

COMPLIANCE – CONSTRUCTION SERVICES:

EXHIBITS M1 – M8

This Attachment describes the compliance requirements and includes exhibits containing forms, instructions and samples.

When preparing your firm's proposal in response to this solicitation, keep in mind that, in the RFP, the word "shall" or "must" denotes proposal items which are mandatory for a proposal to be complete; the word "should" denotes proposal items which are recommended, but not mandatory; and the word "may" denotes proposal items which are permissible, but not mandatory.

AFFIRMATIVE ACTION

A. EQUAL EMPLOYMENT OPPORTUNITY – GOODS AND PROFESSIONAL SERVICES

Bidders are required to comply with the requirements of N.J.S.A. 10:5-31 et seq. and N.J.A.C. 17:27 et seq., which are expressly included within the terms of this RFP. – **Exhibit M-1**

B. EQUAL EMPLOYMENT OPPORTUNITY – CONSTRUCTION CONTRACTS

Bidders are required to comply with the requirements of N.J.S.A. 10:5-31 et seq. and N.J.A.C. 17:27 et seq., which are expressly included within the terms of this RFP, as it pertains to Construction Contracts. **Exhibit M-2**

C. NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY AFFIRMATIVE ACTION ADDENDUM TO CONSTRUCTION CONTRACT - N.J.A.C. 19:30-3.5 CONSTRUCTION CONTRACTS – EXHIBIT M-3

PREVAILING WAGE

- A. Prevailing Wage Rate Determination – This Procurement is subject to Prevailing Wage Rate Determination – **Exhibit M-4**

PUBLIC WORKS CONTRACTOR REGISTRATION ACT

The Public Works Contractor Registration Act (N.J.S.A. 34:11-56.48, et seq.) requires all contractors, subcontractors, or lower tier subcontractors (including subcontractors listed in bid proposals) who bid on or engage in the performance of any public work to register with the Department of Labor and Workforce Development.

- A. Instructions for Completing the Application for Public Works Contractor Registration–**Exhibit M-5**

- B. Public Works Contractor Registration Certificate - Exhibit M-6

- C. Information on Apprenticeship Program is on DOL's website @ https://www.nj.gov/labor/wagehour/regperm/pw_cont_reg.html

EXECUTIVE ORDER 151 - NOTICE OF ADDITIONAL MANDATORY CONSTRUCTION CONTRACT LANGUAGE – Exhibit M-7

EXECUTIVE ORDER 11 – Exhibit M-8

EXHIBIT M-1

(REVISED 4/10)

EXHIBIT A

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE

N.J.S.A. 10:5-31 et seq. (P.L.1975, c.127)

N.J.A.C. 17:27 et seq.

GOODS, GENERAL SERVICES, AND PROFESSIONAL SERVICES CONTRACTS

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union of the contractor's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2.

EXHIBIT A (Cont)

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the targeted employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

Letter of Federal Affirmative Action Plan Approval;

Certificate of Employee Information Report; or

Employee Information Report Form AA-302 (electronically provided by the Division and distributed to the public agency through the Division's website at: http://www.state.nj.us/treasury/contract_compliance).

The contractor and its subcontractors shall furnish such reports or other documents to the Division of Purchase & Property, CCAU, EEO Monitoring Program as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Purchase & Property, CCAU, EEO Monitoring Program for conducting a compliance investigation pursuant to N.J.A.C. 17:27-1.1 et seq.

EXHIBIT M-2

(REVISED 4/10)

EXHIBIT B

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE

N.J.S.A. 10:5-31 et seq. (P.L.1975, c.127)

N.J.A.C. 17:27-1.1 et seq.

CONSTRUCTION CONTRACTS

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer, pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

When hiring or scheduling workers in each construction trade, the contractor or subcontractor agrees to make good faith efforts to employ minority and women workers in each construction trade consistent with the targeted employment goal prescribed by N.J.A.C. 17:27-7.2; provided, however, that the Dept. of LWD, Construction EEO Monitoring Program, may, in its discretion, exempt a contractor or subcontractor from compliance with the good faith procedures prescribed by the following provisions, A, B, and C, as long as the Dept. of LWD, Construction EEO Monitoring Program is satisfied that the contractor or subcontractor is employing workers

EXHIBIT B (Cont)

provided by a union which provides evidence, in accordance with standards prescribed by the Dept. of LWD, Construction EEO Monitoring Program, that its percentage of active "card carrying" members who are minority and women workers is equal to or greater than the targeted employment goal established in accordance with N.J.A.C. 17:27-7.2. The contractor or subcontractor agrees that a good faith effort shall include compliance with the following procedures:

(A) If the contractor or subcontractor has a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor shall, within three business days of the contract award, seek assurances from the union that it will cooperate with the contractor or subcontractor as it fulfills its affirmative action obligations under this contract and in accordance with the rules promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et. seq., as supplemented and amended from time to time and the Americans with Disabilities Act. If the contractor or subcontractor is unable to obtain said assurances from the construction trade union at least five business days prior to the commencement of construction work, the contractor or subcontractor agrees to afford equal employment opportunities minority and women workers directly, consistent with this chapter. If the contractor's or subcontractor's prior experience with a construction trade union, regardless of whether the union has provided said assurances, indicates a significant possibility that the trade union will not refer sufficient minority and women workers consistent with affording equal employment opportunities as specified in this chapter, the contractor or subcontractor agrees to be prepared to provide such opportunities to minority and women workers directly, consistent with this chapter, by complying with the hiring or scheduling procedures prescribed under (B) below; and the contractor or subcontractor further agrees to take said action immediately if it determines that the union is not referring minority and women workers consistent with the equal employment opportunity goals set forth in this chapter.

(B) If good faith efforts to meet targeted employment goals have not or cannot be met for each construction trade by adhering to the procedures of (A) above, or if the contractor does not have a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor agrees to take the following actions:

(1) To notify the public agency compliance officer, the Dept. of LWD, Construction EEO Monitoring Program, and minority and women referral organizations listed by the Division pursuant to N.J.A.C. 17:27-5.3, of its workforce needs, and request referral of minority and women workers;

(2) To notify any minority and women workers who have been listed with it as awaiting available vacancies;

(3) Prior to commencement of work, to request that the local construction trade union refer minority and women workers to fill job openings, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade;

EXHIBIT B (Cont)

- (4) To leave standing requests for additional referral to minority and women workers with the local construction trade union, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade, the State Training and Employment Service and other approved referral sources in the area;
- (5) If it is necessary to lay off some of the workers in a given trade on the construction site, layoffs shall be conducted in compliance with the equal employment opportunity and non-discrimination standards set forth in this regulation, as well as with applicable Federal and State court decisions;
- (6) To adhere to the following procedure when minority and women workers apply or are referred to the contractor or subcontractor:
 - (i) The contractor or subcontractor shall interview the referred minority or women worker.
 - (ii) If said individuals have never previously received any document or certification signifying a level of qualification lower than that required in order to perform the work of the construction trade, the contractor or subcontractor shall in good faith determine the qualifications of such individuals. The contractor or subcontractor shall hire or schedule those individuals who satisfy appropriate qualification standards in conformity with the equal employment opportunity and non-discrimination principles set forth in this chapter. However, a contractor or subcontractor shall determine that the individual at least possesses the requisite skills, and experience recognized by a union, apprentice program or a referral agency, provided the referral agency is acceptable to the Dept. of LWD, Construction EEO Monitoring Program. If necessary, the contractor or subcontractor shall hire or schedule minority and women workers who qualify as trainees pursuant to these rules. All of the requirements, however, are limited by the provisions of (C) below.
 - (iii) The name of any interested women or minority individual shall be maintained on a waiting list, and shall be considered for employment as described in (i) above, whenever vacancies occur. At the request of the Dept. of LWD, Construction EEO Monitoring Program, the contractor or subcontractor shall provide evidence of its good faith efforts to employ women and minorities from the list to fill vacancies.
 - (iv) If, for any reason, said contractor or subcontractor determines that a minority individual or a woman is not qualified or if the individual qualifies as an advanced trainee or apprentice, the contractor or subcontractor shall inform the individual in writing of the reasons for the determination, maintain a copy of the determination in its files, and send a copy to the public agency compliance officer and to the Dept. of LWD, Construction EEO Monitoring Program.
- (7) To keep a complete and accurate record of all requests made for the referral of workers in any trade covered by the contract, on forms made available by the Dept. of LWD, Construction EEO Monitoring Program and submitted promptly to the Dept. of LWD, Construction EEO Monitoring Program upon request.

EXHIBIT B *(Cont)*

(C) The contractor or subcontractor agrees that nothing contained in (B) above shall preclude the contractor or subcontractor from complying with the union hiring hall or apprenticeship policies in any applicable collective bargaining agreement or union hiring hall arrangement, and, where required by custom or agreement, it shall send journeymen and trainees to the union for referral, or to the apprenticeship program for admission, pursuant to such agreement or arrangement. However, where the practices of a union or apprenticeship program will result in the exclusion of minorities and women or the failure to refer minorities and women consistent with the targeted county employment goal, the contractor or subcontractor shall consider for employment persons referred pursuant to (B) above without regard to such agreement or arrangement; provided further, however, that the contractor or subcontractor shall not be required to employ women and minority advanced trainees and trainees in numbers which result in the employment of advanced trainees and trainees as a percentage of the total workforce for the construction trade, which percentage significantly exceeds the apprentice to journey worker ratio specified in the applicable collective bargaining agreement, or in the absence of a collective bargaining agreement, exceeds the ratio established by practice in the area for said construction trade. Also, the contractor or subcontractor agrees that, in implementing the procedures of (B) above, it shall, where applicable, employ minority and women workers residing within the geographical jurisdiction of the union.

After notification of award, but prior to signing a construction contract, the contractor shall submit to the public agency compliance officer and the Dept. of LWD, Construction EEO Monitoring Program an initial project workforce report (Form AA-201) electronically provided to the public agency by the Dept. of LWD, Construction EEO Monitoring Program, through its website, for distribution to and completion by the contractor, in accordance with N.J.A.C. 17:27-7. The contractor also agrees to submit a copy of the Monthly Project Workforce Report once a month thereafter for the duration of this contract to the Dept. of LWD, Construction EEO Monitoring Program, and to the public agency compliance officer.

The contractor agrees to cooperate with the public agency in the payment of budgeted funds, as is necessary, for on-the-job and/or off-the-job programs for outreach and training of minorities and women.

(D) The contractor and its subcontractors shall furnish such reports or other documents to the Dept. of LWD, Construction EEO Monitoring Program as may be requested by the Dept. of LWD, Construction EEO Monitoring Program from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Dept. of LWD, Construction EEO Monitoring Program for conducting a compliance investigation pursuant to N.J.A.C. 17:27-1.1 et seq.

EXHIBIT M-3



New Jersey Economic Development Authority

AFFIRMATIVE ACTION IN AUTHORITY-FINANCED CONSTRUCTION PROJECTS MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE

Pursuant to N.J.A.C. 19:30 SUBCHAPTER 3.

N.J.A.C. 19:30-3.5 Construction contracts

1. The New Jersey Economic Development Authority "*Affirmative Action Addendum to Construction Contract*", which is provided by the Authority as part of its application for financial assistance and also available at http://www.njeda.com/public-information/affirmative_action/projects, must be part of all construction contracts and must be signed by the project owner/applicant, prime contractor and subcontractor (all tiers).
2. Unless specifically exempted by N.J.A.C. 19:30-3.4 or 3.5(b), 10 percent of every disbursement for each construction contract in connection with the construction project shall be retained by the project owner/applicant, agent, trustee or lender until 50 per cent completion of the contract. Upon notification to the AA Compliance Officer that a contract is 50 percent complete and confirmation from the AA Compliance Officer that the project is in substantial compliance with this subchapter, five percent of every disbursement for each construction contract must be retained. Upon approximately 90 percent completion of the construction contract and receipt of an Authority Affirmative Action Completion Certificate that is acceptable to the Authority, the Authority will notify the project owner/applicant that the remaining retainage may be released.
3. The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional, or sexual orientation, gender identity or expression, disability, nationality, or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor or subcontractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality, or sex. Such equal employment opportunity shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
4. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Authority setting forth provisions of this nondiscrimination clause.
5. The contractor or subcontractor, where applicable, will in all solicitations or advertisements for employees placed by or on behalf of the contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.
6. The contractor or subcontractor, where applicable, will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract of understanding, a referral letter, to be provided by the Authority, advising the labor union or workers' representative of the contractor's commitments under this subchapter and shall post copies of the referral letters in conspicuous places available to employees and applicants for employment.

7. The contractor or subcontractor agrees to make good faith efforts to employ minority and women workers in each construction trade consistent with the applicable county employment goals established in accordance with N.J.A.C. 17:27-7.2; provided, however, that the Authority may, in its discretion, exempt a contractor or subcontractor from compliance with the good faith procedures prescribed in N.J.A.C. 19:30-3.6 (see below), as long as the Authority is satisfied that the contractor or subcontractor is employing workers provided by a union which provides evidence, in accordance with standards prescribed by the Authority, that its percentage of active “card-carrying” members who are minority and women workers is equal to or greater than the applicable employment goals established in accordance with N.J.A.C. 17:27-7.2.
8. The general contractor that is awarded a construction contract or the project owner/applicant must submit an initial project workforce report to the Authority. Each initial workforce report shall identify the estimated workforce requirements, by trade or craft, of the construction contractors and subcontractors for the duration of the construction contract.
9. The general contractor must submit a monthly project workforce report to the Authority within 15 business days after the end of the reporting month.
10. The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.
11. In the event a construction contract has been executed between a project owner/applicant; Or; a landlord not exempted by N.J.A.C. 19:30-3.4, and the contractor or subcontractor before the project owner/applicant applied to and/or received final approval, the Authority will require that any executed construction contract(s) be amended to include the NJEDA “*Affirmative Action Addendum to Construction Contract*”, on a go-forward basis or incorporate such addendum by a side letter agreement.

19:30-3.6 Good Faith

- (a) A contractor will be considered in compliance with this subchapter only if the contractor has made good faith efforts to meet the minority and women hiring goals for each trade or craft employed on the project. The goals are expressed as percentages of the total hours worked on the project in each trade. The goals are established by the Department of the Treasury, Division of Public Contracts Equal Employment Opportunity Compliance and can be found at the Division’s website at: www.state.nj.us/treasury/contract_compliance/.

The contractor must take the following steps in demonstrating good faith effort:

1. When hiring or scheduling workers in each construction trade, the contractor or subcontractor shall make good faith efforts to employ minority and women workers in each construction trade consistent with the applicable employment goal prescribed by N.J.A.C. 17:27-7.2; provided, however, that the Authority may, in its discretion, exempt a contractor or subcontractor from compliance with the good faith procedures prescribed by this paragraph and (a) 2 below, as long as the Authority is satisfied that the contractor or subcontractor is employing workers provided by a union which provides evidence, in accordance with standards prescribed by the Authority, that its percentage of “card carrying” members who are minority and

women workers is equal to or greater than the applicable employment goal established in accordance with N.J.A.C. 17:27-7.3.

A good faith effort by the contractor or subcontractor shall include compliance with the following procedures:

- i. If the contractor or subcontractor has a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor shall, within three business days of the contract award, seek assurances from the union that it will cooperate with the contractor or subcontractor as it fulfills its affirmative action obligations under this contract and in accordance with this subchapter [N.J.A.C. 19:30 Subchapter 3] as supplemented and amended from time to time. If the contractor or subcontractor is unable to obtain said assurances from the construction trade union at least five business days prior to commencement of construction work, the contractor or subcontractor shall attempt to hire or schedule minority and women workers directly, consistent with the applicable employment goal. If the contractor's or subcontractor's prior experience with a construction trade union, regardless of whether the union has provided said assurances, indicates a significant possibility that the trade union will not refer sufficient minority and women workers consistent with the applicable employment goal, the contractor or subcontractor shall be prepared to hire or schedule minority and women workers directly, consistent with the applicable employment goal, by complying with the hiring or scheduling procedures prescribed under N.J.A.C. 19:30-3.6(a)2 below; and the contractor or subcontractor shall take said action immediately if it determines or is so notified by the Authority that the union is not referring minority and women workers consistent with the applicable employment goal.
2. If the hiring or scheduling of a workforce consistent with the employment goal has not or cannot be achieved for each construction trade by adhering to the procedures of (a)1 above, or if the contractor does not have a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor shall take the following actions consistent with the applicable county employment goals:
 - i. Notify the Authority's Affirmative Action Compliance Officer and minority and women referral organizations listed by the Department of the Treasury, Division of Public Contracts Equal Employment Opportunity Compliance pursuant to N.J.A.C. 17:27-5.3, of its workforce needs, and request referral of minority and women workers.
 - ii. Notify any minority and women workers who have been listed with it as awaiting available vacancies;
 - iii. Prior to commencement of work, request that the local construction trade union refer minority and women workers to fill job openings, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade;
 - iv. Leave standing requests for additional referral to minority and women workers with the local construction trade union, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade, the State training and employment service at http://careerconnections.nj.gov/careerconnections/plan/support/njccsites/one_stop_career_centers.shtml and other approved referral sources in the area until such time as the workforce is consistent with the employment goal; and

- v. If it is necessary to lay off any of the workers in a given trade on the construction site, assure, consistent with the applicable State and Federal statutes and court decisions, that sufficient minority and women employees remain on the site consistent with the employment goal; and employ any minority and women workers laid off by the contractor on any other construction site on which its workforce composition is not consistent with an employment goal established pursuant to rules implementing N.J.S.A. 10:5-31 et seq.;
- 3. The contractor or subcontractor shall adhere to the following procedure when minority and women workers apply or are referred to the contractor or subcontractor:
 - i. If said individuals have never previously received any document or certification signifying a level of qualification lower than that required in order to perform the work of the construction trade, the contractor or subcontractor shall determine the qualifications of such individuals and if the contractor's or subcontractor's workforce in each construction trade is not consistent with the applicable employment goal, it shall hire or schedule those individuals who satisfy appropriate qualification standards. However, a contractor or subcontractor shall determine that the individual at least possess the requisite skills, and experience as recognized by a union, apprentice program or a referral agency, provided the referral agency is acceptable to the Authority. If necessary, the contractor or subcontractor shall hire or schedule minority workers who qualify as trainees pursuant to these rules. All of these requirements, however, are limited by the provisions of N.J.A.C. 19:30-3.6(a) 4 below.
 - ii. If the contractor's or subcontractor's workforce is consistent with the applicable employment goal, the name of any interested woman or minority individual shall be maintained on a waiting list for the first consideration, in the event the contractor's or subcontractor's workforce is no longer consistent with the applicable employment goal.
 - iii. If, for any reason, a contractor or subcontractor determines that a minority individual or a woman is not qualified or if the individual qualifies as an advanced trainee or apprentice, the contractor or subcontractor shall inform the individual in writing of the reasons for the determination, maintain a copy of the determination in its files, and send a copy to the Authority's Affirmative Action Compliance Officer.
 - iv. The contractor or subcontractor shall keep a complete and accurate record of all requests made for the referral of workers in any trade covered by the contract, on forms made available by the Authority and submitted promptly to the Authority's Affirmative Action Compliance Officer upon request.
- 4. Nothing contained in N.J.A.C. 19:30-3.6(a) 2 above shall preclude the contractor or subcontractor from complying with the union hiring hall or apprenticeship policies in any applicable collective bargaining agreement or union hiring hall arrangement, and, where required by custom or agreement, it shall send journeymen and trainees to the union for referral, or to the apprenticeship program for admission, pursuant to such agreement or arrangement. However, where the practices of a union or apprenticeship program will result in the exclusion of minorities and women or the failure to refer minorities and women consistent with the county employment goal, the contractor or subcontractor shall consider for employment persons referred to N.J.A.C.19:30-3.6(a) 2 above without regard to such agreement or arrangement; provided further, however, that the contractor or subcontractor shall not be required to employ women and minority advanced trainees and trainees in numbers which result in the employment of advanced trainees and trainees as a percentage of the total workforce for the construction trade, which percentage significantly

exceeds the apprentice to journey workers ratio specified in the applicable collective bargaining agreement, or in the absence of a collective bargaining agreement, exceeds the ratio established by practice in the area for said construction trade. Also, in implementing the procedures of (a) 2 above, the contract or subcontractor shall, where applicable, employ minority and women workers, residing within the geographical jurisdiction of the union. After notification of award, but prior to signing a construction

contract, the contractor shall submit to the Authority an initial EDA project workforce report provided by the Authority for distribution to and completion by the contractor, in accordance with N.J.A.C. 19:30-3.7. The contractor shall also submit a copy of the Monthly Project Workforce Report once a month thereafter for the duration of this contract to the Authority. The contractor agrees to notify the Authority and at least two minority referral organizations of the contractor's labor needs, and to request referrals of minority and women workers. The contractor shall leave standing requests for referrals of minority and women workers with the local unions, the State Employment Service, New Jersey Bureau of Apprenticeship and Training and at least two referral sources designated from time to time by the Authority until such a time as the contractor has met its hiring goals.

5. In conforming with the applicable employment goals, the contractor or subcontractor shall review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

(b) When compliance challenges are initiated pursuant to N.J.A.C. 19:30-3.8, the Authority shall consider the following factors in its determination of whether a contractor or subcontractor has acted in good faith:

1. Whether the contractor or subcontractor has knowledge of and has considered the general availability of minorities and women having requisite skills in the immediate labor area;
2. Whether the contractor or subcontractor has knowledge of and has considered the percentage of minorities and women in the total workforce in the immediate labor area;
3. Whether, when the opportunity has presented itself, the contractor or subcontractor has considered promoting minority and women employees within its organization;
4. Whether the contractor or subcontractor attempted to hire minorities and women based upon the anticipated expansion, contraction and turnover of its workforce;
5. Whether the contractor or subcontractor has the ability to consider undertaking training as a means of making all job classifications available to minorities and women and whether it has done so;
6. Whether the contractor or subcontractor has utilized the available recruitment resources to attract minorities and women with requisite skills, including but not limited to training institutions, job placement services, referral agencies, newspapers, trade papers, faith-based organizations, and community-based organizations; and
7. Whether the contractor or subcontractor has documented its attempts to attain the goals.



New Jersey Economic Development Authority

MANDATORY CONSTRUCTION CONTRACT LANGUAGE PAYMENT OF PREVAILING WAGES IN AUTHORITY PROJECTS

N.J.A.C. 19:30 SUBCHAPTER 4. PAYMENT OF PREVAILING WAGES IN AUTHORITY PROJECTS

The New Jersey Economic Development Authority "*Prevailing Wage Addendum to Construction Contract*", which is provided by the Authority as part of its application for financial assistance and also available at http://www.njeda.com/public-information/affirmative_action/projects must be part of all construction contracts and must be signed by the project owner/applicant, prime contractor and subcontractor (all tiers), and by the owner/applicant or recipient of authority financial assistance/ landlord, unless specifically exempted by N.J.A.C. 19:30-4.2.

N.J.A.C. 19:30-4.2 Payments of prevailing wages in projects receiving assistance

(a) Not less than the prevailing wage rate shall be paid to workers employed in the performance of any construction contract, including contracts for mill work fabrication, undertaken in connection with Authority financial assistance or any of its projects, those projects which it undertakes pursuant to P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et seq.), or undertaken to fulfill any condition of receiving Authority financial assistance, including the performance of any contract to construct, renovate, or otherwise prepare a facility for operations which are necessary for the receipt of Authority financial assistance, unless the work performed under the contract is:

1. Performed on a facility owned by a landlord of the entity receiving the assistance;
2. The landlord is a party to a construction contract(s); and
3. Less than 55 percent of the facility is leased by the entity at the time of the contract and under any agreement to subsequently lease the facility.

(b) In accordance with P.L. 2007, c. 245 (N.J.S.A. 34:1B-5.1), nothing in this subchapter shall be construed as requiring the payment of prevailing wage for construction commencing more than two years after an entity has executed with the Authority a commitment letter regarding Authority financial assistance and the first payment or other provision of the assistance is received.

N.J.A.C. 19:30-4.3 Assurances required

(a) Recipients of Authority financial assistance for construction contract shall deliver a NJEDA affirmative action completion certificate to the Authority (or designated agent for the Authority), upon completion of the contract, signed by an authorized representative of the recipient, representing and confirming that:

1. It has complied and has caused its landlord, if applicable, contractors and subcontractors to comply with the requirements of N.J.A.C. 19:30-4.2; or
2. It has not entered into any construction contracts subject to the provisions of N.J.A.C. 19:30-4.2(a) and its landlord has not entered in any contracts pursuant to N.J.A.C. 19:30-4.2(a).

N.J.A.C. 19:30-4.4 Contract provisions required

(a) **All construction contracts in the amount of \$2,000** or more shall require that:

1. Prime contractors maintain and submit certified payrolls to the Authority; or
2. Contractors and subcontractors:
 - i. Permit the Authority, or its designated agent, complete access to payroll records and other records for purposes of determining compliance with the provisions of this subchapter; and
 - ii. Keep accurate records showing the name, craft or trade, and actual hourly rate of wages paid to each worker employed in connection with the performance of the contract and to preserve such records for two years from the date of payment.

In the event a construction contract has been executed between a project owner/applicant; or; a landlord not exempted by N.J.A.C. 19:30-3.4, and the contractor (or subcontractor) before the project owner/applicant applied to and/or received final approval, the Authority will require that any executed construction contract(s) be amended to include the NJEDA *"Prevailing Wage Addendum to Construction Contract"*, on a go-forward basis or incorporate such addendum by a side letter agreement.



NJEDA AAPWR NUMBER: _____

NJEDA PREVAILING WAGE AND AFFIRMATIVE ACTION- ADDENDUM TO THE CONSTRUCTION CONTRACT
General Contractor and Sub-contractor (all tiers) PW and AA Certification Form

(Please complete on for each sub-contractor, both the General Contractor and Sub-Contractor must sign below)

I/We, the undersigned certify to the New Jersey Economic Development Authority that the Authority's "Prevailing Wage and Affirmative Action Addendum to Construction Contract" has/will be included as part of all of this project's construction contract(s) greater than \$2,000., in accordance with N.J.A.C. 19:30-3 & 4.1 et al., as documented in the boxes below.

Project Name, Address, and Description of where construction will be undertaken:		
GENERAL CONTRACTOR/ PRIME CONTRACTOR/ or CONSTRUCTION MANAGER		
	Company Name of General Manager, Prime Contractor, or Construction Manager	
	Mailing Address of General Contractor, Prime Contractor, or Construction Mgr. (Street Address / P.O./ City / State/ Zip)	
	Signatory Name and Title <div style="color: red; font-weight: bold; font-size: 1.2em;">X</div>	Phone
	Signature of Authorized Representative	Date of Signature
	Name of Person in Payroll, Accounting, etc. responsible for preparing monthly reports	
SUBCONTRACTOR		
	Company Name of Subcontractor	
	Mailing Address of Subcontractor (Street Address / P.O./ City / State/ Zip)	
	Signatory Name and Title <div style="color: red; font-weight: bold; font-size: 1.2em;">X</div>	Phone
	Signature of Authorized Representative	Date of Signature
		E-mail address
SUBCONTRACTOR (Lower tier) if applicable		
	Company Name of Subcontractor (lower tier)	
	Mailing Address of Subcontractor (lower tier) (Street Address / P.O./ City / State/ Zip)	
	Signatory Name and Title <div style="color: red; font-weight: bold; font-size: 1.2em;">X</div>	Phone
	Signature of Authorized Representative	Date of Signature
		E-mail address

The General Contractor must scan and upload the signed Certification(s) at the beginning of the construction project to:
NJ Economic Development Authority - Internal Process Management Dept. via <https://aonline.njeda.com/aaweb/>



NJEDA AAPWR NUMBER: _____

NJEDA AFFIRMATIVE ACTION AND PREVAILING WAGE- ADDENDUM TO THE CONSTRUCTION CONTRACT
Business Entity Receiving Financial Assistance and/or Applicant/Leasee, General Contractor, Construction Manager,
and Landlord
PW and AA Certification Form

Pursuant to N.J.A.C. 19:30 SUBCHAPTER 3 & 4

I/We, the undersigned certify to the New Jersey Economic Development Authority that the Authority's "Prevailing Wage and Affirmative Action Addendum to Construction Contract" has/will be included as part of all of this project's construction contract(s) greater than \$2,000.

If applicable, the landlord of the recipient of EDA financial assistance is ONLY required to sign this form, when greater than 55 percent of the facility is, or will be leased by the recipient, at the time of the contract and under any agreement to subsequently lease the facility.

Project Name, Address, and Description of where construction will be undertaken:

ENTITY RECEIVING EDA FINANCIAL ASSISTANCE AND/OR APPLICANT/LEASEE		
	Company Name of Entity receiving EDA Assistance and/or Applicant/Leasee	
	Mailing Address of Entity receiving assistance and/or Applicant/Leasee (Street Address / P.O./ City / State/ Zip)	
	Name and Title of Authorized Signatory X	Phone
	Signature of Authorized representative of Entity receiving EDA Assistance and/or Applicant/Leasee	Date of Signature
	E-mail address	

GENERAL CONTRACTOR/ PRIME CONTRACTOR/ CONSTRUCTION MANAGER		
	Company Name of General Manager, Prime Contractor, or Construction Manager	
	Mailing Address of General Contractor, Prime Contractor, or Construction Mgr. (Street Address / P.O./ City / State/ Zip)	
	Name and Title of Authorized Signatory X	Phone
	Signature of Authorized Representative	Date of Signature
	Name of Person in Payroll, Accounting, etc. responsible for preparing monthly reports	
	E-mail address	

Information below is only to be completed when greater than 55 percent of the facility will be leased by the Business Entity Receiving Financial Assistance

LANDLORD OF RECIPIENT (IF APPLICABLE)		
	Company Name of Landlord of Entity above	
	Mailing Address of Landlord of Entity above (Street Address / P.O./ City / State/ Zip)	
	Name and Title of Authorized Signatory X	Date of Signature
	Signature of Authorized Representative of Landlord of Entity above	Phone
	E-mail address	

The General Contractor must scan and upload the signed Certification(s) at the beginning of the construction project to:
NJ Economic Development Authority - Internal Process Management Dept. via <https://aaonline.njeda.com/aaweb/>

EXHIBIT M-4



New Jersey Economic Development Authority (NJEDA)

Internal Process Management (IPM)

Prevailing Wage (PW) and Affirmative Action (AA) Pre-Construction Packet

All forms can be found online at:

http://www.njeda.com/public-information/affirmative_action/projects

This packet is intended as a guide for Prime Contractors to help them maintain compliance throughout the life of the project. The following is a list of documents required for Labor Standards Compliance on NJEDA PW and AA projects

PW and AA Pre-Construction Packet	
1.	Mandatory Contract Language; NJ Prevailing Wage
2.	Mandatory Contract Language; Affirmative Action
3.	PW & AA Addendum to the Construction Contract (Business Entity Receiving Financial Assistance & GC/Prime/CM and Landlord)
4.	Chapter 376 (New Contractor Registration Law)
5.	PW and AA Addendum to the Construction Contract (GC/Prime/CM and Subcontractors)
6.	Web Portal Instructions
7.	AA FORM 1: Initial Construction Project Workforce Report
8.	County Goals for Minority and Women Participation
9.	NJ Law Prohibits Discrimination in Employment Labor Poster
10.	Payroll Certification for Public Works Projects
11.	Diane B. Allen Equal Pay Act Information Slides
12.	Employee Misclassification (Employee vs. Independent Contractors)
13.	AA FORM 2: Monthly Project Workforce Report
14.	Sample Referral Letters for Good Faith Efforts (GFE)
15.	Sample Contractor Release Letter
16.	PW and AA Completion Certificate
17.	Post- Construction "Vintage Year"
18.	Meeting Sign-In Sheet

Additional Resources Available Online at:

http://www.njeda.com/public-information/affirmative_action/projects

- PW & AA Requirements for NJEDA Construction Projects
- NJEDA Affirmative Action Rules N.J.A.C Title 19 Chapter 30 Subchapter 3
- NJEDA Prevailing Wage Rules N.J.A.C Title 19 Chapter 30 Subchapter 4
- Notice Regarding Affirmative Action/Prevailing Wage & Green Building Requirement
- Diane B. Allen Equal Pay Act



New Jersey Economic Development Authority

MANDATORY CONSTRUCTION CONTRACT LANGUAGE PAYMENT OF PREVAILING WAGES IN AUTHORITY PROJECTS

N.J.A.C. 19:30 SUBCHAPTER 4. PAYMENT OF PREVAILING WAGES IN AUTHORITY PROJECTS

The New Jersey Economic Development Authority "*Prevailing Wage Addendum to Construction Contract*", which is provided by the Authority as part of its application for financial assistance and also available at http://www.njeda.com/public-information/affirmative_action/projects must be part of all construction contracts and must be signed by the project owner/applicant, prime contractor and subcontractor (all tiers), and by the owner/applicant or recipient of authority financial assistance/ landlord, unless specifically exempted by N.J.A.C. 19:30-4.2.

N.J.A.C. 19:30-4.2 Payments of prevailing wages in projects receiving assistance

(a) Not less than the prevailing wage rate shall be paid to workers employed in the performance of any construction contract, including contracts for mill work fabrication, undertaken in connection with Authority financial assistance or any of its projects, those projects which it undertakes pursuant to P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et seq.), or undertaken to fulfill any condition of receiving Authority financial assistance, including the performance of any contract to construct, renovate, or otherwise prepare a facility for operations which are necessary for the receipt of Authority financial assistance, unless the work performed under the contract is:

1. Performed on a facility owned by a landlord of the entity receiving the assistance;
2. The landlord is a party to a construction contract(s); and
3. Less than 55 percent of the facility is leased by the entity at the time of the contract and under any agreement to subsequently lease the facility.

(b) In accordance with P.L. 2007, c. 245 (N.J.S.A. 34:1B-5.1), nothing in this subchapter shall be construed as requiring the payment of prevailing wage for construction commencing more than two years after an entity has executed with the Authority a commitment letter regarding Authority financial assistance and the first payment or other provision of the assistance is received.

N.J.A.C. 19:30-4.3 Assurances required

(a) Recipients of Authority financial assistance for construction contract shall deliver a NJEDA affirmative action completion certificate to the Authority (or designated agent for the Authority), upon completion of the contract, signed by an authorized representative of the recipient, representing and confirming that:

1. It has complied and has caused its landlord, if applicable, contractors and subcontractors to comply with the requirements of N.J.A.C. 19:30-4.2; or
2. It has not entered into any construction contracts subject to the provisions of N.J.A.C. 19:30-4.2(a) and its landlord has not entered in any contracts pursuant to N.J.A.C. 19:30-4.2(a).

N.J.A.C. 19:30-4.4 Contract provisions required

(a) **All construction contracts in the amount of \$2,000** or more shall require that:

1. Prime contractors maintain and submit certified payrolls to the Authority; or
2. Contractors and subcontractors:
 - i. Permit the Authority, or its designated agent, complete access to payroll records and other records for purposes of determining compliance with the provisions of this subchapter; and
 - ii. Keep accurate records showing the name, craft or trade, and actual hourly rate of wages paid to each worker employed in connection with the performance of the contract and to preserve such records for two years from the date of payment.

In the event a construction contract has been executed between a project owner/applicant; or; a landlord not exempted by N.J.A.C. 19:30-3.4, and the contractor (or subcontractor) before the project owner/applicant applied to and/or received final approval, the Authority will require that any executed construction contract(s) be amended to include the NJEDA *"Prevailing Wage Addendum to Construction Contract"*, on a go-forward basis or incorporate such addendum by a side letter agreement.



STATE OF NEW JERSEY
Department of Labor and Workforce Development
Division of Wage and Hour Compliance - Public Contracts Section
PO Box 389
Trenton, NJ 08625-0389

PREVAILING WAGE RATE DETERMINATION

The New Jersey Prevailing Wage Act (N.J.S.A. 34:11-56.25 et seq.) requires that the Department of Labor and Workforce Development establish and enforce a prevailing wage level for workers engaged in public works in order to safeguard their efficiency and general well being and to protect them as well as their employers from the effects of serious and unfair competition.

Prevailing wage rates are wage and fringe benefit rates based on the collective bargaining agreements established for a particular craft or trade in the locality in which the public work is performed. In New Jersey, these rates vary by county and by the type of work performed.

Applicable prevailing wage rates are those wages and fringe benefits in effect on the date the contract is awarded. All pre-determined rate increases listed at the time the contract is awarded must also be paid, beginning on the dates specified. Rates that have expired will remain in effect until new rates are posted.

Prevailing Wage Rate

The prevailing wage rate for each craft will list the effective date of the rate and the following information:

W = Wage Rate per Hour

B = Fringe Benefit Rate per Hour*

T = Total Rate per Hour

- * Fringe benefits are an integral part of the prevailing wage rate. Employers not providing such benefits must pay the fringe benefit amount directly to the employee each payday. Employers providing benefits worth less than the fringe benefit amount must pay the balance directly to the employee each payday.

Unless otherwise stated in the Prevailing Wage Rate Determination, the fringe benefit rate for overtime hours remains at the straight time rate.

When the Overtime Notes in the Prevailing Wage Rate Determination state that the overtime rates are "inclusive of benefits," the benefit rate is increased by the same factor as the wage rate (i.e. multiplied by 1.5 for time and one-half, multiplied by 2 for double time, etc.).

Apprentice Rate Schedule

An "apprentice" is an individual who is registered with the United States Department of Labor - Office of Apprenticeship and enrolled in a certified apprenticeship program during the period in which they are working on the public works project.

The apprentice wage rate is a percentage of the journeyman wage rate, unless otherwise indicated. The apprentice benefit rate is the full journeyman benefit rate, unless otherwise indicated.

If there is no apprentice rate schedule listed, the individual must be paid at least the journeyman rate even if that individual is in a certified apprentice program for that trade.

If there is no ratio of apprentices to journeymen listed for a particular craft, then the ratio shall be one (1) apprentice to every four (4) journeymen.

Comments/Notes

For each craft listed there will be comments/notes that cover the definition of the regular workday, shift differentials, overtime, recognized holidays, and any other relevant information.

Public Works Contractor Registration

The Public Works Contractor Registration Act (N.J.S.A. 34:11-56.48, et seq.) requires that **all** contractors, subcontractors, or lower tier subcontractors who are working on or who bid on public works projects register with the Department of Labor and Workforce Development. Applications are available at www.nj.gov/labor (click on Wage & Hour and then go to Registration & Permits).

Pursuant to N.J.S.A. 34:11-56.51:

No contractor shall bid on any contract for public work as defined in section 2 of P.L.1963, c. 150 (C.34:11-56.26) unless the contractor is registered pursuant to this act. No contractor shall list a subcontractor in a bid proposal for the contract unless the subcontractor is registered pursuant to P.L.1999, c.238 (C.34:11-56.48 et seq.) at the time the bid is made. No contractor or subcontractor, including a subcontractor not listed in the bid proposal, shall engage in the performance of any public work subject to the contract, unless the contractor or subcontractor is registered pursuant to that act.

Snow Plowing

Snow plowing contracts are not subject to the New Jersey Prevailing Wage Act or the Public Works Contractor Registration Act.

EXHIBIT M-5

Public Works Contractor Registration (PWCR) FAQs

How do I register for PWCR?

You can apply online or by mail.

- Online: Go to njportal.com/lwd/pwcr.
- By Mail: Complete and mail an application to the NJ Department of Labor and Workforce Development, Division of Wage & Hour Compliance. Application forms and instructions are available at: [LWD PWCR Contractor Registration](#)

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What is Public Works Contractor Registration (PWCR)?

The Public Works Contractor Registration Act ([NJSA 34:11-56.48 et seq.](#)) requires all contractors, subcontractors, or lower tier subcontractors (including subcontractors listed in bid proposal) who bid on or engage in the performance of any public work in New Jersey to register with the NJ Department of Labor & Workforce Development. If a contractor bids on or is found working on a public works project without being registered, the maximum penalty for a first violation is \$2500. For more information about the definition of public work, public bodies, types of projects subject to prevailing wage requirements, etc., please go to [Public Works - Prevailing Wage FAQs](#).

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What is the application fee?

The fee structure is as follows:

- \$300 for a 1 year registration
- \$500 for a 2 year registration, but this option is only available to contractors who meet the following criteria:
 - Must have been continuously registered for the last two consecutive years
 - Renewal application must be received timely prior to expiration date
 - No prior violations of the Contractor Registration Act ([NJSA 34:11-56.48 et seq.](#)) or the Prevailing Wage Act ([NJSA 34:11-56.25 et seq.](#))
- If you file online, there is an additional service fee of \$4 plus a fee of 1.9% if you are using a credit card.

Fees are non-refundable.

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What information do I need when applying for PWCR?

You will need a lot of information about the contractor that is applying for PWCR:

1. **FEIN** (Federal Employer Identification Number) – This is the business's taxpayer identification number. Any business that has employees and/or pays any kind of taxes must have a FEIN.
If the business entity is a sole proprietorship with NO employees **and** does NOT have an assigned FEIN from the IRS, you may provide the owner's SSN.

2. **Business Name** – Provide the name of business used to contract/subcontract public works projects. This is the business name that will appear on the certificate of registration.
If more than one business entity name is party to contracts, separate registrations are required.
3. **Legal / Corporate Name** – Provide legal/corporate name if different than business name. If the business entity is a sole proprietorship or partnership, provide name of owner or partners.
4. **Business Address** – Enter the business's street address, city, state, ZIP code, and county. Do not use a PO Box.
5. **Mailing Address** – Provide mailing address if different than street address.
If application is submitted by mail, notices and the Public Works Contractor Registration Certificate will be mailed to the mailing address.
6. **Business Email** - PWCR certificate and notice will be emailed.
7. **Type of Business** – Select the type of ownership:
 - Individual/Sole Proprietorship
 - Partnership
 - NJ Corporation
 - Out-of-State Corporation
 - LLC (Limited Liability Company)
 - LLP (Limited Liability Partnership)
8. **Date of Incorporation / Formation** – Date the business was started or incorporated.
9. **NJ Business/Corp. No.** – Provide the NJ Business/Corp. No. if known.
10. **Total No. of Employees** – Provide the total number of employees at time of application.
11. **Registered Agent** – Out-of-state applicants must appoint a registered agent in New Jersey who will accept legal service in New Jersey.
12. **Permit to Maintain Payroll Records Outside of New Jersey** – If the business plans to keep payroll/business records outside of New Jersey, applicant must complete an Application for Permit to Maintain Payroll Records Outside of New Jersey (MW-42)
13. **Workers' Compensation Coverage** – All businesses that operate in New Jersey must have workers' compensation insurance. The expiration date must be at least 30 calendar days from date of application.
Sole proprietors, partnerships and LLCs with NO workers' compensation coverage **and** NO employees must sign a certified statement to that fact.
14. **Responsible Owners/Officers** – Provide the name of each individual with a financial interest in the business – except that if the business is a publicly traded corporation – the corporation's officers.

If the applicant business is owned by another business entity, you must still provide the names of the responsible individuals for the applicant business. If the individual owners, partners, managing members, members or corporate officers are not listed, the processing of the application will be delayed and considered incomplete.

IMPORTANT

- The names and titles of the individual owners, partners, or responsible corporate officers will be listed on the certificate of registration.
 - A certificate of registration shall not be transferable.
 - Any change to the responsible owners/officers should be noted to the Division of Wage and Hour Compliance at the time of the change.
15. **Association with Other Firms** – If at any time during the preceding five (5) years, any of the responsible owners/officers ever held an “interest” (for definition of “interest” see N.J.A.C. 12:60-7.2) in another firm which has applied for or obtained a “Public Works Contractor Registration Certificate,” the individual is required to list the name and address of company, position held, and start and end dates.

IMPORTANT: Failure to disclose associations with other firms could cause the denial, suspension, and/or revocation of the applicant’s contractor registration certificate.

16. **Alleged Violations/Debarment/Unlawful Act** – The business as well as all of the responsible owners/officers must answers questions regarding any prior prohibition or debarment from performing public work; receipt of any notice of alleged violation of any state, federal or other Labor Laws; and any allegation of any unlawful act in attempting to obtain or in the performance of a Public Contract.

IMPORTANT: Failure to disclose any prior history of alleged violations could cause the denial, suspension, and/or revocation of the applicant’s contractor registration certificate.

17. **Type of work to be Performed** – This is an optional field. Provide the North American Industry Classification System (NAICS) code that the applicant business intends to perform. The selection(s) will not limit the firm’s eligibility to perform any particular type of work.

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How long does it take to process my PWCR application?

Please allow 30 days from date of receipt to process the application. If the application is incomplete or additional information is required, it may take longer than 30 days.

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When will I receive my Public Works Contractor Registration (PWCR) certificate?

After the NJ Division of Wage & Hour Compliance receives a fully completed PWCR application and the corresponding fee, and assuming that there are no outstanding issues or violations, the Division will issue a certificate of registration within 30 days.

- If you provided a business email address, the certificate will be emailed to the business email address.
- By Mail: If you submitted your application by mail, the certificate will be mailed to the mailing address provided on the application.

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How can I check on the status of my PWCR application?

If you submitted an application online, you can check the status of your application at njportal.com/lwd/pwcr. Click on the “Check Status of a Contractor Registration Application” option and enter the confirmation number you received via email when you applied online. The status of your submission will be displayed.

You can also check the List of [Registered Public Works Contractors](#). This list includes the registration effective and expiration dates and the certificate number.

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What type of information is listed on the PWCR certificate?

The PWCR certificate will list the following information:

- Business Name
- Names and Titles of Responsible Owners/Officers*
- Registration and Expiration Dates
- Certificate Number

*Any change to the responsible owner/officers should be noted to the Division of Wage and Hour Compliance at the time of the change.

* A certificate of registration shall not be transferable.

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How do I know if my company has a current PWCR registration?

The PWCR certificate lists the registration effective and expiration dates. A certificate is mailed to the mailing address provided on the application. You may check your certificate for these dates, or you can check the List of [Registered Public Works Contractors](#). This list includes the registration effective and expiration dates and the certificate number.

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Incomplete/Missing Information – Why did I receive a notice stating my PWCR application was incomplete?

If any information on the application is incomplete, missing, or requires clarification, a notice requesting the information will be emailed or mailed to you. Your response must be in writing and can be emailed, faxed or mailed to the Contractor Registration section (see the last FAQ for contact information).

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UI/DI Tax Delinquency – Why did I receive a notice about a UI/DI tax delinquency?

All PWCR applications are reviewed for potential UI/DI (Unemployment Insurance/Temporary Disability Insurance) tax delinquencies. Contractors are responsible for contacting the Division of Employer Accounts at (609) 633-6400 Option 2, to resolve the delinquency.

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Application Denied – Why did I receive a notice stating my PWCR application was denied?

The reason(s) your PWCR application was denied is provided in the notice. Your appeal rights are also explained in the notice.

Some common reasons for denial are:

- No response to agency requests for additional/clarifying information;
- Failure to resolve delinquent UI/DI (Unemployment Insurance/Temporary Disability Insurance) taxes with the Division of Employer Accounts;
- Failure to disclose responsible owners/officers' associations with other firms;
- Failure to disclose any prior history of alleged violations;
- Failure to resolve outstanding balances on assessed violations;
- No fee submitted with application or failure to replace an invalid payment, etc.

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Notice of Intent to Revoke or Suspension – Why did I receive a notice stating that my PWCR certificate is being revoked or suspended?

The reason(s) your PWCR certificate is being revoked or suspended is provided in the notice. Your appeal rights are also explained in the notice.

Some common reasons for revocation or suspension are:

- Non-compliance with payment plans agreed to with either the NJ Division of Employer Accounts (UI/DI taxes) or NJ Division of Wage & Hour Compliance;
- Failure to disclose responsible owners/officers' associations with other firms;
- Failure to disclose any prior history of alleged violations;
- Failure to resolve outstanding balances on assessed violations;
- Failure to replace an invalid payment, etc.

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Appeal Rights – If my application is denied or if my PWCR certificate is revoked or suspended, do I have appeal rights?

Yes. If you disagree with the determination, you must send a written request explaining why you disagree and request a hearing. You may mail or fax your request (see the last FAQ for contact information). You must submit your request within 10 days of receiving the determination.

After your request for a hearing is received, you will be scheduled for a conference before a Hearing & Review Officer. Additional information about the appeal process is available at [Appeal Rights](#).

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Who can I contact if I have additional questions about Public Works Contractor Registration?

You may contact the Contractor Registration Section in the NJ Division of Wage & Hour Compliance. Office hours are Monday – Friday (excluding holidays) 8:30 am to 4:30 pm.

- Phone (609) 292-9464
- Fax (609) 633-8591
- Email: pwcr@dol.nj.gov (Include your certificate number if available.)
- Mailing Address:
NJ Dept. of Labor & Workforce Development
Division of Wage & Hour Compliance
PO Box 389
Trenton NJ 08625-0389
- Overnight Mail:
NJ Dept. of Labor & Workforce Development
Division of Wage & Hour Compliance
1 John Fitch Plaza, 3rd Floor
Trenton NJ 08611

EXHIBIT M-6

Certificate Number

Expiration Date

State of New Jersey



Department of Labor and Workforce Development

Division of Wage and Hour Compliance

Public Works Contractor Registration Act

Pursuant to Public Law 1999 Chapter 238, the Public Works Contractor Registration Act, this certificate of registration, for purposes of bidding on and engaging in public work is issued to

2005

This certificate may not be transferred or assigned
and may be revoked for cause by the Commissioner of Labor and Workforce Development.

A handwritten signature in cursive script, appearing to read "Thomas D. Carver".

Thomas D. Carver, Commissioner
Department of Labor and Workforce Development

NON TRANSFERABLE

Ex-11-0-0

EXHIBIT M-7



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PUBLIC CONTRACTS
EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE
PO Box 209
TRENTON, NJ 08625-0209

JON S. CORZINE
Governor

R. DAVID ROUSSEAU
State Treasurer

NOTICE OF ADDITIONAL MANDATORY CONSTRUCTION CONTRACT LANGUAGE

On Friday, August 28, 2009, Governor Corzine signed Executive Order No. 151 which enhances inclusion efforts for minorities and women to benefit from the New Jersey Economic Assistance and Recovery Plan and the American Recovery and Reinvestment Act of 2009 (ARRA). The Executive Order includes a provision which requires all state agencies, independent authorities and colleges and universities to include additional mandatory equal employment and affirmative action language in its construction contracts. It is important to note that this language is in addition to and does not replace the mandatory contract language and good faith efforts requirements for construction contracts required by N.J.A.C. 17:27-3.6, 3.7 and 3.8, also known as Exhibit B. The additional mandatory equal employment and affirmative action language is as follows:

It is the policy of the **NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY ("NJEDA")** that its contracts should create a workforce that reflects the diversity of the State of New Jersey. Therefore, contractors engaged by the **NJEDA** to perform under a construction contract shall put forth a good faith effort to engage in recruitment and employment practices that further the goal of fostering equal opportunities to minorities and women.

The contractor must demonstrate to the **NJEDA's** satisfaction that a good faith effort was made to ensure that minorities and women have been afforded equal opportunity to gain employment under the **NJEDA's** contract with the contractor. Payment may be withheld from a contractor's contract for failure to comply with these provisions.

Evidence of a "good faith effort" includes, but is not limited to:

1. The Contractor shall recruit prospective employees through the State Job bank website, managed by the Department of Labor and Workforce Development, available online at <http://NJ.gov/JobCentralNJ>;
2. The Contractor shall keep specific records of its efforts, including records of all individuals interviewed and hired, including the specific numbers of minorities and women;

3. The Contractor shall actively solicit and shall provide the **NJEDA** with proof of solicitations for employment, including but not limited to advertisements in general circulation media, professional service publications and electronic media; and
4. The Contractor shall provide evidence of efforts described at 2 above to the **NJEDA** no less frequently than once every 12 months.
5. The Contractor shall comply with the requirements set forth at N.J.A.C. 17:27.

To ensure successful implementation of the Executive Order, state agencies, independent authorities and colleges and universities must forward an Initial Project Workforce Report (AA 201) for any projects funded with ARRA money to the Division of Public Contracts EEO Compliance immediately upon notification of award but prior to execution of the contract.

If you have questions or require additional information, please contact the Division at 609-292-5473.

EXHIBIT M-8



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**State of New Jersey
Executive Order #11
Governor Jon S. Corzine**

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WHEREAS, New Jersey is a national leader in promoting energy efficiency, renewable energy, and environmental protection and is dedicated to reducing energy usage, which decreases emissions of greenhouse gasses and improves the health and welfare of the State's citizens; and

WHEREAS, increasing greenhouse gas emissions have been documented to result in global warming that is causing a rise in sea level, which in turn will affect the natural resources of the 127 miles of New Jersey's coast and negatively impact billions of dollars of existing infrastructure; and

WHEREAS, New Jersey State government controls hundreds of buildings throughout the State and spends nearly \$128 million annually on energy for its various facilities; and

WHEREAS, establishing the position of Director of Energy Savings within the Department of Treasury will assist in reducing the State's energy expenses and benefit the environment; and

WHEREAS, reducing energy usage through energy efficiency and increased use of renewable energy will improve the State's economy by exerting downward pressure on natural gas prices and otherwise lowering the cost of energy, creating local jobs, and stemming the flow of energy dollars to out-of-state entities; and

WHEREAS, energy savings and environmental protection gains can be achieved through changes in the purchasing patterns of State government, which wields considerable purchasing power; and

WHEREAS, the increased purchase of energy efficient, less toxic, and recycled products and services by State government is considered one of the best ways to bolster these markets, as well as the economic viability of New Jersey; and

WHEREAS, State government should assume a leadership role in promoting the

efficient use of energy and natural resources in the interest of long-term protection and enhancement of our State's natural beauty;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby created within the Department of Treasury the position of Director of Energy Savings. The Director of Energy Savings shall be appointed by the Governor and shall report to the Treasurer.
2. The Director of Energy Savings shall be responsible for implementing a program to increase energy efficiency, reduce energy usage, and improve the procurement of energy for all State facilities. Specifically, the Director of Energy Savings shall:
 - a. Oversee energy audits to be conducted at State buildings, centers, and facilities and subsequent implementation of the recommendations contained in the audits in the most cost-effective manner available. These audits shall, at a minimum, analyze energy efficiencies and the feasibility of installing on-site renewable energy systems that can be cost-effectively implemented with a 10-year payback period;
 - b. Provide an annual report to the Governor outlining the environmental results and cost savings to the State;
 - c. Take the action necessary to enable the State to partake in the bulk purchase and energy contract program to maximize the State's purchasing power;
 - d. Assist in implementing the procurement practices set forth in this Order;
 - e. Work with the Economic Development Authority, the Office of Economic Growth, the Commission on Science and Technology, and the Board of Public Utilities to develop a plan for promoting economic development around renewable energy and advanced energy technologies;
 - f. Coordinate with the agencies that own, lease, occupy or maintain State buildings to implement immediate energy efficiency practices;

- g. Evaluate and determine whether the State should participate in the Board of Public Utilities' Clean Power Choice program; and
 - h. Review the current State vehicle fleet, within the context of current federal and State standards, to determine whether more fuel efficient vehicles may be purchased.
- 3. All State departments, authorities and instrumentalities with purchasing or procurement authority (hereinafter, "State agencies") shall select ENERGY STAR energy-efficient products when acquiring new energy-using products or replacing existing equipment. The Director of the Division of Purchase and Property in the Department of Treasury (hereinafter, the "Division of Purchase and Property") shall issue standards and guidelines to implement this requirement. For products that do not have ENERGY STAR labels, State agencies shall follow guidelines established by the New Jersey Clean Energy Program.
- 4. Each State agency shall appoint or reappoint, within 30 days of the effective date of this Order, a coordinator from the agency procurement staff who will be responsible for coordinating with the Director of Energy Savings and the Division of Purchase and Property for the procurement by the State agency of energy, energy efficient products and equipment, renewable energy products, recycled products, low toxicity products and alternatives to products that contain mercury, lead, or other persistent bioaccumulative toxics (PBTs), and other products manufactured through environmentally sustainable methods. The coordinator's responsibility is to ensure agency compliance with the provisions of this Order. Those State agencies with independent procurement authority shall consult with the Division of Purchase and Property as well as the Director of Energy Savings in accordance with the requirements of this Order to ensure statewide adherence hereto.
- 5.
 - a. For the purposes of this section, "competitive" means of comparable quality and available at a price no more than 15% above the price arrived at through competitive bid, and "Addendum" means the Addendum to this Order which is incorporated herein by reference.
 - b. Each State agency shall, when purchasing products in the product categories set forth in the Addendum, purchase the recycled products listed in the Addendum, provided the recycled products are

competitive. In connection with such purchases, consideration shall be given to recycled products containing the highest percentage of post-consumer waste material.

- c. Each State agency shall print all publications and documents, including those publications and documents printed under the supervision of the State agency, on recycled paper, unless the State agency cannot procure a sufficient quantity of competitive recycled paper. The phrase "printed on recycled paper," "recycled paper" or words or symbols to that effect should be imprinted on the publication or document.
 - d. State agencies shall make best efforts to use both sides of the paper stock (i.e., two-sided or duplex copies) when producing or copying documents.
 - e. In all product procurements, State agencies shall make best efforts to purchase low toxicity products, PBT-free or reduced-PBT products, and other products manufactured through environmentally sustainable methods. In cases where a PBT-free alternative is not available, the State agency shall include specifications to encourage product manufacturers to take back and recycle used PBT-containing products.
6. In creating any new specification, and prior to the renewal of any expired specification, each State agency shall revise or eliminate any standards or provisions unrelated to performance that present barriers to the purchase of recycled products (e.g., unnecessary brightness standards or their equivalents for paper and paper products shall be lowered to remove any impediments that these standards may pose to the purchase of recycled paper or recycled paper products), energy efficient products, renewable energy products, low toxicity products and alternatives to products that contain PBTs, and other products manufactured through environmentally sustainable methods.
7. The Director of the Division of Purchase and Property shall have the authority to extend any existing contracts under their current terms when the Director determines such extension to be in the best interests of the State.
8. Each State agency shall submit an annual report to the Division of Purchase and Property by August 31 of each year that details the types, volume and dollar amounts of recycled products, energy efficient products, renewable energy products, low toxicity products and alternatives to products that contain PBTs, and other products manufactured through environmentally

sustainable methods purchased during the previous fiscal year. This report shall be submitted either electronically or on paper in accordance with subsections (c) and (d) of section 5 of this Order.

9. State agencies shall transition to energy efficient products and equipment, renewable energy products, recycled products, low toxicity products and alternatives to products that contain PBTs, and other products manufactured through environmentally sustainable methods as soon as possible but in a manner that avoids wasting of existing inventories and allows the phase-out of products inconsistent with this Order.
10. The Office of Clean Energy in the Board of Public Utilities and the Department of Environmental Protection shall provide technical assistance to the Director of Energy Savings, State agency coordinators, and the Division of Purchase and Property in support of implementation of this Order and shall promote innovative research and development to identify new recycled products, energy efficient products, renewable energy products, low toxicity products and alternatives to products that contain PBTs, and other products manufactured through environmentally sustainable methods to be purchased by State agencies.
11. This Order shall not apply whenever inclusion in a contract of a provision or provisions of this Order would violate the terms, conditions, or limitations of any grant, funding or financial assistance from the federal government or any agency thereof.
12. This Order shall take effect immediately.

GIVEN, under my hand and seal this 22nd day
of April, Two Thousand and Six, and of the
Independence of the United States, the Two
Hundred and Thirtieth.

/s/ Jon S. Corzine

Governor

[seal]

Attest:

/s/ Stuart Rabner

Chief Counsel to the Governor

Addendum

Construction Products – Unless otherwise noted, in accordance with United States Environmental Protection Agency’s (hereinafter “USEPA”) Comprehensive Procurement Guidelines developed pursuant to Federal Executive Order 13101:

Asphalt pavement or asphalt pavement patching materials made with recycled asphalt shingles – New Jersey Department of Transportation (hereinafter “NJDOT”) specification

Building insulation products

Carpet

Carpet cushion

Cement and concrete

Consolidated and reprocessed latex paint

Floor tiles

Flowable fill

Glassphalt – NJDOT specification

Laminated paperboard

Patio blocks

Railroad grade crossing surfaces

Reclaimed asphalt pavement (RAP) - NJDOT specification

Recycled concrete aggregate (RCA) - NJDOT specification

Recycled plastic lumber – American Society for Testing and Materials specification

Rubber modified asphalt

Shower and restroom dividers/partitions

Structural fiberboard

Landscaping Products – Unless otherwise noted, in accordance with USEPA’s Comprehensive Procurement Guidelines developed pursuant to Federal Executive Order 13101:

Garden and soaker hoses

Hydraulic mulch

Lawn and garden edging

Mulch, compost and other soil amendments made from municipal solid waste, sludge, yard waste, food waste, clean wood scrap and other organic materials – NJDEP solid waste and recycling rules

Plastic lumber landscaping timbers and posts

Nonpaper Office Products - In accordance with USEPA's Comprehensive Procurement Guidelines developed pursuant to Federal Executive Order 13101:

Binders, clipboards, file folders, clip portfolios, and presentation folders

Office recycling containers

Office waste receptacles

Plastic desktop accessories

Plastic envelopes

Plastic trash bags

Printer ribbons

Toner cartridges

Soy-based inks

Paper and Paper Products - In accordance with USEPA's Comprehensive Procurement Guidelines developed pursuant to Federal Executive Order 13101:

Commercial/industrial sanitary tissue products

Miscellaneous papers

Newsprint

Paperboard and packaging products

Printing and writing papers

Park and Recreation Products - In accordance with USEPA's Comprehensive Procurement Guidelines developed pursuant to Federal Executive Order 13101:

Park benches and picnic tables

Plastic fencing

Playground equipment

Playground surfaces

Running tracks

Transportation Products – Unless otherwise noted, in accordance with USEPA's Comprehensive Procurement Guidelines developed pursuant to Federal Executive Order 13101:

Channelizers

Delineators – NJDOT specification

Flexible delineators

Parking stops

Traffic barricades

Traffic cones – NJDOT specification

Miscellaneous Products - In accordance with USEPA's Comprehensive Procurement Guidelines developed pursuant to Federal Executive Order 13101:

Awards and plaques

Industrial drums

Manual-grade strapping

Mats

Pallets

Signage

Sorbents

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