

Contractors Beware –New Jersey’s Department Of Labor Seeks To Ramp Up Enforcement, Particularly For Prevailing Wage Act Work

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On January 16, 2018, Governor-Elect, Phil Murphy, will be sworn in as New Jersey’s new Governor. As is customary with political changes, his priorities will differ from the current administration. After eight (8) years of Governor Christie, a Republican, Phil Murphy is certain to bring about sweeping changes to government agencies, including New Jersey’s Department of Labor. The Department of Labor will likely see an increase in resources to enforce existing law and perhaps new legislation in the areas of wage & hour, temporary disability and unemployment. Employers should anticipate a crack-down on enforcement and investigations seeking to ferret out alleged violations of these laws - specifically with regard to the Prevailing Wage Act.

What is the Prevailing Wage Act?

The Prevailing Wage Act is designed to protect union contractors from non-union competitors who under-bid public works projects. Phil Murphy received strong support from unions during his campaign. As a result, an increase in enforcement of prevailing wage laws is likely with his new administration.

Failure to pay

In New Jersey, prevailing wages must be paid when there is a contract between a public body and a contractor to perform certain “public works” projects. Prevailing wages must be paid to workers when the public works contract for a municipality exceeds \$15,444 and \$2,000 for any other public contract, including boards of education and public utilities. Failure to pay prevailing wages may result in fines, penalties, the payment of unpaid wages and debarment. If debarred, a contractor will not be permitted

to bid on or perform public work for a period of three years.

Of course, the prevailing wage law and anticipated increase in enforcement does not only apply to New Jersey contractors and construction companies. It applies to any person/company who performs prevailing wage work in New Jersey. Often, contractors from adjacent states (Pennsylvania, New York, and Delaware) are not familiar with New Jersey's strict prevailing wage laws. Not only can your lack of familiarity with New Jersey's wage laws result in debarment from bidding on or performing public work in New Jersey. Debarment or license revocation in New Jersey may impact your ability to perform public works in other states as well, including your home state. When bidding on public works projects, questionnaires often inquire whether your company is currently debarred or has had its registration revoked in any other state. Your New Jersey debarment or license revocation status may substantially impair your ability to perform public work everywhere.

Be sure your company is compliant

Now is the time to make sure that you are in compliance with the New Jersey Prevailing Wage Act. Do not wait until you receive an audit letter or subpoena from the Department of Labor. For a full audit to ensure your compliance with the Prevailing Wage Act or if you receive a notice from the Department of Labor, contact Einhorn Barbarito immediately. We are here to protect you and your business.