



The Business Council



June 24, 2020

The Honorable Roberta Reardon
Commissioner
New York State Department of Labor
Building 12, W.A. Harriman Campus
Albany, New York 12240

Dear Commissioner Reardon:

Chapter 86 of the Laws of 2020 was enacted to amend Chapter 744 of the Laws of 2019 in order to effectuate the intent of the law, which requires contractors and subcontractors to provide written notice to all laborers, workers, or mechanics of the prevailing wage and supplement rate for their particular job classification on each pay stub beginning on June 23, 2020. In addition, the law authorized the New York State Department of Labor (DOL) to prepare templates that comply with the notification requirements.

In June 2020, the DOL published the worker notification template and revised LS 58 document to help contractors and subcontractors comply with the required supplement information. A strict interpretation of the law, worker notification template and the revised LS 58 document requires contractors and subcontractors to provide the following supplement information upon hiring of each employee and with each pay check in English or in another language:

- Wage and supplement rates;
- If prevailing wage supplements are claimed the paycheck stub or a separate notice shall provide for each supplement claimed which could include dental, vision, dues, supplementary unemployment, savings, union political action, market recovery funds or others;
- The names and addresses of the person or entity providing such supplement;
- the agreement, if any;

- Information on how copies of such agreements or summaries thereof may be obtained,
- At each pay period, the employer is required to get a signed and dated acknowledgment of receipt from each employee and maintain these records for 6 years; and
- Violations of the law are subject to monetary penalties.

The Worker Notification template revised in June 2020, references that in the event the required information will not fit on the paystub an accompanying sheet (LS 58) will suffice. The LS 58 document adds additional categories of information that are not required on the paystub notice. The LS 58 document adds an additional requirement of a detailed breakdown of supplements paid or provided including the name and address of the provider and the agreement or plan summary information.

At a time when New York State is slowly recovering from the COVID-19 pandemic and a phased-in reopening of businesses, the implementation of the supplement notification law has caused much consternation and confusion for contractors and subcontractors.

The law requires a voluminous amount of detailed information for multiple supplements resulting in a logistical nightmare of compiling, reporting, and retaining the supplement information; significant changes to or procuring a new payroll processing program. There are many other unanswered questions as well—such as how does a contractor handle and account for varying rates as a worker performs work in different regions?

Finally, given that the new requirements would for some employers necessitate handling significant amounts of paperwork between the employer and employee, it also seems to be at odds with current requirements and recommendations regarding mitigating the risk of transmission of COVID-19.

As a result, we the undersigned request additional relief and clarity about the required information of the supplement notification law, the applicability of the public works contract effective date, and a grace period for contractors and subcontractors working to comply with a law about which DOL published guidance only days before it was to take effect.

Very truly yours,

Michael J. Elmendorf II
 President & CEO
 Associated General Contractors of NYS

John T. Evers, PhD
 Senior Director of Government Affairs
 The Business Council of New York State

Aaron Hilger
 President
 Builders Exchange of Rochester

John O’Hare
 Managing Director
 Building Contractors Association (NYC)

John T. Cooney, Jr.
 Executive Director
 Construction Industry Council of
 Westchester & Hudson Valley

Kirk Ives
 Director of Legislative & Regulatory Affairs
 Northeastern Retail Lumber Association

Joseph W. Benedict, Jr.
Executive Director
Construction Exchange of Buffalo & WNY

Marc Herbst
Executive Director
Long Island Contractors Association

Lindsay Mills
Co-Chairman
NYS Council of NECA Contractors

Alan Seidman
Executive Director
Construction Contractors Association of the Hudson Valley

John Marich
Chairman
NYS Association of Electrical Contractors

Earl Hall
Executive Director
Syracuse Builders Exchange

Todd Helfrich
President & CEO
Eastern Contractors Association

Michael Misenhimer
Executive Director
Northeastern Subcontractors Association

CC: Darren Cohen, Assistant Counsel to the Governor
The Honorable Diane Savino, New York State Senate
The Honorable Carrie Woerner, New York State Assembly