

Code Enforcement Through Third Parties

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Effective energy code enforcement is critical to ensuring code compliance. Some local governments and state agencies have insufficient resources dedicated to supporting enforcement. This leads to inconsistent application of the energy code and creates uncertainty for building professionals, developers, and the design community.

Effective energy code enforcement requires review and inspection throughout the construction process, including plan review prior to construction and strategically timed on-site inspections during critical phases of construction. Some communities rely on private sector professionals to conduct enforcement activities. This approach is known as “third party compliance assurance.” Third Party Compliance Assurance provides independent verification that the adopted energy code is enforced through plan review, field inspections, and/or final approval of buildings.



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Third Party Compliance Assurance is a cost-effective option that can provide consistent code enforcement throughout a community, region, or state.

Field Examples – Third-Party Enforcement Approaches

Pennsylvania

The Pittsburgh, Pennsylvania Bureau of Building Inspection (BBI) uses third party permitting in the commercial sector for buildings that do not require a “certificate of occupancy”. In this case, the Bureau will only accept plans for permitting that have been previously approved by a registered Third Party Agency (TPA).

Requirements for third party permitting are fairly straightforward. Following zoning approval, the builder or owner must complete an “Application for Independent Plan Review” form. The application - including a building permit voucher number - must be initialed at the municipal Engineering Counter to ensure that zoning has been approved before submitting the documents to the TPA. The TPA must be provided with a complete package including mechanical, electrical, plumbing drawings, and, if required, energy conservation data or documents. After the TPA has approved the documents the builder/owner is given two sets of stamped drawings, a signed compliance statement, and punch lists to be submitted to the BBI’s Plan Examining Department. The Examining Department will then review the submission to determine completeness before issuing the permit. BBI inspectors perform site inspections and scheduled inspections are required without exception.

In order for a TPA to become registered with the city, they must meet mandatory requirements and qualifications. The TPA must also be Uniform Construction Code (UCC) Certified by the Commonwealth of Pennsylvania Department Labor and Industry. After registering, TPAs must submit and notify the BBI of any changes made to their liability insurance, as well as any personnel changes within thirty days of the change.

Washington, D.C.

Washington, D.C. has instituted a third party system for elevator commissioning. The Department of Consumer and Regulatory Affairs (DCRA) is the agency responsible for all elevator construction and inspection. In 1999, DCRA established a Third Party Elevator Inspection Program to manage the services provided by private sector elevator inspectors.

Under this program, DCRA issues a fixed number of approval stickers to each inspection firm. Each sticker has a serial number used for reporting project information to DCRA when elevators are inspected. Each inspection firm has an appointed “professional in charge” who is responsible for relaying information to DCRA. Reports to DCRA include project tracking logs in hard copy and electronic formats, including related sticker numbers, issuing date for stickers, project addresses, the type of



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inspection completed, a list of items found to be non-compliant, along with inspection results. DCRA must have the log available in electronic format upon request and has the authority to arbitrarily make inquiries regarding the inspection firm's activities. In the event an elevator does not comply with codes and standards, the inspection firm is responsible for informing DCRA. DCRA is then responsible for notifying the project owner or originator of the failed inspection before an "Out of Service" sticker is affixed to the non-compliant equipment.

A firm can be qualified by DCRA as an accredited third-party after it has submitted a statement of qualifications, a listing of personnel who will be performing duties under the inspection program, a notarized sworn affidavit containing a Statement of Independence, and proof of "errors and omissions" insurance coverage.

Texas

In Texas, third party inspection agencies (TPIAs) provide enforcement support for modular housing construction through in-plant inspections. An agency seeking approval as a TPIA must submit a written application to the executive director of the Texas Department of Licensing and Regulation along with the following materials:

- An organizational chart showing the names of managerial and technical staff who will perform construction inspections;
- A listing of qualifications and resumes for employees indicating their academic and professional experiences in related fields, along with all current International Code Council certifications;
- Documented ability to perform inspections including a formal description of the agency's supervision and training program for inspectors, performance records of manufacturers, examples of inspection reports, agreements or contracts with manufacturers, and any other pertinent information;
- A notarized statement by the CEO confirming that all of the certifications within the application are true and attesting that employees have sound judgment, will not financially benefit from any products involved in their testing, uniformly implement codes and standards, and will not produce design manuals or perform services with companies with which they act as a third party agent; and
- A listing of states in which the agency is currently approved to provide product certification, validation, or third party inspection services and a complete description of each system and program involved.



Courtesy of NREL, Credit—Corkery, Pat

Inspections are conducted by certification teams as specified in the Texas Industrialized Building Code Council, and have two primary purposes: to verify that the manufacturer can construct residential modules or modular components while complying with laws, rules, and relevant building codes, and to confirm that the manufacturer has a compliance control structure that will ensure future compliance. Certification teams issue plant certifications to the manufacturer after the state agency has determined that they meet the requirements for certification.

In order to monitor the manufacturer's compliance scheme, the TPIA has the authority to "conduct announced or unannounced inspections at the manufacturing facility at reasonable, but varying, intervals to review any and all aspects of the manufacturer's production and compliance control program." If the TPIA determines that the manufacturer is not capable of meeting the certification requirements, it will submit a non-compliance report to the state that details "the specific areas in which the manufacturer was found to be deficient and may make recommendations for improvement."

All participating TPIAs and manufacturers must submit monthly reports to the Texas Department of Licensing and Regulation to assist in monitoring and evaluating third party inspectors.

The Building Codes Assistance Project is a joint initiative of

Alliance to Save Energy (ASE) | Natural Resources Defense Council (NRDC) | American Council for an Energy Efficient Economy (ACEEE)



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