



**BIC Policy Pursuant to Local Law 246 of 2017,
Concerning Law Enforcement Access to Non-
Public Areas of BIC Offices**

Agency Policy re: Access to Non-Public Areas

Local Law 246 of 2017, which went into effect on April 16, 2018, mandates that the Commission establish non-public areas and formulate policy regarding access to those areas. Pursuant to LL 246, the City shall not knowingly permit governmental personnel who are empowered to enforce civil or criminal laws, other than personnel of the City, the Department of Education, or a local public benefit corporation or local public authority, to have access to non-public areas of city property.¹ In compliance with LL 246, the Commission has established the following policy:

1. The seating area in the immediate vicinity of the front desk and separated from the hallway by a partition (the “waiting area”) is designated as a public space.
2. Only members of the public who have business with BIC may enter and remain in the waiting area.
 - a. Members of the public include those persons not employed by BIC or by the City of New York.
 - b. “Business with BIC” includes, but is not limited to, individuals applying for or obtaining an application for a license or registration, or its renewal; obtaining Commission-issued license plates; appearing for sworn testimony or an interview with the Commission’s staff; applying or interviewing for an employment position at BIC; representing a BIC licensee, registrant, applicant or prospective applicant, including legal representation; providing translation services for the Commission, a licensee, registrant or applicant, or both; appearing to discuss a violation of the Commission’s section of the New York City Administrative Code or the Rules of the City of New York; or meeting with a member of the Commission’s staff for a work-related purpose, such as a discussion of public policy or law.
 - c. In addition to members of the public who have business with BIC, individuals who are assisting those members of the public may also enter and remain in the waiting area. This includes attorneys, family members, and translators.
3. All areas of the Commission’s offices other than the waiting area are non-public spaces. Non-BIC employees may not enter any non-public space at BIC unless accompanied or invited by a BIC staff member.

¹ In addition, BIC shall require any contractor having regular contact with the public in the daily administration of “human services,” to apply the same requirements to any location, whether or not on city property, where such services are provided under a city contract, whether through such contractors or their subcontractors. “‘Human services’ means services provided to third parties, including social services such as day care, foster care, home care, homeless assistance, housing and shelter assistance, preventive services, youth services, and senior centers; health or medical services including those provided by health maintenance organizations; legal services; employment assistance services, vocational and educational programs; and recreation programs.” Title 6 of the New York City Administrative Code § 6-129(c)(21).

4. Although BIC's restrooms are not public spaces, upon request from a member of the public, BIC employees may grant that member of the public temporary access to a specific restroom. The person granted such access is then authorized to take the most direct route to the restroom from the waiting area, and to return via the same route, as directed by the BIC employee granting access. The member of the public may not divert from that route.

In furtherance of this policy, the Commission will post and maintain signage clearly stating all relevant aspects of the policy in the waiting area. This policy will also be posted on BIC's website, pursuant to LL 246 § 4-210(e).

The following are exceptions to this policy, *i.e.*, when permission to enter the waiting area and other areas of BIC may be granted:

1. Routine visits by inspectors or other officials related to an agency's mission;
2. Personnel who are authorized to have access pursuant to an agreement, contract, or subcontract;
3. Law enforcement personnel who present a judicial warrant. (An administrative warrant is not cause to grant access. An attorney at BIC will make the determination if a warrant presented is a judicial or administrative warrant.);
4. Access is otherwise required by law;
5. Personnel are accessing such property as part of a cooperative arrangement involving city, state, or federal agencies;
6. Access furthers the purpose or mission of a city agency; and
7. Exigent circumstances exist.

As a BIC employee, if you believe that any of the above exceptions exist, please contact BIC's General Counsel. If the General Counsel is unavailable, please speak to another BIC attorney.

As noted above, these restrictions *do not* apply to employees of the City, including New York City police officers, the City Department of Education, and local government entities, such as including New York City Health and Hospitals, New York City Housing Authority, the Port Authority, and the Metropolitan Transit Authority.

Protocol Regarding Access to Non-Public Areas

The following protocol shall apply to all BIC employees, and is to be implemented when governmental personnel who are non-City employees attempt to access non-public areas of BIC's property:

1. BIC employees must ask the person for identification (name and badge/ID) and business card(s), the purpose of the visit, and any relevant documentation demonstrating their purpose for visiting BIC, *i.e.*, subpoena, warrant, accompanying affidavits, or other documents.
2. BIC employees must advise the person that, prior to responding to the request, you must notify and obtain guidance from BIC's General Counsel. Should the General Counsel be unavailable, contact another BIC attorney. Advise the person to wait outside while you are notifying BIC's General Counsel and awaiting further instructions. If the person objects, provide them with BIC's General Counsel's telephone number and tell them to communicate directly.
3. BIC employees must contact BIC's General Counsel, relay all relevant information, and await further instruction. BIC employees should not consent to the person's entry or search without first discussing with and notifying BIC's General Counsel, and obtaining authorization to consent.
4. BIC's General Counsel will review all documentation provided and determine whether access is required by law, or otherwise permitted by LL 246 § 4-210 and other relevant laws.

BIC employees should never physically prohibit a law enforcement officer or agent from entering a non-public area. If a person refuses to wait outside or attempts to enter a non-public area prior to BIC's General Counsel's approval, note the date and time of the incident, the person's name and employer. Then, notify a BIC investigator and BIC's General Counsel.

If any non-law enforcement member of the public seeks to gain access, notify an investigator immediately or push the alarm button located at the front desk.

Note that the above guidelines apply equally to agency contractors who have regular contact with the public in the daily administration of human services, whether or not such services are provided on city property.

For additional information or questions regarding access to non-public areas, contact the Business Integrity Commission's First Deputy Commissioner and General Counsel:

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