

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.

Protections for Reporting Fraud in New York

If you work for a contractor or subcontractor on a Metropolitan Transportation Authority (MTA) project and you believe that your employer or another contractor or subcontractor on that project is engaged in fraud or any other illegal activity you may report what you know either to:

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

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

or

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

Public Integrity Hotline
1-800-428-9072

Your employer may not fire, suspend, demote, or otherwise retaliate against because you lawfully report to the MTA or to the Attorney General what you believe to be:

- 1** fraudulent conduct that violates New York's False Claims Act, or
- 2** illegal conduct that creates and presents a substantial and specific threat to the public health or safety if you have first reported it to your supervisor.

New York State's False Claims Act prohibits anyone from submitting false or fraudulent claims to the MTA for payment or approval, and allows you to sue any person or any company that you have reason to believe is defrauding the MTA, even your employer. Called *qui tam* actions, these citizen lawsuits are an important tool for people to help New York State, public authorities such as the MTA, and local governments recover money or property they lose through fraud or corruption.

A person or company who violates the False Claims Act usually must pay three times the amount fraudulently obtained plus a civil penalty. If you file a *qui tam* action on behalf of the MTA you may be eligible to keep a percentage of whatever funds the MTA recovers.

Your employer may not lawfully fire, demote, suspend, threaten, harass, or otherwise retaliate against you for starting a *qui tam* action, and you may sue your employer if that happens.

You may start a *qui tam* action on the MTA's behalf without using an attorney, but the procedures are complicated and must be carefully followed. Most people rely on an attorney who specializes in False Claims Act cases. If you do rely on an attorney and the *qui tam* action is successful, you may be eligible for attorneys' fees plus other costs and expenses (in addition to your share of the money the MTA recovers). If you start a *qui tam* action, the Attorney General might take it over altogether, allow you to take part, or allow you to handle it on your own, but no matter what you would be eligible to a percentage of any funds the MTA recovered.