



BUILDINGS BULLETIN 2011-024

Technical

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Purpose: This document restates the requirements that the owner hires the special inspection agencies, and the obligation of the special inspection agency to avoid conflicts of interest.

Related Code Section(s): AC 28-115 BC 1702.1 1RCNY 101-06
AC 28-116.2.3 BC 1704.1

Subject(s): Special inspections, special inspectors; Special inspections, reports; Special inspectors, hiring of; Special inspections, special inspection agency, conflict of interest

Hiring of Special Inspection Agencies

Section AC 28-116.2.3 requires where an application is made for construction of the types of work listed in BC Chapter 17 and elsewhere in the NYC Construction Codes, that work shall be subject to special inspection during the progress of the work by agencies approved by the Department to perform such special inspections. Special Inspection is defined in section BC 1702.1 as the "Inspection of selected materials, equipment, installation, fabrication, erection or placement of components and connections, to ensure compliance with approved construction documents and referenced standards as required by this chapter or elsewhere in this code or its referenced standards." Agencies approved to perform special inspections, known as a Special Inspection Agencies ("SIA"), are required to employ special inspectors qualified to perform such inspections in compliance with section AC 28-115 and 1 RCNY 101-06.

Section BC 1704.1 requires that SIA's be retained by the owner of the premises and section BC 1704.1.2 requires that SIA's report to the owner uncorrected discrepancies between approved construction documents and the work performed. Therefore, an entity that is solely the contractor and not an owner cannot retain an SIA, and it is the owner at a minimum that must receive reports from an SIA in accordance with these provisions.

Further, in accordance with 1 RCNY 101-06(b)(2), "A special inspector and/or a special inspection agency shall not engage in any activities that may conflict with their objective judgment and integrity, including but not limited to having a financial and/or other interest in the construction, installation, manufacture or maintenance of structures or components that they inspect." Therefore if an arrangement whereby an SIA is retained by a contractor who is not also an owner, it is a violation of 1 RCNY 101-06(b)(2) as it would present a conflict of interest for the SIA who must objectively observe the progress of work and report information about the work to the owner. In such cases the SIA and contractor would be subject to enforcement action by the Department.

Many registered design professionals who are hired by the owner as the applicants of record on construction applications also perform special inspections as SIA's. Being an SIA who is also the applicant of record for a

construction project does not by itself present a conflict of interest for the SIA performing special inspections on that same construction project. The registered design professional acting as an SIA on a project where they are also the applicant of record would still be required to comply with the requirements of 1 RCNY 101-06(b)(2) requiring the SIA to avoid activities that may conflict with their objective judgment, such as having a financial arrangement with the contractor performing the work being inspected.