Procurement and contracting responsibilities are a fundamental part of government. Successful implementation of these functions includes the recognition and awareness of Equal Employment Opportunities for qualified minorities and women under the law.
Public Agency Audits and Ratings

SATISFACTORY OR UNSATISFACTORY

Each year, all Public Agencies are required to submit the name, title, address, telephone number, fax, & email address of the P.A.C.O. NO LATER THAN JANUARY 10\textsuperscript{TH} OF EACH YEAR.
Mandatory Bid Advertisement Language

Public Agencies MUST include in all solicitations or advertisements for bids, the following language:

“BIDDERS ARE REQUIRED TO COMPLY WITH THE REQUIREMENTS OF N.J.S.A. 10:5-31 et seq. N.J.A.C. 17:27”

or

For Goods, Professional Service and General Services Contracts which are exempt from public bidding procedures, the Public Agency shall include in their solicitations or Request for Proposal (RFP) the following language:

“IF AWARDED A CONTRACT YOUR COMPANY/FIRM WILL BE REQUIRED TO COMPLY WITH THE REQUIREMENTS OF N.J.S.A. 10:5-31 et seq. N.J.A.C. 17:27”
## Mandatory Contract Language

### ALL GOODS, PROFESSIONAL SERVICE AND GENERAL SERVICE CONTRACTS MUST INCLUDE:

**Mandatory Equal Employment Language of EXHIBIT A**

### ALL CONSTRUCTION CONTRACTS MUST INCLUDE:

**Mandatory Equal Employment Language of EXHIBIT B**

## Mandatory Equal Employment Opportunity Language

### Exhibit A

**Goods, Professional and General Service Contracts**

### EXHIBIT A

**Mandatory Equal Employment Opportunity Language**

**M.S.A. 2000, subch. 8, art. 11, §§ 363c.301, 363c.310, 363c.313, 363c.315**

**GOODS, PROFESSIONAL SERVICE AND GENERAL SERVICE CONTRACTS**

**EXHIBIT A (Cont)

The contractor or subcontractor agrees to refrain from engaging or retaining recruitment agencies including, but not limited to, employment agencies, placement services, temporary service, and headhunter services, that discriminate on the basis of sex, race, color, national origin, religion, creed, age, handicap, disability, marital status, sexual orientation, gender identity or expression, and/or use of parental leave. The contractor or subcontractor shall refrain from engaging in the recruitment process or any other recruitment activities that discriminate in violation of the above. The contractor or subcontractor shall provide the agency with a list of all recruitment measures it employs.

The contractor or subcontractor agrees to ensure, to the extent they have actual notice of any discrimination, that all employment decisions are made without regard to race, color, national origin, religion, creed, age, handicap, disability, marital status, sex, sexual orientation, gender identity or expression, and/or use of parental leave. The contractor or subcontractor shall provide the agency with a list of all employment decisions they make.

The contractor or subcontractor agrees to ensure that all recruitment and selection activities are conducted in a manner consistent with the agency's affirmative action program and that all employment decisions are made without regard to race, color, national origin, religion, creed, age, handicap, disability, marital status, sex, sexual orientation, gender identity or expression, and/or use of parental leave. The contractor or subcontractor shall provide the agency with a list of all recruitment and selection activities they conduct and employment decisions they make.

The contractor or subcontractor agrees to include in their employment policies, a statement that all employment decisions are made without regard to race, color, national origin, religion, creed, age, handicap, disability, marital status, sex, sexual orientation, gender identity or expression, and/or use of parental leave. The contractor or subcontractor shall provide the agency with a list of all employment policies they have in place.

The contractor or subcontractor agrees to include in their recruitment materials, a statement that all employment decisions are made without regard to race, color, national origin, religion, creed, age, handicap, disability, marital status, sex, sexual orientation, gender identity or expression, and/or use of parental leave. The contractor or subcontractor shall provide the agency with a list of all recruitment materials they have in place.

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Mandatory Equal Employment Opportunity Language
Exhibit B
Construction Contracts

Additional Mandatory Construction Contract Language for State Agencies, Independent Authorities, Colleges and Universities only

- The Executive Order No. 171 (August 24, 2000) and P.L. 2001, Chapter 213 include a provision which requires state agencies, independent authorities, and colleges and universities to include additional mandatory equal employment and affirmative action language in all construction contracts.
- In the policy of the [Agency Name], it is the policy to make the contract go to the lowest bidder meeting all mandatory equal employment and affirmative action language as is required.
- The additional mandatory equal employment and affirmative action language is as follows:

Additional Mandatory Construction Contract Language
For State Agencies, Independent Authorities, Colleges and Universities Only

- In order to fulfill the mandates contained in Executive Order No. 171 (August 24, 2000) and P.L. 2001, Chapter 213, the following additional mandatory equal employment and affirmative action language must be included in all construction contracts:

1. The Contractor shall ensure that all employees and applicants are treated without regard to their race, color, religion, sex, national origin, age, or disability.
2. The Contractor shall maintain equal employment opportunity records that are accessible to the public and that are subject to review by the [Agency Name].
3. The Contractor shall comply with all applicable laws and regulations concerning equal employment opportunity.
4. The Contractor shall inform employees and applicants of their rights and responsibilities under this policy.

To ensure successful implementation of the Executive Order and Law, state agencies, independent authorities and colleges and universities must provide a copy of this form to all prime contractors and subcontractors. The monitoring program shall be initiated upon execution of the contract.
**Mandatory Affirmative Action Evidence for Goods, Professional Service and General Service Contracts (mandatory v. required??)**

THE SUCCESSFUL BIDDER IS REQUIRED TO SUBMIT TO THE PUBLIC AGENCY ONE OF THE FOLLOWING:

1. A letter from the Office of Federal Contract Compliance Program (OFCCP) indicating the vendor has an approved Federal Affirmative Action Plan. This letter is valid one year from the date of issuance.
   
   or

   
   or

3. A Completed Employee Information Report (FORM AA-302)

After notification of award, but prior to execution of a Goods, Services or Professional Services Contract, the AA evidence MUST be submitted.

---

**Affirmative Action Evidence**

<table>
<thead>
<tr>
<th>FEDERAL LETTER OF APPROVAL</th>
<th>CERTIFICATE OF EMPLOYEE INFORMATION REPORT</th>
<th>EMPLOYEE INFORMATION REPORT FORM (AA-302)</th>
</tr>
</thead>
<tbody>
<tr>
<td><img src="image1.png" alt="FEDERAL LETTER OF APPROVAL" /></td>
<td><img src="image2.png" alt="CERTIFICATE OF EMPLOYEE INFORMATION REPORT" /></td>
<td><img src="image3.png" alt="EMPLOYEE INFORMATION REPORT FORM (AA-302)" /></td>
</tr>
</tbody>
</table>

FOR GOODS, PROFESSIONAL SERVICE AND GENERAL SERVICE CONTRACTS
Required Affirmative Action Evidence for Construction Contracts

INITIAL PROJECT WORK FORCE REPORT

FORM AA-201

Construction Unit Contact Information

Department of Labor and Workforce Development
Construction EEO Compliance Monitoring Program
PO Box 209
Trenton, NJ 08625-0209
(609) 292-9550
EMERGENCY CONTRACTS

- In an emergency, a Public Agency may award a contract without an approved affirmative action program.
- Public Agency must document that an actual or imminent emergency exists, which requires it to immediately award a contract for construction or the delivery of goods and services, including professional services, and that to delay the award of the contract would endanger public health, safety, welfare or property.
- The contractor shall be required to comply with the EEO/AA regulations prior to receiving payment.
- Public Agency is also required to provide the vendor with the appropriate language (Exhibit A or Exhibit B) and obtain the proper Affirmative Action evidence.

Training Fund Requirements

- State agencies are required to allocate ½ of 1% of the total construction cost, equal to or greater than $1 million.
- State agency must forward the training funds to the department of labor and workforce development, immediately upon award of the contract.
- It must also provide the division with a training fund letter certifying that the funds have been allocated and released to the department of labor and workforce development.
Training Fund Requirements
(FOR LOCAL GOVERNMENTS)

- Local governments are also required to allocate and release training funds under P.L.2009, c.313.
- The funds are used to train minorities and women in the construction trades through the NJ build program and thereby builds a pool of qualified minorities and women for employment on public works projects.
- The division has held implementation of this law as it applies to local governments in abeyance pending attorney general advise on certain issues. For information about the NJ Build program contact the Department of Labor and Workforce Development at (609) 292-5747.

Sample Training Fund Verification Notice
for State Agencies, Independent Authorities, Colleges and Universities Only

Sample Training Fund Verification Notice
For State Agencies, Independent Authorities, Colleges and Universities Only
(Use Agency Letterhead)

Date:
Department of Treasury
Division of Purchase & Property
Contract Compliance Audit Team
RFG Monitoring Program
P.O. Box 288
Trenton, New Jersey 08625-0288

Dear [Contractor’s Name]:

Please be advised that [name of contracting agency] awarded contract totaling [amount] for construction to the [name of construction project].

In accordance with N.J.A.C. 17:37-12.1 and N.J.S.A. 10:51 and P.L. 2009, c.313 and 203, the Division of State Agency Contract Compliance and Reliability (Division) has been tasked with ensuring the release of minority and female-fronted participation and training programs in connection with contracts for the construction trades.

By this notification we have met the EEO/AA requirements with respect to the training fund allocation.

Sincerely,

[Name, PA CO]
If the results of an audit are found to be unsatisfactory, the Public Agency will be issued an advisement letter outlining the deficiencies.

If the Public Agency fails to take corrective measures, monetary penalties may be issued.
### EEO/AA Procedures in Awarding Public Contracts

<table>
<thead>
<tr>
<th>Public Agency</th>
<th>Vendor Goods, Professional Services, and General Services Contracts</th>
<th>Contractor Construction Contracts</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Include Mandatory Language in advertisements for receipt of bids, solicitation and/or request for proposals</td>
<td>Subject to Mandatory Language of Exhibit A</td>
<td>Subject to Mandatory Language of Exhibit B</td>
</tr>
<tr>
<td>- Include appropriate Mandatory Language in contracts and bid specifications</td>
<td>Selected vendors must submit one of the following forms of evidence:</td>
<td>Additional Mandatory Language EO 151 and P.L.2009, c.335 (State Agencies, Independent Authorities, Colleges &amp; Universities Only)</td>
</tr>
<tr>
<td>- Obtain Required EEO/AA evidence from vendor or contractor</td>
<td>1. Copy of Letter of Federal Approval</td>
<td>Selected construction contractors must submit the following form of evidence:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Complete Form AA-201 (Initial Project Workforce Report)</td>
</tr>
<tr>
<td></td>
<td>Or</td>
<td>Submit Form AA-202 (Monthly Project Workforce Report) once a month for the duration of the contract to the Dept. of Labor and to the Public Agency Compliance Officer</td>
</tr>
<tr>
<td></td>
<td>2. Certificate of Employee Information Report</td>
<td>EEO/AA Evidence must be submitted after notification of award, but prior to signing of the contract</td>
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<tr>
<td></td>
<td>Or</td>
<td></td>
</tr>
<tr>
<td></td>
<td>3. Complete Form AA-302 (Employee Information Report)</td>
<td></td>
</tr>
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<td></td>
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</tbody>
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### FORMS

The public agency may download the forms at the following website address:

http://www.state.nj.us/treasury/contract_compliance/forms.shtml
ACCESS TO NJ START

Public Agencies must request a View Only Access, to view if a vendor possibly has a Certificate of Employee Information Report filed with NJ Start.

This is done by sending an email request to:

NJSTARTagency.support@treas.nj.gov

Gaining access to NJ Start will allow the Public Agency to view a vendor’s Certificate of Employee Information Report (ONLY IF THAT VENDOR HAS REGISTERED WITH NJ START)

**This should ONLY be utilized as an additional tool, for double checking submission**

PUBLIC AGENCY/PROCUREMENT CONTACT INFORMATION

NJ Department of the Treasury
Division of Purchase & Property
Contract Compliance Audit Unit
EEO Monitoring Program
P.O. Box 206
Trenton, New Jersey 08625-0206
(609) 292-5473
http://www.nj.gov/treasury/contract_compliance/
QUESTIONS