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Notice Number

New Jersey Department of Community Affairs
Division of Local Government Services

8/8/2000

Date

LOCAL FINANCE NOTICE

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DIRECTOR

Public Works Contractor Registration Act

On April 11, 2000, the “*Public Works Contractor Registration Act*” (Act), P.L. 1999, c. 238, went into effect. The Act, N.J.S.A. 34:11-56.48 et seq., requires that all contractors, subcontractors and sub-subcontractors (contractors) register with the Department of Labor prior to bidding or engaging on certain public works contracts that exceed the prevailing wage threshold. The prevailing wage threshold is \$10,743 for municipalities and \$2,000 for all non-municipal entities, such as boards of education, authorities, fire districts, counties, etc.

According to N.J.S.A. 34:11-56.50, public works projects are any construction, reconstruction, demolition, alteration, repair or maintenance of a public building regularly open to and used by the general public or a public institution. Excluded are pumping stations, treatment plants or other facilities associated with utility and environmental work. It should be noted that while such projects and work are excluded from the Act, they are still subject to the appropriate prevailing wage thresholds. For the purpose of determining what qualifies as a “public building regularly open to and used by the general public”, the test is not the frequency of use by the general public but rather whether the public has access to such buildings.

For example, take a municipality that uses its Department of Public Works’ garage to administer the rabies vaccination program twice a year. If a municipality wanted to add an additional bay to the public works garage and the cost of the project exceeded \$10,743, the contractors on the project would be required to be registered under the Act. The contractors would have to be registered because the garage is open to the general public at least twice a year.

In addition, while maintenance includes painting and decorating, it does not include routine landscape maintenance or janitorial services. Further, work done by the government agency’s workers is excluded from the requirements of the Act.

The Act requires all contractors, including out of state contractors, to register with the Department of Labor. A contractor is defined as a “person, partnership, association, joint stock company, trust, corporation, or other legal business entity or successor thereof who enters into a contract” which is subject to the provisions of the New Jersey Prevailing Wage Act (N.J.S.A. 34:11-56 et seq.). To register, a contractor must provide the Department of Labor with its employer identification number, proof of workers’ compensation insurance coverage and a list of company officers. The initial registration fee is \$300 for the first year and \$300 for the second year. Upon successful completion of two consecutive years of registration, a contractor may elect to register for a two-year period and pay a registration fee of \$500.

Director's Office
(609) 292-6613

Local Government
Research
(609) 292-6110

Financial Regulation
and Assistance
(609) 292-4806

Local Finance
Board
(609) 292-0479

Local Management
Services
(609) 292-7842

Authority Regulation
(609) 984-0132

Fax
(609) 984-7388

101 South Broad Street

P.O. Box 803
<http://www.state.nj.us/dca/lgspages/dcaldlgs.htm>

Trenton, New Jersey 08625-0803

Contractors on public works projects that began prior to April 11, 2000, are also required to register with the Department of Labor if the projects exceed the respective prevailing wage threshold.

Registration certificates are valid for one calendar year from the date of registration. A registration certificate must be renewed no less than 30 days before it expires. The Department of Labor shall review the application and make a determination regarding registration within 30 days of receipt of the application. The contractor can continue to work on the project while the application is being processed, unless it is rejected by the Department of Labor, if that happens the contractor will be notified accordingly.

The Act requires that a copy of the contractor registration must be submitted with the receipt of public bids in accordance with the Local Public Contracts Law. In addition, N.J.S.A. 40A:11-23.2 requires that the following be submitted with the bids:

- A bid guarantee as required by N.J.S.A. 40A:11-21;
- A certificate from a surety company, pursuant to N.J.S.A. 40A:11-22;
- A statement of corporate ownership, pursuant to N.J.S.A. 52:25-24.2;
- A listing of subcontractors as required by N.J.S.A. 40A:11-16; and
- A document for a bidder to acknowledge the receipt of any notice or revisions or addenda to the advertisement or bid documents or, if not applicable, bidder acknowledges same, pursuant to N.J.S.A. 40A:11-23.2.e.

Failure to submit any mandatory item is deemed a fatal defect and renders the bid proposal unresponsive, and is a defect that cannot be waived or cured by a governing body. **Because of the Act's requirement for submission with the bid, the Certification of Registration is now the sixth mandatory bid checklist item and is non-curable after receipt of bids.**

On a public works project, a general contractor (GC) is often responsible for overseeing the project, which includes the hiring of the subcontractors and sub-subcontractors. A copy of the filed application is required to be submitted until receiving a certificate from the Department of Labor. At that time, the GC should notify and provide the contracting unit with a copy of the certificate. It is the position of the Department of Labor that either a copy of an application or certificate must be submitted each time a GC submits a bid for a public works project as defined by the Act. While a GC must submit a copy of his own certificate or application with the bid, he is not required to do so for all named subcontractors and known sub-subcontractors. Once awarded a contract, the GC is responsible for certification or application compliance for all other subcontractors and sub-subcontractors at such time when they begin work on the project site. It is suggested that language be included in the specifications advising the GC that any subcontractor and/or sub-subcontractor utilized by the GC will have to register with the Department of Labor. The municipality is not responsible to determine if the subcontractors and/or sub-subcontractors on the public works project are registered under the law.

If a GC has not received a registration at the time a bid is submitted (or is currently on a job) the GC is required to submit a copy of an application filed with the Department of Labor. Once the certificate is received, the GC should provide the contracting unit with a copy of the certificate. It is the position of the Department of Labor that either a copy of an application or certificate must be submitted each time a GC submits a bid for a public works project as defined by the Act.

If the cost of a project is above the appropriate prevailing wage threshold but below the bid threshold, the certification of registration can be received after the solicitation of quotations and prior to the commencement of work. The contracting unit may keep the contractor's certification of registration on file only for future projects below the bid threshold where quotations will be received.

Emergency work is not excluded from the provisions of either the Prevailing Wage Act or the Public Works Contractor Registration Act. Compliance with the Act should be sought before processing a contractor's request for payment for the completed emergency work.

Certifications can be confirmed by contacting the Department of Labor's Division of Wage and Hour Compliance at (609) 292-9464. There are no penalties for the local contracting unit, and the Department of Labor will not stop a project if violations are found on a project. The Department of Labor will work with the general contractor(s) as well as all tier contractor(s) to remedy outstanding violations of the Act. However, if outstanding violations are not corrected within timeframes imposed by the Department of Labor, the general contractor will be subject to appropriate penalties and fines for any violation(s) found.

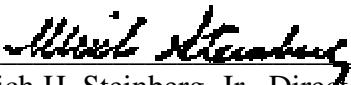
Enclosed for your use is a copy of the registration application and instructions. You may copy and distribute them to any contractor that may be subject to the Act's requirements.

If you have any questions regarding the registration process you can contact:

Contractor Registration Unit
New Jersey Department of Labor
Division of Wage and Hour Compliance
PO Box 389
Trenton, New Jersey 08625-0389

Telephone: 609-292-9464
Fax: 609-633-8591
E-mail: contreg@dol.state.nj.us

If we can assist you in general matters concerning the Act, please call the Division of Local Government Services at (609) 292-7842.



Ulrich H. Steinberg, Jr., Director
Division of Local Government Services

Distribution: Municipal Mayor and Governing Body. County Boards of Chosen Freeholders and Chief Executives, Authority and Fire District Boards of Commissioners