

New Jersey Labor Department Proposes Regulations on Registration for Public Works Contractors

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Under the amended New Jersey the Public Works Contractor Registration Act (PWCRA Amendment), all contractors and subcontractors must certify participation in an apprenticeship program approved by the U.S. Department of Labor (USDOL) in order to bid on or perform any construction-related public works projects. To implement this and other new requirements, the New Jersey Department of Labor (NJDOL) has issued proposed regulations, including a “Supplement” to its PWCRA Amendment registration forms.

The NJDOL has scheduled a hearing on the proposed regulations on July 2, 2019. Written comments regarding the proposed regulations must be submitted by August 2, 2019.

Background

Contractors and subcontractors applying for or seeking to renew their New Jersey public works contractor registration must register with the New Jersey Department of Labor & Workforce Development beginning May 1, 2019. The PWCRA Amendment revised the prerequisites for contractor registration or renewal to require the following:

- Basic contact information;
- Identification of corporate organization (i.e., partnership, sole proprietorship, corporation, and so on);
- For out-of-state contractors, contact information for the custodian of records and agent for service of process;
- Contact information for each individual with a financial interest in the contractor;
- Tax identification and unemployment insurance registration numbers; and
- A certification to include a statement that the contractor maintains all necessary licenses to perform the work and, if the contractor directly employs craftworkers, that the employer participates in a registered apprenticeship program for each craft employment.

In addition, the PWCRA Amendment defined a “Registered Apprenticeship Program” as a program registered and approved by the USDOL that provides classroom and on-the-job training in certain occupations.

Participation in Registered Apprenticeship Program

The NJDOL’s proposed regulations include the following definition of participation in a registered apprenticeship program:

- The contractor is a signatory to a collective bargaining agreement (CBA) that

provides for or jointly sponsors a registered apprenticeship program — provided that the CBA requires ongoing employer contributions to an ERISA-covered apprenticeship training program trust fund;

- The contractor is a signatory to an agreement with a workforce intermediary (e.g., industry associations, business consortiums, community-based organizations, or educational institutions) through which the contractor has access to a registered apprenticeship program — provided that the agreement requires ongoing employer contributions to an ERISA-covered apprenticeship training program trust fund;
- The contractor sponsors a registered apprenticeship program;
- The contractor currently employs at least one apprentice, registered with the USDOL within a registered apprenticeship program — provided that as of the date of submission of the Application for Public Works Contractor Registration, the apprentice has completed at least 1,000 hours of on-the-job learning with the contractor; or
- During the one-year period preceding submission of the Application for Public Works Contractor Registration, the contractor employed at least one apprentice who was registered with the USDOL within a registered apprenticeship program — provided that the apprentice had completed at least 1,000 hours of on-the-job learning with the contractor.

Grace Period

The proposed Regulations provide a “grace period” through April 30, 2020, for contractor compliance with the apprenticeship program requirements. Until then, a contractor may certify and submit documentation that it, a labor union, or industry association has applied to the USDOL for approval of a registered apprenticeship program for each craft that the contractor employs.

Jackson Lewis attorneys are available to answer inquiries regarding this and other workplace developments and assist in submitting comments to the proposed regulations.

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