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Reichard & Escalera Update / Government Procurement

Emergency Exception Of Certain Formalities In Government Contracts

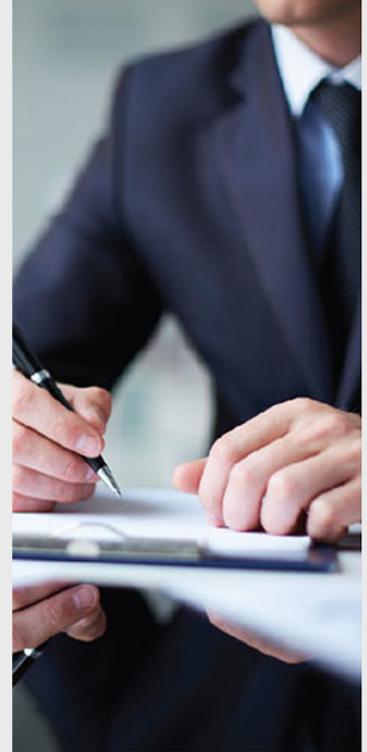
On September 17th, 2017 the Governor of Puerto Rico issued executive order number 2017-047 declaring in Puerto Rico an estate of emergency due to the impending passage of hurricane Maria. Pursuant to Art. 15 of Law No. 211 of 1999, this estate of emergency gives the Governor broad powers to adopt measures that would facilitate the handling of the emergency and the health and safety of all citizens. The Governor is given power to amend, suspend or revoke administrative regulations and issue, amend or revoke administrative orders.

Within that legal framework the governor of Puerto Rico just issued executive order No. 2017-053 dated September 28th, 2017. According to the same, both private contracting parties and any agency, instrumentality, public corporation or entity of the Executive Branch of the Government of Puerto Rico will be exempt from any requirement imposed by law, regulation, or administrative order applicable to the entering into contracts with the government. Nevertheless, such contract with the government should be in writing and dated, should specify the obligations of the parties, the compensation amount and shall contain the signature of authorized persons. The normal contracting requirements will be complied with by the concerned agencies 90 days after the emergency is concluded and operations return to normal. Similarly, those agencies will have 30 days after conclusion of the emergency to register the contracts with the office of the Comptroller of Puerto Rico.

Sec. 6 of the order exempts the government agencies of the Executive Branch from complying with the requirements to enter into lease agreements over private property. These lease agreements cannot go beyond June 30th, 2018.

The order also contains liberalization provisions for providers of repair services to housing units. Additionally, it exempts certain security and emergency personnel from the existing curfew and temporarily exempts fuel supply trucks from the payment of excise taxes.

These measures are all designed to deal with the present emergency and not to create substantives rights that could be the basis for legal action.



For more information on this Legal Update, please contact:

Rafael Escalera
Managing Partner and Chair of
Litigation
escalera@reichardescalera.com
787.777.8877

Juan C. Méndez
Co-Chair of Corporate
jcmendez@reichardescalera.com
787.777.8834

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