

What Contractors And Subcontractors Need To Know About New Jersey Department Of Labor Prevailing Wage Investigations

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The [Prevailing Wage Act](#) states that all contractors in NJ must provide union scale wages for covered work on public works projects. If you are a contractor or subcontractor participating in public works projects, you need to understand prevailing wage law to ensure project profitability and lawful performance of the contract. The [lawyers](#) at Einhorn, Barbarito, Frost & Botwinick advise contractors and subcontractors on proper compliance with prevailing wage requirements. We also advise contractors and subcontractors when the state challenges their compliance to the Prevailing Wage Act.

Enforcement of New Jersey's Prevailing Wage Act

Prevailing Wage Act investigations in New Jersey are brought by the New Jersey Department of Labor and Workforce Development with the intention of protecting union contractors from non-union competitors who under-bid public works projects. Companies that are investigated and receive notices of assessment from the Department of Labor can be faced with severe financial penalties and even debarment for three years from any public work project. The Act applies to state-based contractors as well as out of state employers who have subcontracted work to NJ-based public works subcontractors.

If your construction company has received a notice of assessment from the Department of Labor, we can closely review the details of the assessment, and set a strategy for managing the investigation. In the event of compliance, or an unwarranted charge, it is important to obtain a full dismissal of the investigation. In the event of non-compliance, our strategy is to mitigate the financial penalties and prevent debarment. It is vital that you have the benefit of counsel with experience defending contractors faced with prevailing wage audits.

Einhorn Barbarito's Prevailing Wage Act Experience

We have experience demonstrating to the Department of Labor that the Prevailing Wage Act charges brought against a contractor were unwarranted, as its work providing fiber optic maintenance did not fall within the “covered work” language of the Prevailing Wage Act. We also demonstrated that the investigation was bringing personal hardship on a small family-owned business, and that while the intent of the Prevailing Wage Act is to safeguard the interests of employees on public works projects, this particular audit did not serve that purpose.

If your company is being investigated by the Department of Labor or if you have a question about New Jersey's Prevailing Wage Act, reach out to [Timothy J. Ford](#) at 973-586-4940. Tim is a partner in the [Employment Law, Commercial Litigation, Construction and Closely Held Business Law](#) Department at Einhorn, Barbarito, Frost & Botwinick, P.C.