



CLAUDIA HENRIQUEZ
DIRECTOR OF WORKERS' RIGHTS

CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BRAD LANDER

BUREAU OF LABOR LAW

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John Leonard
TIP Executive Director
100 Gold Street, Room 8D-09
New York, New York 10038

Dear Mr. Leonard:

Thank you for the opportunity to submit comments on the Department of Housing Development and Preservation ("HPD")'s proposed prevailing wage regulations for building service employees. The Office of the Comptroller ("OTC" or "the Comptroller"), through its Bureau of Labor Law, sets and enforces prevailing wage and benefit rates in New York City, including for building service employees in properties receiving benefits pursuant to Real Property Tax Law sections 421-a(1-15); 421-a(16); 421-a(17); 467-m; and 485-x. OTC supports HPD's proposed regulations and respectfully submits an additional provision for HPD's consideration.

OTC proposes a new subsection 50-09(a) (to precede, not replace, current subsection 50-09(a)) concerning the Comptroller's enforcement of the minimum average hourly wage provisions of 421-a(16). The new subsection would state the following, "In the event that the minimum average hourly wage as required by Real Property Tax Law § 421-a(16) was not paid, the Applicant is responsible for the payment of the fees and expenses of the Third Party Fund Administrator, which must be approved by the Comptroller." This proposed language is consistent with the Comptroller's Third Party Fund Administrator Protocol, which already contains similar language.

OTC believes that codifying the language in the regulations is advisable in order to dispel any ambiguity about which entity is responsible for paying the fees and expenses of the Third Party Fund Administrator. As the entity receiving the tax benefit, the Applicant is responsible for all fees and expenses related to ensuring compliance with 421-a(16). The need to obtain a Third Party Fund Administrator directly results from a deficiency related to the Applicant's failure to ensure that construction employees receive the minimum average hourly wage for work performed on the eligible site throughout the construction period.

Thank you for your consideration of this matter.

Respectfully submitted,

Claudia Henriquez
Director of Workers' Rights
Bureau of Labor Law