

# **EFFECTIVE JUNE 27, 2003**

(Revised April 15, 2004)

## **COUNTY OF ROCKLAND DEPARTMENT OF GENERAL SERVICES – PURCHASING DIVISION**

### **RULES AND REGULATIONS**

Local Law No. 5 of 2003

#### **APPRENTICESHIP TRAINING PROGRAMS FOR CONSTRUCTION CONTRACTS**

##### **Purpose**

The purpose of these rules and regulations is to implement Local Law No. 5 of 2003 requiring Apprenticeship Training Programs on construction contracts in excess of \$250,000. The legislative intent of Local Law No. 5 is to promote apprenticeship training as authorized by Section 816-b of the New York Labor Law.

##### **Definitions**

**“Alteration”** – the process of improving real property that adds value to its permanent value and prolongs its intended life appreciably; does not include routine repair, operation, or maintenance of existing real property.

**“Apprenticeship Agreement”** shall be as defined in New York State Labor Law Article 23.

**“Construction contract”** shall mean any contract to which the county of Rockland shall be a signatory which involves the construction, reconstruction, improvement, rehabilitation, installation, alteration, renovation, demolition or otherwise providing for any building, facility, or physical structure of any kind with a value in excess of \$250,000.

**“Construction”** – the process of building, altering, improving, or demolishing any public structure or building, or other public improvement of any kind to any public real property; does not include routine repair, operation, or maintenance of existing real property.

**“Contractor or subcontractor”** shall mean a contractor or subcontractor, which directly employs labor under a construction contract for which an apprenticeship program has been approved by the New York State Commissioner of Labor in accordance with Article 23 of the New York Labor Law.

**“Demolition”** – the process of taking down or removing a facility or physical structure from real property; does not include routine repair, operation, or maintenance of existing real property.

**“Improvement”** – the process of alteration or renovation of real property that adds value to its permanent value and prolongs its intended life appreciably; does not include routine repair, operation, or maintenance of existing real property.

**“Installation”** - the process of installing material and equipment in relation to a construction contract as defined above; does not include routine repair, operation, or maintenance of existing real property.

**“Maintenance and Repair”** shall mean the upkeep of real property that neither adds to its permanent value nor prolongs its intended life appreciably, but instead keeps it in an efficient operating condition.

**“Physical Structure”** – shall be defined as buildings, garages, shelters, and bridges.

**“Real Property”** is the land and its permanently affixed buildings and structures.

**“Reconstruction”** - – the process of rebuilding, altering, improving, or demolishing any public structure or building, or other public improvement of any kind to any public real property; does not include routine repair, operation, or maintenance of existing real property.

**“Rehabilitation”** – the process of reconstruction, improvement, alteration, installation, or renovation of real property that adds value to its permanent value and prolongs its intended life appreciably; does not include routine repair, operation, or maintenance of existing real property.

**“Renovation”** – the process of reconstruction, improvement, installation and alteration of real property that adds value to its permanent value and prolongs its intended life appreciably; does not include routine repair, operation, or maintenance of existing real property.

### **Effective Date**

These rules and regulations shall take effect for all County of Rockland Bid Solicitations for construction contracts issued on or after June 27, 2003.

### **Application**

These rules and regulations shall apply to all County of Rockland construction contracts in excess of \$250,000.

These rules and regulations shall apply to all subcontractors that are entitled to receive in excess of \$25,000 from a County of Rockland construction contract.

These rules and regulation shall not apply to contracts for the routine repair, operation, or maintenance of existing real property.

These rules and regulations shall not apply to contracts for the routine repair, operation, or maintenance of County owned streams.

These rules and regulation shall not apply to professional service contracts associated with a County of Rockland construction contract.

These rules and regulations shall not apply to subcontractors providing only materials, supplies and equipment to a prime contractor.

These rules and regulations shall not apply to contracts or subcontracts for the purchase, delivery and installation of furnishings, furniture and office equipment in relation to a construction contract.

These rules and regulations shall not apply to materials and services purchased under New York State Contracts. The terms and conditions stated in the Office of General Services contract shall apply.

These rules and regulations shall not apply to projects financed through Federal/State Grants and NYS Revolving Fund financing which require M/WBE participation programs.

These rules and regulations shall not apply to sewer line construction projects and highway road and culvert projects.

These rules and regulations shall not apply to highway projects that receive federal aid or when the New York State Department of Transportation has concluded that the provisions of Local Law No. 5 could restrict competition.

These rules and regulations shall not apply to heavy non-building construction projects including athletic fields, dams, dikes, docks, drainage projects, golf courses, harbors, parks, reservoirs, canals, sewage treatment plants, water treatment plants, hydroelectric plants and other mass transit projects.

These rules and regulations may not apply to certain contracts that involve the expenditure of federal assistance or contract funds. In this case, the Department Head of the contracting agency and the Director of Purchasing shall make a written determination as to the reason(s); these rules and regulations, and Local Law No. 5 of 2003 does not apply regarding that specific contract.

Original Contract Amount – The County will utilize the Bid Price or Initial Contract amount by Trade to determine the applicability of Local No. 5 of 2003.

These rules and regulations shall not apply to Construction contracts in which the original Bid Price or Initial Contract amount is \$250,000 or less, but where the final contract amount is in excess of \$250000 due to field change orders.

### **Required Contractor Certification of Compliance**

Contractors shall be required to submit, with each bid proposal in excess of \$250,000, a notarized Certification of Compliance with Local Law No. 5 of 2003 form. As part of this certification, the contractor shall attach and submit proof of apprenticeship agreements from the New York State Commissioner of Labor and/or Trade Unions for the type and scope of work to be performed.

### **Required Subcontractor Certification of Compliance**

Contractors shall be required to submit, for each subcontractor receiving in excess of \$25,000, a notarized Certification of Compliance with Local Law No. 5 of 2003 form. As part of this certification, the subcontractor shall attach and submit proof of apprenticeship agreements from the New York State Commissioner of Labor and/or Trade Unions for the type and scope of work to be performed.

### **Procedure for Review of Prime Contractors Certifications**

Prior to award, certification forms received in relation to a bid shall be reviewed for compliance by the county agency that issued the bid documents. Upon determination of compliance, a memorandum stating that the bidder(s) to be awarded a contract(s) have met the requirements of Local Law No. 5 of 2003 shall be prepared and included in the permanent bid and contract file.

### **Procedure for Review of Subcontractors Certifications**

Prior to a county agency approving the use of a subcontractor by a prime contractor; the county agency that issued the bid documents shall review the Certification of Compliance of Local Law No. 5 of 2003 form; for all proposed subcontractors. Upon determination of compliance, a memorandum stating that the subcontractor to be approved has met the requirements of Local Law No. 5 of 2003 shall be prepared and included in the permanent bid and contract file.

### **Procedure for Requesting Waiver of Applicability**

Instances will arise in which a procedure to waive the applicability of Local Law No. 5 of 2003 will be in the best interest of the County. In this case the Department Head of the County agency that will be issuing the bidding documents or a Contractor shall document in writing to the Director of Purchasing the reason(s) for requesting such a waiver.

Some examples to implement a waiver are as follows:

- ❑ A lack of availability or approved apprentice programs for a specific trade within the Hudson Valley.
- ❑ A lack of availability of apprentices in specific trades. A Contractor may apply for a waiver prior to the Bid Opening Date if there are no apprentices available. A Subcontractor may apply for a waiver prior to being approved by the County if there are no apprentices available.
- ❑ At the request of a county agency provided they have provided sufficient information to determine that it is in the best interest of the County to do so.
- ❑ Contracts in which there is a disproportionately high ratio of material costs to labor costs
- ❑ Participating contractors and subcontractors demonstrate a good faith effort to comply
- ❑ Other criteria the Purchasing Director deems appropriate, subject to prior review by the County Executive and County Legislature.

If, upon his review of the waiver request, the Purchasing Director determines that the request to waive the applicability of Local Law No. 5 of 2003 is in the best interests of the County; then the Director of Purchasing shall forward a resolution request to the County Executive for his review and approval; and if approved by the County Executive the resolution will be forwarded to the Legislature for appropriate action.

**Enforcement**

The Office of the Public Advocate shall handle all complaints regarding the application of Local Law No. 5 of 2003 and the enforcement of Local Law No. 5 of 2003.