



ADAM P. HANDFINGER



MEREDITH N. REYNOLDS

Nationwide Immigrant Strike May Trigger Excusable Delay and Other Contract Provisions

Yesterday, February 16, 2017, media outlets reported a nationwide strike by immigrants and businesses referred to as “A Day Without Immigrants”. The protest, organized largely through social media, was a response by some to the Trump Administration’s immigration and foreign trade policies. Participating businesses shut down and immigrants refused to work or spend money in an effort to demonstrate the role of foreign-born workers in the U.S. economy. While the number of businesses and individuals that participated is not yet known, several contractors reported labor shortages and construction project delays or temporary shut downs as a result of the protest.

Those in the building trades should be aware that project delays resulting from such labor shortages or the closure of participating businesses may trigger contractual rights to seek extensions of time or increases to the contract sum/consideration as a result of the unavoidable delay.

Many contracts require contractors to provide prompt notice of any event that may result in a claim for additional time or an increase to the contract sum/consideration. Failure to give prompt notice as required by the contract may result in a waiver of such claims. All contractors impacted by this event should review their contracts and give notice of any potential claims as soon as possible.

Please Contact

Adam P. Handfinger
ahandfinger@pecklaw.com
305.358.2600

Meredith N. Reynolds
mreynolds@pecklaw.com
305.358.2600

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