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New Jersey Amends Pre-Bid Registration Requirement for Joint Ventures

Summary of Amendments

Recently, Governor Murphy signed into law Bill S4281 significantly amending the Public Works Certificate Registration Act (PWCRA), N.J.S.A. 34:11-56.48 to -56.57. As a result, Joint Ventures will be permitted to bid on certain public works projects without prior registration. At a minimum, Joint Ventures should be cognizant of the following important requirements set forth by the amendment:

- Each Joint Venture member must be registered at the time of bid;
- The Joint Venture itself must register prior to contract award; and
- The law applies only to “heavy infrastructure projects,” such as roads, bridges, railways, ports, transit, wastewater, utilities, and environmental remediation.

The amendment also addresses concerns that registration delays could preclude Joint Ventures from bidding on important infrastructure projects. According to the Department of Labor & Workforce Development website, applicants must allow up to 30 days for processing of an application. In the fast-moving world of public bidding, it would be unfair to a JV-bidder and would not serve the public interest for a JV to be denied a bidding opportunity due to a prolonged application process.

Response to November 2023 New Jersey Appellate Division Case

This law was drafted in response to a [2023 Appellate Court ruling](#) which confirmed that Joint Ventures must register prior to bidding. In Ernest Bock & Sons-Dobco Pennsauken Joint Venture v. Twp. of Pennsauken, 477 N.J. Super. 254, 305 A.3d 941

(App. Div. 2023), the Court upheld the rejection of a Joint Venture’s bid because the PWCRA required that a Joint Venture, even when formed solely to bid on a public works contract, must be registered at the time of bid. As a result of the Court’s decision, the lowest numerical bidder, a Joint Venture, was rejected because it had not been registered under the Act at the time of bidding even though its individual members were registered.

Conclusion

Despite the amendment, it remains paramount for Joint Ventures bidding on public works projects in New Jersey to apply for PWCR registration as early as possible. In no event should a Joint Venture wait until being named the low bidder to submit its application for the PWCR certificate, as that certificate must be in hand prior to the contract award.

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