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NJ Public Works Contractors Beware – Pay Special Attention When Submitting Your Public Works Contractor Registration

While it is always important to be careful when making submissions to government agencies, recent activity by the New Jersey Department of Labor and Workforce Development (“NJDOLE”) reveals considerably increased scrutiny in connection with contractors renewing their New Jersey Public Works Registration. Extra care when completing the registration renewal process is warranted, because the consequences of a misstep can be significant and disruptive.

The New Jersey Public Works Contractor Registration Act requires all contractors bidding on or engaging in construction-related public works projects to register with the NJDOLE. This registration, which must be resubmitted every 1-2 years, requires contractors to make a number of detailed disclosures relating to, among other things, the entity’s ownership structure, prior state and federal labor law violations, details regarding interests in other businesses, unlawful acts by owners/officers, and participation in apprenticeship programs.

Penalties for Errors and Omissions – A Bar on Resubmission

Recently, the NJDOLE has employed a heightened level of diligence in reviewing these applications and has sought to impose harsh penalties for inaccuracies or omissions. These penalties have been applied even when the contractor’s failure was inadvertent or unintentional.

In some instances, where mistakes in the registration application have occurred, NJDOLE has accused contractors of “knowingly” supplying incomplete or inaccurate information. Where such a determination is made, NJDOLE may issue monetary penalties generally in the amount of \$2,500 and more significantly, may bar the contractor from reapplying for a period of 1 year. Such a penalty, if enforced, would effectively prohibit a contractor from participating in public works projects until its registration could be resubmitted.

While the offending contractor does have an opportunity to appeal such a determination in the case of a renewal of a pre-existing registration, there is often too little time to allow that process to run its course before the existing registration expires. Often contractors wanting to continue work without interruption are left with no practical remedy other than to negotiate with NJDOLE to avoid a work stoppage.

Strategies to Avoid a Lapse in Registration

1. Obtain clarity.

Obviously, it is important to complete all forms completely and accurately, but some of the application requirements lack clarity or leave room for interpretation. If you have questions or are unsure about how to respond to an inquiry, seek outside counsel or contact the NJDOLE for clarification.

2. Start early.

Contractors should track the expiration date for the current registration to avoid lapses due to the NJDOLE’s processing timeline. While the NJDOLE suggests submitting applications at least 30 days prior to the expiration of the current registration, it is advisable to file submissions even earlier to ensure that sufficient time remains for resolution of problems that may arise.

3. If you receive a denial, move quickly.

If a Notice of Denial is received, you should seek counsel quickly to avoid work stoppages or impacts to future bids. While there is a limited window for appeal, contractors may be further limited if the current registration expires before the appeal can be heard. While it is important to act quickly, rushing to simply pay the fine may negatively impact future public bidding opportunities.

If you have any questions, please feel free to reach out to **Levi W. Barrett** at lbarrett@pecklaw.com or **Aaron C. Schlesinger** at aschlesinger@pecklaw.com.

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