s), contractor(s) and professional services whom they have solicited and with whom they have contracted with or made awards to. This shall be stored in a binder on the project site during construction and shall be easily available for review by an authorized representative of the Agency, such as the Agency's third-party monitor. Such binder shall also include any documents for solicitation and the final contracts. Once approved for Agency Benefits, all Applicants will be required to provide to the Agency's staff the following information:

1. Contact information for the Applicant's representative who will be responsible and accountable for providing information about the bidding and awarding of construction contracts relative to the Applicants project;
2. Description of the nature of construction jobs created by the project, including in as much detail as possible, the number, type and duration of construction positions;
3. The names, contact information, certificate of authorization to do business in the State of New York and copies of current Certificates of NYS Workers' Compensation Insurance, NYS Disability Insurance, General Liability Insurance and proof of current OSHA training certification from all contractors' employees performing work on the site; and
4. A Construction Completion Report listing the names and business locations of prime contractors, subcontractors and vendors who have been engaged in the construction phase of the project.

All Agency projects are subject to local monitoring by the Agency and the third-party monitor. The Applicant and/or construction manager or general contractor acting as agent for the Applicant on the project, shall keep a log book on site detailing the number of workers, hours worked and counties and states in which they reside. Proof of residency or copy of drivers' license shall be included in the log book, along with evidence of necessary OSHA Certifications. Reports will be on forms provided by the Agency or weekly payroll reports which contain the same information as required on the Agency issued form. The Applicant(s), contractor(s) and developer(s) are subject to periodic inspection or monitoring by the Agency or its third-party monitor.

The third-party monitor shall issue a report to the Agency immediately when an Applicant or Applicants' contractor (or developer) is not in compliance of this Policy. Agency staff shall advise the Audit Committee and/or Agency Board on non-compliance by email or at the next scheduled meeting. If a violation of this Policy has occurred, Agency staff shall notify the Applicant and contractor in writing of noncompliance and give Applicant a warning of violation and 72 hours in which to correct such violation. Upon evidence of continued non-compliance or additional violations, the Agency and/or its third-party monitor shall notify the Applicant that the project is in violation of this Policy and is subject to Agency Board action which may result in the revocation, termination and/or recapture of any or all Agency Benefits conferred by the Agency as provided in the project closing documents.

The Agency will use a third-party firm(s) to monitor and audit compliance with this Policy, the cost of which shall be paid for by the Applicant at closing in advance of future audits and held in a non-interest bearing escrow account by the Agency until all such audits are completed. The Applicant of an Agency approved project, unless otherwise agreed by the Agency, shall be required to maintain a 4' X 8' bulletin board on the project site. The bulletin board shall be located in an area that is accessible to onsite workers and visitor, which should be clear and legible at least 10 feet from said bulletin board, and contain the following information:

1. Contact information for the Applicant;
2. Summary of the Agency Benefits received;
3. Contractor's name(s) and contact information;
4. Copies of proof of exemption (if any) from this Policy;
5. Copies of any warnings or violations (if any) of this Policy; and 6. Copy of this Policy executed by the Applicant.