

McV's Bids and Procurement Practice Team Secures Significant Victory

ATTORNEYS

- Antonio A. Arias-Larcada
- Maria C. Cartagena-Cancel
- Gabriela Pérez-Vélez

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An McV Bids & Procurement Practice Team Alert

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McV's Bids and Procurement Practice Team secured a significant victory when the Puerto Rico Supreme Court ("PRSC") issued an opinion clarifying the precedent set forth by *AEE v. Maxon*, 163 DPR 434 (2004), weighing in on important issues concerning the process of government procurement and contracting. In *Municipio de Aguada v. W Construction LLC*, 2024 TSPR 69 (2024), the PRSC overturned a Court of Appeals judgment that had declared null a services contract—and its amendment—between the Municipality of Aguada and W Construction, LLC for disaster recovery services.

The PRSC held that when evaluating the experience of a bidding entity, the government agency must consider the combined expertise of the individuals involved in executing the contract, including its employees, members, directors, and subcontractors. Furthermore, the PRSC affirmed that this legal principle applies broadly across all types of bids, not exclusively to highly specialized and technical services. The PRSC's interpretation hinged on the principle that corporate entities operate through the actions and expertise of the persons.

Furthermore, the PRSC addressed the amendment of the contract without a new bidding process, determining that emergency circumstances, such as those following Hurricane Maria, justified this action under municipal law at the time. Ultimately, the PRSC concluded that the Municipal Bid Board acted appropriately and within its authority in awarding the contract and its amendment to W Construction.

McV attorneys Antonio A. Arias-Larcada, María C. Cartagena-Cancel, and Gabriela A. Pérez-Vélez were on brief for client Recovery Finance Limited. For further details, you can access the full opinion below.

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