

LOCAL LABOR POLICY

The mission of the Niagara County Industrial Development Agency (“Agency”) is to undertake projects and programmatic initiatives in furtherance of and to advance the job opportunities, health, general prosperity and economic welfare of the people of the County and to improve their recreation opportunities, prosperity and standard of living. In addition, and in doing so, the Agency shall adhere to its adopted policies and applicable statutory requirements, including PAAA, PARA, OML, FOIL, and SEQRA. Further, and in accordance with GML Section 916-a, the Agency shall take into consideration the local zoning and planning regulations as well as the regional and local comprehensive land use plans. The Agency’s goals include continued compliance with current obligations and responsibilities associated with ongoing projects and programs, in addition to identifying new projects and programs that will achieve the Agency’s purposes and mission. With these stated goals established, the Agency’s values are to maintain the highest ethical standards applicable to public officials and public benefit corporations.

Project applicants (the “Company”), as a condition to receiving Financial Assistance (including a sales tax exemption, mortgage recording tax exemption, real property tax abatement) from the Agency will be required to utilize qualified local labor, as defined below, for all projects involving the construction, expansion, equipping, demolition and/or remediation of new, existing, expanded or renovated facilities (collectively, the “Project”). The creation of construction jobs in the local labor area, though limited in duration, remains a vital component of the Agency’s overall mission.

Local Labor Defined

Local labor is defined as individuals permanently residing in Niagara County, Erie County, Chautauqua County, Cattaraugus County, Wyoming County, Allegany County, Genesee County and Orleans County. (Collectively, the “Local Labor Area”).

Local Labor Requirement

The Company will have 90% of all Project employees of the general contractor, subcontractor, or subcontractor to a subcontractor (collectively, the “Workers”) working on the Project permanently reside within the Local Labor Area. The general contractor, subcontractor, or subcontractor to the subcontractor do not have to be local companies as defined herein, but must employ Workers residing within the Local Labor Area to qualify under the 90% local labor criteria.

It is understood that at certain times, Workers residing within the Local Labor Area may not be available with respect to a Project. Under this condition, the Company is required to contact the Agency to request a waiver of the Local Labor Requirement (the “Local Labor Waiver Request”)

based on the following circumstances: (i) warranty issues related to installation of specialized equipment or materials whereby the manufacturer requires installation by only approved installers; (ii) specialized construction for which qualified Local Labor Area Workers are not available; and (iii) lack of Workers that would allow the Company to meet the Local Labor Area requirement. The Agency's Executive Director, in consultation with the Chairman and/or Vice Chairman, shall evaluate each Local Labor Waiver Request and make a determination related thereto based upon information received with such waiver request.

Monitoring

The Agency, on an annual basis, will select at least one completed project, either randomly or based upon information provided to the Agency, to conduct an investigation into whether the Company was compliant with the Agency's Local Labor Policy. The Agency, or its designated agents, shall, during normal business hours, examine and copy the applicable books and wage records of the Company, Contractor and/or Subcontractor as related to work performed on the Project. If Agency determines that the local labor requirement is found to be below 90%, the Agency may terminate any and all Financial Assistance being provided to the Project in accordance with the terms of the underlying agreements between the Agency and the Company with respect to the Project.

Local Labor Reporting Requirement

Companies authorized to receive Financial Assistance from the Agency will be required to file or cause to be filed a Local Labor Utilization Report (the "Report") on such form as made available by the Agency, and as directed by the Agency, which will identify, for each Worker and associated zip code that each such Worker is domiciled in. The Report shall be submitted to the Agency or its designated agents as follows: (i) immediately prior to commencement of construction activities; and (ii) on or by the next following semi-annual dates of January 1 and July 1, and for each period thereafter through the construction completion date.

At the conclusion of the Project, the Agency or its designated agents shall have the right to verify compliance with the Local Labor Requirement. The Agency, or its designated agents, shall have the right, during normal business hours, to examine and copy the applicable books and wage records of the Company, Contractor and/or Subcontractor as related to work performed on the Project. If Agency determines that the local labor requirement was below 90%, the Agency may take action to terminate or modify any and all Financial Assistance being provided to the Project in its sole discretion, and as in accordance with the terms of the underlying agreements between the Agency and the Company with respect to the Project.