

The City of New York Department of Small Business Services  
 Division of Labor Services Contract Compliance Unit  
 1 Liberty Plaza, New York, New York 10006  
 Phone: (212) 513 – 6323  
 Fax: (212) 618-8879 INDUSTRIAL AND COMMERCIAL INCENTIVE/ABATEMENT  
 PROGRAM (ICIP/ICAP) EMPLOYMENT REPORT INSTRUCTIONS

## WHO MUST FILE AN EMPLOYMENT REPORT

An Employment Report (ER) must be filed if you meet the following conditions:

CONTRACTOR	CONTRACT VALUE	SUBMISSION REQUIREMENT
Applicant	\$2,500,000 or greater \$1,000,000.00 or greater	ICAP Only ICIP Only
Tenant Construction Manager General Contractor	\$1,000,000 or greater	ICIP/ICAP Employment Report
Subcontractor	Less than \$1,000,000 Certificate (ICAP Only)	Less than \$750,000 Certificate (ICIP Only)
Supplier and/or Manufacturer	In Excess of \$100,000	Supply and Services Employment Report and/or Less than 50 Employee Certificate

## WHERE TO FILE

ERs must be filed directly with the Division of Labor Services (DLS).

## DLS REVIEW PROCESS

In accordance with Executive Order 50 (EO 50), upon receipt by DLS of a completed ER, DLS conducts a review of the contractor's current employment policies, practices and procedures, as well as perform a statistical analysis of the contractor's workforce, if necessary. The process is as follows:

1. Within five (5) business days, DLS will review the ER for completeness and accuracy. If any information is omitted or incorrect, or if necessary documents are not submitted, the submission shall be deemed incomplete and DLS will inform the contractor. The substantive compliance review does not commence until the submission is complete. **An incomplete submission will delay the review process and may preclude or interrupt the contract approval.**
2. If the ER submission is complete, the compliance review will proceed, resulting in one of the following:

### **Certificate of Approval**

The contractor is found to be in compliance with all applicable laws and regulations. The approval is valid for 36 months.

### **Continued Approval Certificate**

The contractor has been issued a Certificate of Approval in the previous 36 months which is good for the applicable contract.

### **Conditional Certificate of Approval**

The contractor is required to take corrective actions in order to be in compliance with EO 50. The contractor must meet the conditions within one month of the issue of the Conditional Certificate.

### **Determination of Nonperformance**

The contractor has failed to take the required corrective actions stipulated in the Conditional Certificate.

A determination of nonperformance may prevent a contractor from receiving an ICAP tax benefit.

## **HOW TO COMPLETE THE EMPLOYMENT REPORT**

### **Contents**

**General Information**

**Part I: Company/Contract Information**

**Part II: Employment Policies and Practices**

**Part III: Contract Bid Information and Projected and Current Workforce**

**Forms Signature Page**

### **PART I: CONTRACTOR/SUBCONTRACTOR INFORMATION**

Question 6: The ICAP application number can be obtained from the developer or tenant.

Questions 7 – 11: Please provide the requested company information. All contracts must have a designated Equal Employment Officer.

Question 12: If you are a subcontractor, you must state the name of the contractor for whom you are providing the construction services.

Question 13: Please indicate how many employees are in your company.

Question 14: Provide a description of the trade work you will perform on this project and the address where the work will be performed. Subcontractors can obtain this information from the contract they have with their contractor.

Questions 15 – 17: If your company has received a valid Certificate of Approval within the past 36 months, been audited by the United States Department of Labor, Office of Federal Contract Compliance Programs (OFCCP), or if your company has submitted an ER for a different contract for which you have not yet received a compliance certificate, then you only need to complete and submit the following:

- General Information section
- Part I - Contractor/Subcontractor Information
- Form B - Projected Workforce
- Signature Page

If your company is currently waiting for an approval on another contract previously submitted, be certain to identify the date on which you submitted the completed Employment Report, the name of the City contracting agency with which the contract was made, and the name and telephone number of the person to whom the Employment Report was submitted.

If your company was issued a Conditional Certificate of Approval, all required corrective actions must have been taken or DLS will not issue a Continued Certificate.

Question 18: If the company was audited by the OFCCP, also provide the following:

- Identify the reviewing OFCCP office by its name and address
- If an unconditional certificate of compliance was issued by the OFCCP, attach a copy of the certificate in lieu of completing Parts II and III;
- Include copies of all corrective actions and documentation of OFCCP's performance; and
- Provide a copy of all stated OFCCP findings.

Question 19: Please provide a copy of any Collective Bargaining Agreement(s) which is negotiated through an employer trade association on behalf of your organization or any of its affiliates.

**PART II: EMPLOYMENT POLICIES AND PRACTICES**

*Remember to label all documents with the question number for which they are submitted.*

Questions 20a – k: You must respond to the questions as to whether or not your firm has documents reflecting written policies, benefits and procedures. If so, then you must identify by name each document in which the policy(ies), procedure(s) and benefit(s) is located and submit copies of all of the document(s). If your firm follows unwritten practices or procedures, include an explanation of how they operate. Please submit the most current document(s), including all applicable amendments. Label each document and/or unwritten practice according to the question to which it corresponds (e.g. 20a, 20b, etc.)

Questions 21a – h: Inquires about the manner/methods by which you comply with the requirements of the Immigration Reform and Control Act of 1986 (IRCA).

Question 22: Inquires into where and how I-9 forms are maintained and stored.

Questions 23a – e: Inquires into whether or not there is a requirement that an applicant or employee be subjected to a medical examination at any given time. Copies of the medical information questionnaire and instructions must be submitted with the Employment Report.

Question 24: Indicate the existence and location of all statements of your firm's Equal Employment Opportunity policy and attach a copy of each statement.

Question 25: Submit any current Affirmative Action Plan(s) created pursuant to Executive Order 11246.

Question 26: If your firm or collective bargaining agreement has an internal grievance procedure, indicate this and submit a copy of the policy and procedure. If unwritten, explain its nature and operation. Explain how your firm's procedure addresses EEO complaints.

Question 27: If your employees have used the procedure in the last three (3) years, please submit an explanation in the format indicated below:

1. Number of complaint(s)	2. Nature of the complaint(s)	3. Position(s) of the complainant(s)	4. Was an investigation conducted? Y/N	5. Current status of the disposition
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Question 28: Indicate whether in the past three (3) years complaints have been filed with a court of law or administrative agency, naming your company as a defendant (or respondent) in a complaint alleging violation of any anti-discrimination or affirmative action laws. If yes, develop and submit a log to show, for each administrative/and or judicial action filed, the following information:

1. Name(s) of complainant(s)	2. Administrative agency or court in which action was filed	3. Nature of the complaint(s)	4. Current status	5. If not pending, the complaint's disposition
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Question 29: Identify each job for which a physical qualification exists. Identify and explain the physical qualification(s) for each stated job. Submit job descriptions for each job and the reasons for the qualifications.

Question 30: Identify each job for which there exists any qualification related to age, race, color, national origin, sex, creed, disability, marital status, sexual orientation or citizenship status. Identify and explain the specific related qualification for each job stated. Submit job descriptions for each job and the reasons for the qualifications.

**PART III: CONTRACT BID INFORMATION AND PROJECTED AND CURRENT WORKFORCE FORMS**

**FORM A: CONTRACT BID INFORMATION – USE OF SUBCONTRACTORS/TRADES**

Your projections for the utilization of subcontractors on the proposed contract are to be provided in this section. A chart has been provided for the identification of subcontractors. Information is to be provided to the extent known at the time the ER is filed for review by DLS. If the subcontractor's name is unknown, then write "unknown". Under "ownership", enter the appropriate race/ethnic and gender code. If the contract is federally funded or assisted and the subcontractor is being utilized in accordance with applicable federal requirements with respect to Minority Business Enterprise or Woman Business Enterprise requirements, enter the appropriate code. This will also apply to state funded contracts with similar requirements for minority and female owned businesses.

**FORM B: PROJECTED WORKFORCE FOR WORK TO BE PERFORMED ON THIS PROJECT**

For each trade to be engaged by your company for this project, enter the projected workforce for Males and Females by trade classification in the charts provided.

**FORM C: CURRENT WORKFORCE FOR WORK TO BE PERFORMED ON THIS PROJECT**

For each trade *currently* engaged by your company for all work performed in NYC, enter the current workforce for Males and Females by trade classification in the charts provided.

**SIGNATURE PAGE**

The signatory of this Employment Report and all other documents submitted to DLS must be an official authorized to enter into a binding legal agreement. The signature page must be completed in its entirety and notarized. Only original signatures will be accepted.

**SUPPLIERS AND/OR MANUFACTURERS**

Contractors who are suppliers and/or manufacturers on construction projects must complete a Supply and Services Employment Report for contracts amount of \$100,000.00 or more. If the contract is \$100,000.00 or more and your company employs less than 50 employees, a less than 50 employee certificate should be completed.

**INDUSTRIAL AND COMMERCIAL ABATEMENT PROGRAM (ICAP)  
APPLICANT RESPONSIBILITY CHECKLIST**

Submit PRELIMINARY Application for Certificate of Eligibility					Submit FINAL Application for benefits stage
CONTRACT VALUE	Search for firms in the Online Directory of Certified Firms	Solicit bids from at least three certified M/WBE firms for each subcontracting project*	Submit a copy of the ICAP M/WBE Compliance Report to DLS	Submit Employment Report to DLS 15 days before commencement of work	Submit ICAP M/WBE Compliance Report to NYC Dept. of Finance
Less than \$750,000	√				
\$750,000 - \$1.5 Million	√		√		√
\$1.5 Million - \$2.5 Million	√	√	√		√
Greater than \$2.5 Million	√	√	√	√	√

*\*The applicant shall maintain records demonstrating its compliance with this provision.*

**Ready to Search for Certified Firms? Visit [www.nyc.gov/buycertified](http://www.nyc.gov/buycertified)**

The Online Directory of Certified Businesses Website provides a comprehensive, searchable tool that helps city buyers and contractors identify certified Minority and Women-Owned Business Enterprises (M/WBEs) throughout the New York City tri-state area. Find detailed information on certified companies, including a brief description of their work history, contact information, and detailed information about what the companies sell.

Contact Information	
<b>NYC Department of Small Business Services</b> Labor Services Unit Assistant Commissioner Helen Wilson 1 Liberty Plaza, 11 <sup>th</sup> Floor New York, NY 10006 Ph: 212 513-6323 Fax: 212 618-8891	<b>NYC Department of Finance</b> Industrial and Commercial Abatement Program 66 John Street New York, NY 10038 Email <a href="mailto:nyc.gov/contactfinance">nyc.gov/contactfinance</a> Ph: 212 639-9675

**DO YOU KNOW M/WBE FIRMS WHO ARE NOT YET CERTIFIED?**

To learn about SBS' certification process eligibility, and to download the application, tell them to visit [www.nyc.gov/getcertified](http://www.nyc.gov/getcertified). They can also attend a free M/WBE Certification Workshop to review the City's certification process and learn how to avoid common mistakes.