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Governor Christie Shuts Down 1400 Transportation Projects Worth \$3.5 Billion

New Jersey's massive statewide transportation project shutdown comes about as the result of Gov. Christie's June 30, 2016 Executive Order 210, which declared a State of Emergency due to the New Jersey State Senate's failure to act on reauthorizing the New Jersey Transportation Trust Fund Authority (TTFA or the "Authority"). Without an established plan for providing additional funding sources for the TTFA, the Authority will exhaust all of its available funds in August 2016. In order to ration the remaining funds, the Governor ordered the "immediate and orderly shutdown" of all TTFA-funded state and local transportation projects that are "not absolutely essential," and directed the Commissioner of the New Jersey Department of Transportation (NJDOT) and the Executive Director of New Jersey Transit (NJT) to develop plans to accomplish this.

The shutdown affects projects at all stages of procurement and performance, except for projects that are funded by the federal government. In accordance with the Governor's directive, the NJDOT and NJT prepared a list of all nonessential TTFA-funded projects that will start being halted on Friday, July 8th, at 11:59 pm. According to the Associated Construction Contractors of New Jersey (ACCNJ), contractors working on active projects included in the project shutdown lists should have been notified July 6th, by the NJDOT's Project Resident Engineer by way of certified mail, email-notice and telephonic communication. The ACCNJ further reports that the Resident Engineer will serve as the point of contact for contractors throughout the shutdown.

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Most state and municipal contracts permit the public owner to suspend a project for its convenience. If the project is suspended, the contractor may be entitled to an extension of time for the completion of the project, and also may be entitled to additional compensation for the project delays, impacts, demobilization, and remobilization, if the contract permits. Moreover, despite a shutdown, some public contracts may nonetheless still require the contractor to continue maintaining traffic controls and protecting the work during the period of suspension. It is too early to predict how long any project suspension may last or the impact from the shutdown, but according to the ACCNJ the shutdown is anticipated to last at least seven days. Accordingly, it is highly recommended that state and local transportation contractors be vigilant in reviewing their contracts, and promptly provide any required contractual notices to preserve any rights they may have to obtain an extension of time and/or to recoup any costs incurred from the shutdown. Contractors must also be prepared to send appropriate notices to subcontractors and suppliers suspending their performances in a like manner, and preserving their own rights under their subcontracts and purchase orders.

If your project is on the shutdown list, and you have any questions, or require assistance reviewing your contracts, subcontracts, or purchase orders to determine your rights and obligations with respect to the shutdown, please feel free to contact us.

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