

LOCAL LAW NO. 1-2013

Amending the Village Code to Establish the Requirement for Apprenticeship Programs in Connection With Certain Public Works Contracts

A LOCAL LAW adding a new Chapter to the Code of the Village of Ossining that establishes a requirement for apprenticeship training programs in connection with certain Public Works Contracts as authorized by NYS Labor Law Section 816-b, consisting of the addition of Chapter 77 entitled "Apprenticeship Training Programs",

BE IT ENACTED by the Board of Trustees of the Village of Ossining, as follows:

Section 1. Legislative Intent. The State of New York has determined, as stated in § 810 of NYS Labor Law, that skilled manpower constitutes a great resource in this state; that apprenticeship programs, through supervised training and education, develop skilled craftsmen and help meet the increasing needs for such workers in the state's labor force; that the continuing development of skilled manpower is essential for individual self-realization and for an expanding industrial economy; and that to those ends the state has declared it to be the public policy of the State of New York to develop sound apprenticeship training standards and to encourage industry and labor to institute training programs. The Village of Ossining hereby concurs with that statement of policy

Section 2. The Code of the Village of Ossining is hereby amended to add new Chapter 77 entitled "Apprenticeship Training Programs" as follows:

A. Chapter 77 APPRENTICESHIP TRAINING PROGRAMS

§ 77-1. Purpose.

The purpose of this local law as authorized by § 816-b of the NYS Labor Law is to promote apprenticeship programs which provide opportunities for individuals to secure education in the skilled construction trades and gain employment.

§ 77-2. Definitions.

As used in this article, the following words shall have the indicated meanings, unless the context clearly indicates otherwise:

APPRENTICESHIP AGREEMENT

A qualifying apprenticeship agreement is: (a) an agreement that has been registered with and approved by the New York State Commissioner of Labor in accordance with Article 23 of the NYS Labor Law; (b) an individual written agreement between an employer and an apprentice, (c) a written agreement between an employer or an association of employers, and an organization of employees describing conditions of employment for apprentices, or (d) a written statement describing conditions of employment for apprentices in a plant or plants where there is no bone fide employee organization.

APPLICABLE CONTRACT

Any contract subject to public bidding for public work in the Village to which the Village of Ossining shall be the signatory where the aggregate cost of the total project exceeds \$5 million and which involves the design, construction, reconstruction, alteration, demolition, renovation, improvement, rehabilitation, maintenance, repair, furnishing, equipping of or otherwise providing for any building, facility or physical structure of any kind.

CONTRACTOR/SUBCONTRACTOR

An individual, sole proprietorship, partnership, joint venture, corporation or other entity formed for the purpose of doing business which directly employs labor under an Applicable Contract (as herein defined). Note that a subcontractor of a subcontractor under an Applicable Contract would also be a subcontractor under the Applicable Contract for purposes of this Chapter.

§ 77-3. Apprenticeship agreements required.

Prior to the entering into any Applicable Contract, the Contractor shall certify as for itself and its Subcontractors that (a) it currently has, and will maintain for the duration of said Applicable Contract, Apprenticeship Agreements appropriate for the type and scope of work to be performed under such Applicable Contract, and (b) an appropriate number of apprentices shall be utilized in performing such Applicable Contract, with such certification signed by an officer of the Contractor. Contractors and Subcontractors shall be required to submit proof of Apprenticeship Agreements, including but not limited to a sworn written certification, at the point of the award of an Applicable Contract following public bidding and prior to the execution of the Applicable Contract by the Village Manager or designee.

§ 77-4. Exemptions.

This chapter shall not apply:

- A. To any contracts procured through New York State contracts as administered by the New York State Office of General Services; or

- B. Where a specific trade has not been included among the list of trades maintained by the New York State Commissioner of Labor available for such Apprenticeship Agreements at the time the Applicable Contract is executed; or
- C. To any contracts utilizing federal, state, county or other funding assistance (to the extent such funding assistance precludes application of the apprenticeship training program); or
- D. To emergency procurements and other contracts that may be entered into pursuant to General Municipal Law §103, including the annual bidding process for goods and services as conducted by the Village; or
- E. To a Contractor or Subcontractor upon receipt of proof in the form of a sworn written statement that the total number of persons employed by such contractor or subcontractor is 14 or less; or
- F. To any Subcontractor upon receipt of proof in the form of a sworn written statement by the Contractor that such Subcontractor is entitled to receive less than \$25,000 under an Applicable Contract.

§ 77-5. Additional Considerations Permissible.

The Village, in addition to considerations which may be permitted by law, regulation or otherwise, may consider the degree to which career opportunities in apprenticeship training programs approved by the New York State Commissioner of Labor may be provided.

§ 77-7. Implementation.

The Village Manager, or a designee of the Village Manager, may establish and amend rules and procedures as deemed appropriate and necessary for the administration and implementation of this Chapter and its underlying policy.

§ 77-8. Sanctions and Remedies.

- A. The failure of a prospective contractor to provide in a timely fashion proof of an Apprenticeship Agreement and/or a written certification as to its Subcontractors or other written certifications as may be required by this Chapter, shall result in the determination that such bid is non-responsive and therefore invalid; and
- B. The Village may withhold payments, cancel, terminate, suspend or cause to be canceled, terminated suspended, or have payments withheld from any Contractor, or the Village may withdraw or suspend its approval of one or more subcontractor on any Applicable Contract or any portion thereof in the event that it is

established that the Contractor or any Subcontractor failed to comply with this Chapter.

Section 3. Except as otherwise provided herein, all other provisions of the Code of the Village of Ossining shall remain the same.

Section 4. The provisions of this Local Law are declared to be severable, and if any section, subsection, sentence, clause or part thereof is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses or part of this Local Law

Section 5. This Local Law shall take effect upon the filing and publication as required by applicable law, including filing with the Secretary of State.