

Contractor and Subcontractor Disclosure Obligations Under Public Authorities Law 1269-G

Under Section 1269-g of the Public Authorities Law, a contractor who has entered into a public works contract with the Metropolitan Transportation Authority (MTA), and all of its subcontractors, must post and distribute specified information about certain laws to their employees working on the project. The laws are:

- **The New York False Claims Act, Sections 187-194 of the State Finance Law, which encourages citizens to assist New York State and local governments to detect and stop fraud.**
- **Section 740 of the New York Labor Law, which protects from retaliation employees who have reported illegal conduct that threatens the public health or safety, first to their supervisor, and then to a federal, state, or local governmental body.**

Set forth below is the information that contractors and subcontractors must disclose to their employees. We also have prepared a sample notice, entitled "Protections for Reporting Fraud in New York," which contains this information. A contractor or a subcontractor may use this sample notice to comply with its obligations under Section 1269-g(1) to post information at workplace sites; to post information on its website if it has one (or to provide a hyperlink to the MTA's website); and, to distribute information (through employee handbooks or email) to their employees who perform work on the contract.

INFORMATION THAT CONTRACTORS AND SUBCONTRACTORS MUST DISCLOSE

Reporting fraud or other illegal activity

Fraud or other illegal activity may be reported to:

Office of the Inspector General
Metropolitan Transportation Authority
Two Penn Plaza, 5th Floor
New York, New York 10121

New York State Attorney General
Public Integrity Bureau
120 Broadway, 22nd Floor
New York, New York 10005

24-Hour Complaint Hotline
1-800-MTA-IG4U
1-800-682-4448

Public Integrity Hotline
1-800-428-9072

New York's False Claims Act

New York's False Claims Act (State Finance Law §§ 187-194) generally prohibits any person from knowingly submitting a false or fraudulent claim for payment or approval to any state or local government agency, including the MTA.

Any person may report to the Attorney General information relating to what he or she believes to be a possible false or fraudulent claim submitted to the MTA. The Attorney General may investigate and bring a civil action against anyone who has violated the law. A person or company found liable under the False Claims Act must generally pay treble damages and civil penalties, plus costs and attorneys' fees.

In addition, the False Claims Act authorizes any person to start a lawsuit against any person or company who has submitted to the MTA a false or fraudulent claim. If the suit is successful, that person may share in whatever money the MTA recovers. This citizens law suit is called a *qui tam* action. It is an important tool that enables citizens to help New York State and public authorities such as the MTA recover money or property lost through fraud or corruption.

Filing a *qui tam* action

A *qui tam* action must be filed with the court under seal to give the Attorney General and the MTA a chance to investigate the allegations of fraud. Depending on the case, the Attorney General might intervene and take over the case altogether, allow the *qui tam* plaintiff to take part, or allow the *qui tam* plaintiff to handle it on his or her own.

A person may commence a *qui tam* law suit without using an attorney. However, the procedures are complicated and must be carefully followed. Most *qui tam* plaintiffs rely on an attorney who specializes in and has experience with False Claims Act cases. In addition to sharing in a percentage of the amount of any recovery, a person who starts a *qui tam* action may be eligible to recover attorneys' fees plus other costs and expenses.

Prohibitions on employer retaliation

New York State law prohibits an employer from discharging, demoting, suspending, threatening, harassing, or otherwise discriminating against an employee because that employee has lawfully reported what he or she believes to be fraudulent or illegal conduct to the Attorney General or started a *qui tam* action under the False Claims Act.

New York State's Labor Law also prohibits an employer from discharging, suspending, demoting, or otherwise retaliating against an employee because that employee has disclosed to a supervisor illegal conduct that creates and presents substantial and specific danger to public health or safety, or who discloses such illegal conduct to a public body (including the Attorney General or the MTA Inspector General) after first disclosing it to a supervisor.