

## State of Collaboration

Vendor Responsibility and  
Workers Compensation Requirements



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## TODAY – WHAT SHOULD YOU EXPECT?

COURSE DESCRIPTION

- Identify agency requirement to determine vendor responsibility
- Learn how to use key resources for a successful review
- Learn Workers Compensation requirements



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## WHY IS VENDOR RESPONSIBILITY IMPORTANT?

Protects agency and State against failed contracts

Pro-actively solves and mitigates problems

Avoids contracting with non-responsible vendors

Protects public funds and promotes fairness



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## WHAT IS A RESPONSIBLE VENDOR?

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- **Financial and organizational capacity** to fully perform contractual obligations,
- **Legal authority** to do business with the State,
- **Integrity** to justify the award of public dollars, and
- A good record of past **performance**.

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## START OFF RIGHT – REQUEST VENDOR QUESTIONNAIRE

- **Solicitation Document or Award Letter**
- **Mandatory Language**
  - **Use of NYS VendRep System**  
<http://www.osc.state.ny.us/vendrep/enroll.htm> &  
<https://portal.osc.state.ny.us>
  - **Option to Submit Paper (not preferred method)**  
[https://www.osc.state.ny.us/vendrep/forms\\_vendor.htm](https://www.osc.state.ny.us/vendrep/forms_vendor.htm)

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## OSC VENDOR RESPONSIBILITY PAGE




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## BEST TOOLS – OSC WEBSITE

<http://www.osc.state.ny.us/vendrep/index.htm>

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## RESOURCES

<http://osc.state.ny.us/vendrep/webresources.htm>

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## PERFORM AGENCY REVIEW

### Resources For Vendor Responsibility Reviews

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## GOOGLE

**Advanced Search**

Find pages with...

all these words:

this exact word or phrase:

any of these words:

none of these words:

numbers ranging from:  to

  
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## DOS CORPORATION SEARCH

**Search the Corporation & Business Entity Database**

The Corporation and Business Entity Database includes business and not-for-profit corporations, limited partnerships, limited liability companies and limited liability partnerships, as well as other miscellaneous businesses.

The Corporation and Business Entity Database online search is intended for status inquiries of entities already on file with the Department of State. Customers are cautioned to avoid interpreting database search information as an indication that a name is or is not available for use.

**Search Criteria:** (Items marked with \* are required)

1. Business Entity Name\*:

2. Status Type\*  3. Search Type\*  4.

**Search Instructions:**

1. Enter the Corporation or Business Entity Name being searched
2. Select a Status Type
3. Select a Search Type
4. Click the Search Button

  
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## DOS STATE TAX WARRANTS

NEW YORK State State Agencies

DEPARTMENT OF STATE, DIVISION OF CORPORATIONS, STATE RECORDS & UCC  
ANDREW M. COHEN, COMPTROLLER CELIA A. FINAGLIA, SECRETARY OF STATE

DOS Home | Division Home | I would like to... Corporation/Business Entity Filings | State Records | Uniform

**Search the New York State Tax Warrant Notice System**

**Search Criteria:** (Items marked with \* are required)

1. Taxpayer Name\*:

2. City specified in warrant address record:

3. County in which warrant is filed:

4. Warrant Notice Status:  OPEN  ALL

5. Search Type:  BASE WORD (exact words)  BEGINS WITH (first 3 letters)

6.

  
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## FEDERAL CONTRACTOR MISCONDUCT

**Federal Contractor Misconduct Database (FCMD)**

The federal government routinely awards contracts to companies with histories of misconduct, including contract fraud and other violations. POGO believes that providing this website will help to improve contracting decisions and increase public knowledge of how the government spends billions of taxpayer dollars each year. Read more...

**Top 10 Contractors by total FY15 contract awards**

The following contractors top the list based on total contract awards. This table shows the associated instances of misconduct and total penalty amounts.

Rank	Federal Contractor	Contract Awards FY15	Instances FY15-16	Penalties FY15-16
1	Lockheed Martin	\$38,255,394	82	\$607,194
2	Boeing Company	\$16,646,864	56	\$1,438,384

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## OSHA

Search for:

Establishment:

State: All States | Fed & State

OSHA Office: All Offices

Case Status:  All  Closed  Open

Violation Status:  All  With Violations  Without Violations

Inspection Date:

Start Date: July | 16 | 2012

End Date: July | 16 | 2017

Submit Reset

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## OGS - DEBARRED & NON – RESPONSIBLE ENTITIES

<https://ogs.ny.gov/debarred-and-non-responsible-entities>

Office of General Services

Debarred and Non-Responsible Entities

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### DOL & WCB DEBARMENTS

New York State Department of Labor

Click State Agency for more information:

- Department of Labor (DOL)
- Workers Compensation Board (WCB)

Search Agency:

FEIN:

Employer Name:

Employer DBA:

City:

State:

Only DOL Search  Only WCB Search  Both

Article Number:

WCB Employer Number:

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### SAM (FEDERAL DEBARMENT)

SAM

SEARCH RECORDS DATA ACCESS GENERAL INFO HELP

Search Records

You can enter a DUNS number, CAGE code or Business Name to search for the entities that you are interested in reviewing. The top search bar allows you to enter any search terms. You can also enter exclusion search terms to search for exclusion records. If you want to search for only a CAGE code or a DUNS number you can use the bottom two search bars. Once a search has returned results, use the filters provided to narrow results.

Government employees must create a SAM user account with their government email address. Log in before searching in order to see PIVOT information and those registrants who selected to opt out of the public search.

You can only use one search bar at a time

Enter your specific search terms

(Example of search terms include the entity's name, etc.)

DUNS Number Search:

CAGE Code Search:

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### DEBARMENT – OTHER STATES

State of New Jersey  
Consolidated Debarment Search

Complete one or more of the search criteria below and click **Start Search**.

To display ALL entries in the database, simply click **Start Search** without completing any search criteria.

Full or partial

Firm or Individual

Category

Reason

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## WORKERS COMP & DISABILITY

Search by Employer Name  
(Enter a word or partial word of the beginning part of the name.  
The search will return employers who have DISACT'd with the contractor entered.)  
For example: International Brotherhood of Teamsters, Inc. not Great America!

Employer Name

Maximum Revenue Reported

Search by Federal Employer Identification Number  
VIA  (must be nine digits)

Search by Policy Number  
Policy Number

Search by NY's WCB Employer Number  
Employer Number

Enter the 4 insurance  
affairs in the column to the right



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## WORKERS COMP & DISABILITY

<http://www.wcb.ny.gov/content/main/Employers/ProveItToMoveIt.pdf>

**Please Note:**

- The name and FEIN of the contracting entity must be identical to the name and FEIN identified on the proof of coverage or exemption.
- An ACORD form is **not** an acceptable proof of workers' compensation coverage nor disability benefits insurance.
- In the instance of exemption, please be advised that the WCB does not verify Attestations for Exemption. It is incumbent on the state contracting entity to verify the acceptability of the entity's reason for exemption and communicate that reason to the OSC Vendor Responsibility auditor requesting proof of compliance; please verify and provide a copy of the signed and dated exemption certificate.



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# Additional Resources For Not-For-Profits



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# Additional Resources For Construction




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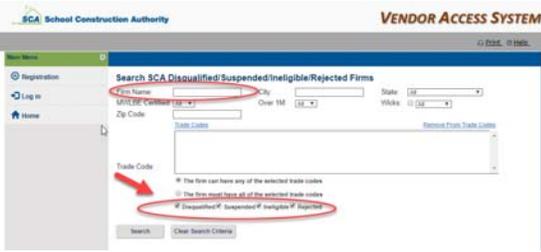
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## NYC SCA – SCHOOL CONSTRUCTION AUTHORITY – DISQUALIFIED/SUSPENDED/INELIGIBLE FIRMS





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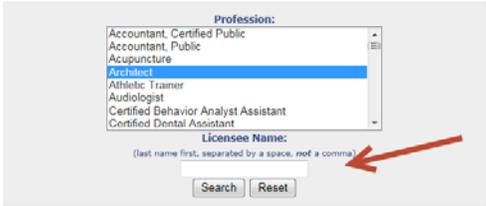
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## NYS EDUCATION DEPT – PROFESSIONAL LICENSE





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## ISSUES DOCUMENTED ON PROFILE

**Item 1: Issue Detail**



Issue Description	State Contracting Entity Resolution
1. Internal control issues	Vendor implemented corrective action plan
2. OSHA Violations	Closed
3. Question 7.0	Ongoing

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## ISSUES DOCUMENTED ON PROFILE

**Item 1: Issue Detail**



Issue Description	State Contracting Entity Resolution
1. 2011 settlement with NY Attorney General from investigation into student loan practices.	Vendor has agreed to terms under settlement and will abide by Code of Conduct. This information has no impact on this contract <b>BECAUSE...</b>
2. Three serious OSHA violations with fines totaling \$8,050	Violations corrected on site, penalties paid, and violations are closed. Vendor updated safety procedures for future. This has not impact on this contract <b>BECAUSE...</b>

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## AGENCY PROCESS

**Item 2: State Contracting Entity Process**



- Describe the steps taken by the State contracting entity
  - Vendor Disclosures
  - Independent research (internet sources, internal &/or external communication, etc). (Resource Checklist acceptable in lieu of process description.)

*Note: Do not submit copies of website search results or information found on the VendRep System.*

Process Description: [Reviewed Questionnaire](#)

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## AGENCY PROCESS



Reviewed questionnaire and confirmed responses by conducting searches on the following websites:

Google, NYS DOS Warrants, NYS DOS Corporations, Workers' Comp Board, OSHA, NYS AG, OSC, OPWDD, and checked WCB/DOL Debarments.

In addition, our agency has worked with this vendor on numerous occasions over the past 5 years, no service concerns.

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## AGENCY DETERMINATION

### VR PROFILE PART III

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**Part III - State Contracting Entity Responsibility Determination**

The above named contracting entity has undertaken an affirmative review of the proposed contractor's responsibility and, based upon such review, has reasonable assurance that the proposed contractor is:

Responsible     Non-Responsible

Signature	Date
Print Name:	Title:

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## RESOURCE REFERENCE PAGE

### General - All Purpose Resources

Google	<a href="http://www.google.com">http://www.google.com</a>
NYS Department of State - Authority to do Business in NY	<a href="http://www.dos.ny.gov/corps/bus_entity_search.html">http://www.dos.ny.gov/corps/bus_entity_search.html</a>
NYS DOS - State Tax Warrant Notice System	<a href="http://www.dos.ny.gov/corps/tax_warrant_search.html">http://www.dos.ny.gov/corps/tax_warrant_search.html</a>
NYS DOS Corporations - Federal Tax Liens	<a href="http://appext20.dos.ny.gov/pls/ucc_public/web_search_main_frame">http://appext20.dos.ny.gov/pls/ucc_public/web_search_main_frame</a>
NYS Workers Compensation Board	<a href="http://www.wcb.ny.gov/">http://www.wcb.ny.gov/</a>
NYS Workers' Compensation Board Debarment List	<a href="https://dbr.labor.state.ny.us/EDList/searchPage.do">https://dbr.labor.state.ny.us/EDList/searchPage.do</a>
US GSA - Homeland Security/Debarment	<a href="https://www.sam.gov/SAM/pages/public/searchRecords/search.jsf">https://www.sam.gov/SAM/pages/public/searchRecords/search.jsf</a>
NYS Attorney General's Office - Press releases	<a href="http://www.ag.ny.gov/press-releases">http://www.ag.ny.gov/press-releases</a>
NYS Comptroller's Office - SGA audits	<a href="http://www.osc.state.ny.us/audits/index.htm">http://www.osc.state.ny.us/audits/index.htm</a>
Federal Contractor Misconduct Database	<a href="http://contractormisconduct.org/">http://contractormisconduct.org/</a>
OSHA	<a href="http://www.osha.gov/pls/mis/establishment.html">http://www.osha.gov/pls/mis/establishment.html</a>
Debarment NJ	<a href="http://www.state.nj.us/treasury/revenue/debarment/debarsearch.shtml">http://www.state.nj.us/treasury/revenue/debarment/debarsearch.shtml</a>
Debarment PA	<a href="https://www.dcs.internet.state.pa.us/debarmentsearch/debarment/index/">https://www.dcs.internet.state.pa.us/debarmentsearch/debarment/index/</a>
Debarment Report - CT	<a href="http://www.ctdol.state.ct.us/wkwstnd/wgdlsbar.htm">http://www.ctdol.state.ct.us/wkwstnd/wgdlsbar.htm</a>
Debarment Report - MA	<a href="https://www.mass.gov/service-details/companies-that-have-been-debarred-from-doing-business-with-the-commonwealth">https://www.mass.gov/service-details/companies-that-have-been-debarred-from-doing-business-with-the-commonwealth</a>

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## RESOURCE REFERENCE PAGE

Additional Resources for Not-For-Profits

National Center for Charitable Statistics <http://nccs.urban.org/>

Grants Gateway [https://grantsgateway.ny.gov/ntelliGrants\\_NYSGG/login2.aspx](https://grantsgateway.ny.gov/ntelliGrants_NYSGG/login2.aspx)

OMIG (Office of Medicaid Inspector General) Final Audit <http://www.omig.ny.gov/index.php/audit/final-audit-reports>

Single Audit <https://harvester.census.gov/facdissem/SearchA133.aspx>

Additional Resources for Construction

SCA Disqualified/Ineligible List of Firms <https://data.cityofnewyork.us/Housing-Development/SCA-Disqualified-Firms/kwif-eng6/data>

NYS Education Department - Applicable Licenses <http://www.op.nysed.gov/opsearches.htm>



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## CONTACT

**Office of the State Comptroller**

- Craig Coutant, 518-474-6017
- [ITServiceDesk@osc.ny.gov](mailto:ITServiceDesk@osc.ny.gov)

866-370-4672 or 518-408-4672

Thank you!



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**Workers' Compensation Board**

October 17, 2019

### Requirements for Businesses Applying for Government Permits, Licenses or Contracts

Workers' Compensation and Disability Benefits Requirements for Code Enforcement Officials

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### Workers' Compensation Law

Section 57 and Section 220, Subdivision 8

- No permit, license or contract shall be issued without proper proof of Workers' Compensation and Disability Benefits/Paid Family Leave Insurance



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### What Are Workers' Compensation and Disability Benefits Insurance

- **Workers' Compensation Insurance**
  - Covers on-the-job accidents, injuries and illnesses
  - Provides medical and wage replacement
  - Protects both employers and their employees
- **Disability Benefits Insurance**
  - Covers off-the-job accidents, injuries and illnesses
  - Provides only limited wage replacement

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### Paid Family Leave Insurance

- Provides job-protected, paid time off
- Covers employees for up to 8 weeks (gradually increasing to 12 weeks by 2021)
- Provides time-off benefits to bond with a child, care for a sick family member, or to cover a military deployment

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### Who Needs Coverage?

- Businesses with employees need coverage



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### Definition of an Employee

- Anyone providing any services to a for-profit business can be determined to be an employee of that business
- Compensated individuals providing services to a not-for-profit; the exceptions are clergy, and teachers in a 501(c)(3) organization

47 WPS Workers' Compensation Board

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### Who Is Not Required to Carry Workers' Compensation Insurance?

- Sole proprietors with no employees
- Partners in partnerships with no employees
- One/two person owned corporations with no employees

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### Unique Coverage Issues

- Sole Proprietors, Partnerships including LLCs & LLPs & Corporate Officers
- Independent Contractors and Subcontractors
- Family Members
- Domestic Employees
- Borrowed Employees
- Farms
- Homeowners' Workers' Compensation Insurance Rider
- Leased Employees: Professional Employer Organization
- Not-for-profit Organizations
- Out-of-state Employers Working in New York State
- Religious Organizations
- Student Interns
- Temporary Service Agencies
- Volunteers

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### General Contractors: Under the Law

- General contractors are liable for the workers' compensation claims of all uninsured subcontractors



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### Independent Contractors Under Construction Industry Fair Play Act

- Anyone hired by a person or other legal entity in the construction trades is presumed to be their employee



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**Construction Industry Fair Play Act**

- Determines whether a worker is an employee or independent contractor (3 criteria)
- Determines when a sole proprietor, partnership, corporation or other entity will be considered a “separate business entity” from the contractor (12 criteria)
- If an entity meets ALL of the statutory criteria, it will not be considered an employee of the contractor, but a separate business entity that is subject to the new law regarding its own employees

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**Construction Industry Fair Play Act (cont'd)**

- For a person to be an independent contractor, the alleged employer must demonstrate ALL three of the following criteria:
  1. The person is free from control and direction in performing the job, both under contract and in fact
  2. The person is performing services outside of the usual course of business for the company
  3. The person is engaged in an independently established trade, occupation or business that is similar to the service s/he performs

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**Construction Industry Fair Play Act (cont'd)**

- In order to be considered an independent contractor in the construction trades, an entity must meet ALL of the following 12 requirements/steps:
  1. The entity must be performing the service free from the direction or control over the means and manner of providing the service subject only to the right of the contractor to specify the desired result
  2. The entity must not be subject to cancellation when its work with the contractor ends
  3. The entity must have a substantial investment of capital in the entity beyond ordinary tools and equipment and a personal vehicle
  4. The entity must own the capital goods and gain the profits and bear the losses of the entity

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### Construction Industry Fair Play Act (cont'd)

- 12 statutory criteria (cont'd)
  5. The entity must make its services available to the general public or business community on a regular basis
  6. The entity must include the services provided on a federal income tax schedule as an independent business
  7. The entity must perform the services under the entity's name
  8. The entity must obtain and pay for any required license or permit in the entity's name

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### Construction Industry Fair Play Act (cont'd)

- 12 statutory criteria (cont'd)
  9. The entity must furnish the tools and equipment necessary to provide the service
  10. The entity must hire its own employees without contractor approval, pay the employees without reimbursement from the contractor and report the employees' income to the Internal Revenue Service
  11. The entity must have the right to perform similar services for others on whatever basis and whenever it chooses
  12. The contractor does not represent the entity or the employees of the entity as its own employees to its customers

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### Out-of-state Companies Working in New York State

- Effective September 9, 2007, any out-of-state employer with employees working in NYS needs a full NYS workers' compensation insurance policy
- New York must appear on Item 3A on the information page of a policy

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### Proof of Workers' Compensation

- Certificate of Workers' Compensation Insurance Coverage (Form C-105.2)
- State Insurance Fund Version of Certificate of Workers' Compensation Insurance Coverage (Form U-26.3)
- Certificate of Workers' Compensation Self-Insurance (Form SI-12) or Certificate of Workers' Compensation Group Self-Insurance (Form GSI-105.2)
- Certificate of Attestation for Exemption (Form CE-200) Business Does Not Require Workers' Compensation and/or Disability and Paid Family Leave Benefits Coverage

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### What Is A Legal Name Of An Employer? Why Is It Important?

- Each business using employees must have workers' compensation insurance in its own legal name and under its own FEIN
- One policy can insure many legal entities, so long as there is common majority ownership among those entities and the carrier lists all the legal entity names and FEINs on the WC insurance policy
- All names should match – permit applicant's name must be identical to legal entity name

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### Proof of Workers' Compensation Insurance (C-105.2)

- Verify the legal name listed in box 1a matches the permit applicant
- Certificate holder in box 2 should be the name and address of the agency issuing the license, permit, or contract
- Certificates can be obtained by the applicant from the insurance agent or the insurance carrier

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### Proof of Workers' Compensation Insurance (U-26.3)

- Verify the legal name listed in box 1a matches the permit applicant
- Certificate holder should be the name and address of the agency issuing the license, permit, or contract
- Certificates can be obtained by the applicant from the New York State Insurance Fund



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### Request for WC/DB-PFL Exemption CE-200

- Workers' Compensation Certificate of Exemption (CE-200) can be obtained on [businessexpress.ny.gov](http://businessexpress.ny.gov)
- The applicant is certifying that legal entity applying for a permit, license or contract from a government agency is NOT REQUIRED to obtain New York State specific Workers' Compensation insurance coverage and/or Disability and Paid Family Leave Benefits insurance coverage

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### Certificate of Exemption from Workers' Compensation and/or Disability Benefits (CE-200)

- Verify legal entity name matches the name of the permit applicant
- "Business applying for" box must list the name of the agency issuing the license, permit, or contract
- Verify location of work matches the address in which they are applying for a permit
- Ensure the bottom of the form is signed and dated



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WPS Workers' Compensation Board

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### Proof of Disability and Paid Family Leave Benefits Compliance

- Certificate of Disability Benefits Insurance Coverage (Form DB-120.1)
- Certificate of Disability Benefits Self-Insurance (Form DB-155)
- Applicant Does Not Require Workers' Compensation and/or Disability Benefits Coverage - Certificate of Attestation for Exemption (Form CE-200)

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WPS Workers' Compensation Board

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### Proof of Disability and Paid Family Leave Benefits Insurance (DB-120.1)

- Verify the legal name listed in box 1a matches the permit applicant
- Certificate holder in box 2 should be the name and address of the agency issuing the license, permit, or contract
- Certificates can be obtained by the applicant from the insurance agent or the insurance carrier



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WPS Workers' Compensation Board

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### Noncompliance Penalties

- Up to **\$2,000** for each 10 days out of compliance, or **\$72,000** a year
- Up to 5 employees is a **misdemeanor**, subject to a maximum **\$5,000 penalty**
- More than 5 employees is a **Class E Felony**, subject to a maximum **\$50,000 penalty** and a maximum of **1 1/3 to 4 years in prison**

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### Other Noncompliance Penalties

- Stop Work Orders
- Barred from bidding on public works projects
- The following parties can be directly sued and are personally liable for any claims that occur while uninsured:
  - Sole proprietor
  - Partner
  - President
  - Secretary
  - Treasurer

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## Employer Whistleblower

- Use this online complaint form to notify WCB when an issue is found at a job site
- Such as a business operating with employees after submitting a CE-200 exemption
- Make sure to include the job site address
- This submission automatically sends the complaint to the proper district for handling



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WCB Whistleblower/Compassion Board

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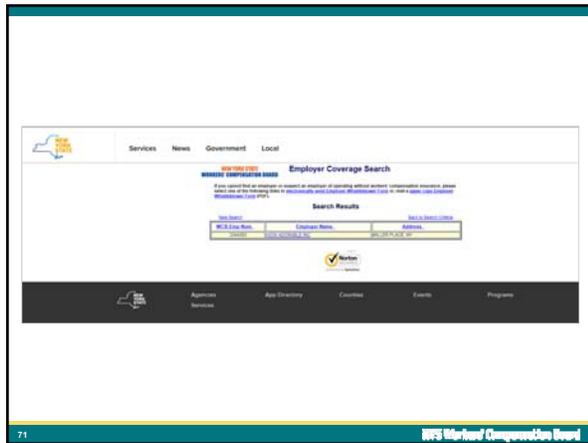
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WCB Whistleblower/Compassion Board

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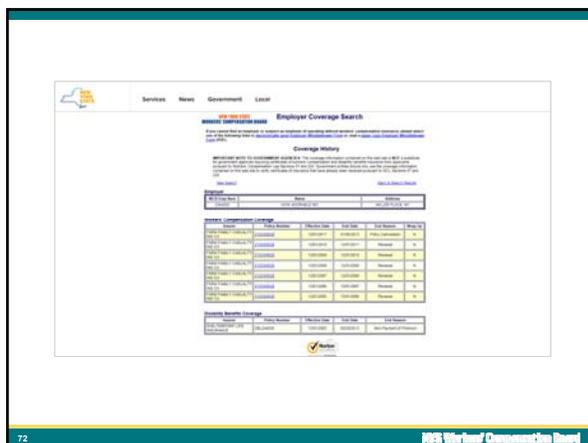
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WCB Whistleblower/Compassion Board

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**Filing of Workers' Compensation Insurance**  
**Proof of Coverage/Exemption**

- Submit only the approved forms
- Make sure legal name on the approved form matches the legal name on the permit, license or contract
- FEIN numbers — make sure FEIN on the approved form matches FEIN on the permit, license or contract

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**Questions or problems?**  
**Contact WCB Compliance**  
**1-877-632-4996**  
**wcb.ny.gov**  
**ICUwebmail@wcb.ny.gov**

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