



THE SENATE  
STATE OF NEW YORK  
ALBANY

**GEORGE ONORATO**  
**SENATOR, 12TH DISTRICT**  
**ASSISTANT MAJORITY LEADER/LIAISON TO EXECUTIVE BRANCH**

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RACING, GAMING & WAGERING

October 21, 2009

Governor David A. Paterson  
State Capitol  
Executive Chamber  
Albany, NY 12224

Dear Governor Paterson,

It has come to my attention that two New York City housing projects funded with American Recovery & Reinvestment Act (ARRA) money are under investigation by the United States Department of Labor for failure to pay Davis-Bacon prevailing wages, as required by the ARRA. The contracts for these projects, which are funded through the Tax Credit Assistance Program (TCAP), were awarded by the New York City Department of Housing Preservation and Development (HPD) with ARRA money appropriated to the New York State Division of Housing and Community Renewal in the 2009-2010 state budget. The projects under investigation include the Metro North Rehab Redevelopment Project in East Harlem and Livonia Terrace in Brooklyn. The USDOL is investigating reports that construction workers were paid off the books in cash, at well below Davis-Bacon wage rates. Concerns have arisen regarding HPD's selection of the bidders for these two projects. In addition to the ARRA's prevailing wage requirement, HPD's own Selection Process and Criteria for TCAP projects requires consideration of whether the project will pay Davis-Bacon wages.

I am writing to urge that project labor agreements be used for the other TCAP projects to be built with ARRA funds. It is my understanding that as many as 33 such housing projects will be built throughout New York State. The State has recognized the cost savings that result from using project labor agreements since as far back as 1997 when an Executive Order encouraging their use was first issued, and which you have continued. Project labor agreements ensure that workers will be paid the required wages and benefits, which helps local communities and governments that rely -- now more than ever -- on local purchases and tax revenues, and avoids the need for costly public assistance. PLA's also level the playing field for law-abiding contractors who honor their wage and tax obligations by paying prevailing wages, and unemployment and payroll taxes.

For the State which is facing an unprecedented budget deficit, PLA's would help stem the loss of millions of dollars in revenues flowing into New York's underground economy. The



recent annual report by the New York State Joint Enforcement Task Force on Employee Misclassification found that the State lost nearly \$5 million in unemployment taxes and \$157 million in unreported wages from contractors who failed to pay the wages and taxes owed for their workers. This finding is likely just the tip of the iceberg since the report is limited to investigations the Task Force was able to perform. In New York City, the Fiscal Policy Institute has projected the personal income tax loss to be as high as \$70 million because there is no withholding for underground workers or they are paid off the books. It is estimated that two-thirds of the City's affordable housing industry uses underground workers.

Project labor agreements will also allow TCAP projects to tap into a rich source of highly skilled construction workers in our State in need of employment. In the past year alone, 32,900 New York construction workers have lost their jobs. The ARRA was intended in part to put Americans back to work. PLA's offer project owners a highly trained workforce that can produce quality projects, and avoid the labor unrest and need for repairs that often creates delay and additional costs.

In the 2009-2010 budget, the Legislature approved the appropriation of ARRA funds to the Division of Housing and Community Renewal for TCAP projects with the understanding the funds would be used in compliance with federal law. Under the ARRA , Davis-Bacon wages must be paid on all TCAP projects and DHCR must ensure proper payment by HPD and any other entity receiving ARRA funds. Project labor agreements have a proven track record of ensuring that workers are paid prevailing wages. Before the State risks any further non-compliance with federal law, I urge you to ensure that DHCR requires project labor agreements for other TCAP projects funded by the ARRA.

Sincerely,

A handwritten signature in black ink that reads "George Onorato". The signature is written in a cursive, flowing style.

George Onorato  
Chair, Senate Standing Committee on Labor

cc: DHCR Commissioner Deborah Van Amerongen  
HPD Commissioner Rafael E. Cestero