



**REQUEST FOR PROPOSAL FOR THEATER  
SEAT REPLACEMENT/RENOVATION  
CONSULTING AND PROJECT  
MANAGEMENT SERVICES**



**Prudential Hall & Victoria Theater**

**Newark, New Jersey**

**July 1, 2024**

## SUMMARY

NJPAC is seeking to engage a qualified and experienced Consultant and Management firm under a consultancy agreement to study, advise, and manage the replacement/refurbishment of seats in the Prudential Hall and Victoria Theater. NJPAC is committed to diversity, equity and inclusion, and welcomes firms that share that commitment including MWBE representation.

## ABOUT NJPAC

*The New Jersey Performing Arts Center, by celebrating diversity, is America's foremost urban presenter of arts and entertainment, a creative and effective leader in arts education for children, a convener of useful and enlightening civic engagement events, and a catalyst for economic development in its home city of Newark.*

NJPAC is America's most diverse performing arts center in terms of its programming, audience and staff, and it is the cultural, educational and civic center of New Jersey. Since opening in 1997, the Arts Center has welcomed more than 11 million visitors, including over 2 million children and families, to performances, free programs, festivals, and arts education programs. NJPAC was the vision of New Jersey Governor Thomas Kean and was founded to bring world class entertainment to the State of New Jersey and to catalyze the revitalization of its home city of Newark. The Arts Center's current world-class campus features theaters and creative spaces designed to accommodate an array of programs including:

- **The Betty Wold Johnson Stage at Prudential Hall** (2,868 seats) hosts performances by world-renowned musicians, dance companies, and entertainers from the New Jersey Symphony Orchestra, to Alvin Ailey American Dance Theater, to Stephen Colbert, to major commercial and televised events.
- **The Lizzie and Jonathan Tisch Stage at Victoria Theater** (514 seats) is the premiere place for important community conversations, comedy, and theater for young audiences.
- **The Chase Room** (250 seats) is a flexible, multipurpose space for cabaret-style performances, staged theater readings, lectures, and panel discussions.
- **Chambers Plaza**, located in front of the Arts Center, welcomes thousands of audience members every summer for our signature *Sounds of the City* series of free summer concerts.

In a typical year, NJPAC produces upwards of 400 ticketed performances, 200 free events, and welcomes almost 600,000 people. NJPAC also presents multiple national tours and serves as a presenter and producer at theaters and arenas nationally.

## **PROJECT DESCRIPTION**

New Jersey Performing Arts Center (NJPAC), the anchor cultural institution for the City of Newark and State of New Jersey, is planning to renovate and/or replace seating in its Prudential Hall and the Victoria Theater. After years of use, many seats exhibit various signs of damage, consistent with natural wear and tear. Existing damages include worn/chipped hardwood, chipped veneers, stains, noisy hinges, loose or broken parts, tearing of fabric, compressed cushions, etc.

The Prudential Hall contains 2,868 seats, as well as loose seating, and approximately 2,500 seats that have one or more areas of damage. The Prudential Hall is divided into four tiers and tier boxes, Grand Tier seating, Orchestra seating, and Pit Lift seating.

The Victoria Theater contains 514 seats, as well as loose seating, and approximately 460 seats that have one or more areas of damage. The Victoria Theater has seating in Balcony, Upper and Lower Lodges, as well as a Center and Side Orchestra.

Our initial work plan estimates a total project budget, inclusive of soft costs and ancillary improvements of \$4M.

## **PROJECT SCOPE**

NJPAC envisions that the work of the Consultant breaks down into the following phases:

1. Initial Site Evaluation:

The initial site evaluation will include a discussion with the NJPAC team and an inspection of the existing conditions of the current seating in the Prudential Hall and Victoria Theater. Site evaluation may also include inspection for possible replacement of Gala Lift in the Prudential Hall as well as potential floor refinishing.

Deliverable: A Summary of Findings based on the site visit should outline the specific location of seats that require refurbishment as well as a detailed survey of specific outstanding damages (using seating layouts and previous seat surveying provided by NJPAC for reference, marking up areas that may require more attention). Discussion with NJPAC regarding the possibilities of Gala Lift replacement and floor refinishing must also take place.

2. Design Services:

The Consultant shall provide, either directly or through a subcontract, any and all design services, drawings, etc. necessary to advance the project through completion. These designs will be used in conjunction with any surveying to form recommendations in determining the most appropriate solutions for the existing damaged conditions.

Deliverable: Accurate surveying and design that outlines individual seats and their specific damages. This is to be presented to NJPAC in an effort for the Consultant to form a Recommendation Report.

3. Recommendations:

Using the summary of findings report as a basis, the Consultant is expected to provide a Recommendation Report laying out options to NJPAC for either refurbishment or replacement, and/or some combination thereof. Recommendations presented should outline the best potential courses of action, considering the condition of the seats. Any of the replacement seats must be designed to meet the same specifications, colors, layout, and necessary attachments (i.e. aisle lights on specific seating, existing name tags, and HVAC coordination of the seats) of the existing. Furthermore, the seats should meet AHJ requirements and ADA compliance.

Deliverable: A Recommendation Report that includes an Order of Magnitude Cost analysis of the various replacement/refurbishment options. Additionally, a necessary timeline shall be presented to NJPAC that includes the most effective and efficient options for time of installation to determine any potential changes in event scheduling that may need to be made at NJPAC to accommodate for seating renovations and/or replacement.

4. Procurement - Bid Process - Selection of Vendor(s) & Contractor:

Once a final decision is reached regarding the options, the Consultant will assist in the solicitation of qualified vendor(s), facilitation of the bidding process including synthesizing RFP responses from bidders, creating an RFP on the Consultant's behalf that includes the bidders' responses and negotiation to carry out the project.

Deliverable: NJPAC selects and executes a Purchase Order with the most qualified vendor(s) using the Consultant's RFP for reference.

5. Project Management:

The Consultant shall oversee the timely delivery and refurbishment/installation of the theater seats from planning through completion. This will include scheduling of the work and coordination of any cooperating parties, NJPAC's project staff, and any other persons/entities on the site, so that the work may be accomplished timely and efficiently, and with minimum inconvenience to the surroundings, coordinating the installation of material, and equipment.

Deliverable: All seats deemed damaged are either repaired or replaced and meet the same specifications, colors, lighting/name tag attachments, and layout of the existing, thus, making the project complete.

## **REFERENCES**

NJPAC had previously commissioned Consultants to perform seating condition assessments for both the Prudential Hall and Victoria Theater. These surveys may be used as a reference for this project, however they are not up to date and thus requires new surveying to be conducted to determine the present condition of the seats. See attached documents for previous surveys and seating inventory.

## **PROJECT TIMELINE**

The timeline for this project will be separated into three components: the Consultant Procurement, the Consultant Work Product, and the Construction/Construction Administration. The Consultant Procurement component will take 90 days and is estimated to be complete by September 2024. The Consultant Work Product is estimated to be two years in duration with a completion date of September 2026. This includes the installation recommendations which is estimated to take 90 days (completed by December 2024) as well as the seating design, procurement and fabrication which is estimated to take 360 days (completed by January 2026). Following the Consultant Work Product, it is NJPAC's goal to complete the facilitation of the Construction and Construction Administration by September 2026, allowing for an additional 180 days.

## **INSTRUCTIONS FOR BIDDING**

Prior to the bidding process, the Consultant shall engage in an on-site meeting with staff members of NJPAC to review the site and site conditions. Additionally, a pre-bid meeting will be required for further discussion to ensure efficiency and qualification going into the procurement and bidding process. The cooperating Consultant should coordinate the project's procurement

process and the fixed seating bidding/negotiation. Continuous communication with NJPAC regarding the bidding process is required. Deliverables include, but are not limited to:

- RFI responses as required
- Evaluate suitability of seating manufacturers
- Coordinated General Contractor selection with NJPAC if required.
- Supplemental information and addenda as required
- Review and comment on bid proposals
- Meeting New Jersey Economic Authority's Green Building standards as applicable (attached)

## **GENERAL INFORMATION**

1. Statement of the firm's Qualifications and Proposals ("SOQ/P") must be received no later than July 29, 2024 at 12:00 PM. Please submit the SOQ/P via email to Tim Lizura (tlizura@njpac.org) and mail three (3) hard copies at the address below.
2. SOQ/P must be addressed to:  
Tim Lizura, EVP, Real Estate  
New Jersey Performing Arts Center  
1 Center Street  
Newark, NJ 07102

## **SUBMISSION REQUIREMENTS**

1. Cover Letter (1 page): A summary of the firm's qualifications and experience most relevant to this project. Please also identify the key contact person (name, address, telephone number and email address).
2. Firm Description (3 pages maximum)
3. Relevant Project Examples (Please provide up to 3 examples, 6 page maximum in total). Please include
  - a. Name, location, client, completion date.
  - b. Program and scope.
  - c. Size and final cost.
  - d. Proposed Team: Please provide a list, including names, titles, short description of roles, and resumes of all key team members .) who will work on the project.
  - e. References with contact information

4. Fee quote for consulting services based on each phase and on an hourly basis for each assigned staff member and an overall not to exceed price for the duration of the assignment.
5. Comprehensive breakdown of all anticipated necessary and optional fees.

## **SELECTION CRITERIA**

The selected firm will be based on experience, qualifications, fees, alignment with NJPAC's commitment to diversity, equity and inclusion, including MWBE representation. All firms must be licensed to perform the services in the State of New Jersey. Any firm or its representative that attempts to contact any owner's official or member of its governing board, employee, or representative/agent in any manner for the purposes of influencing this procurement may, at the Owner's sole decision, disqualify the firm from further consideration.

Stage
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O R C H E S T R A

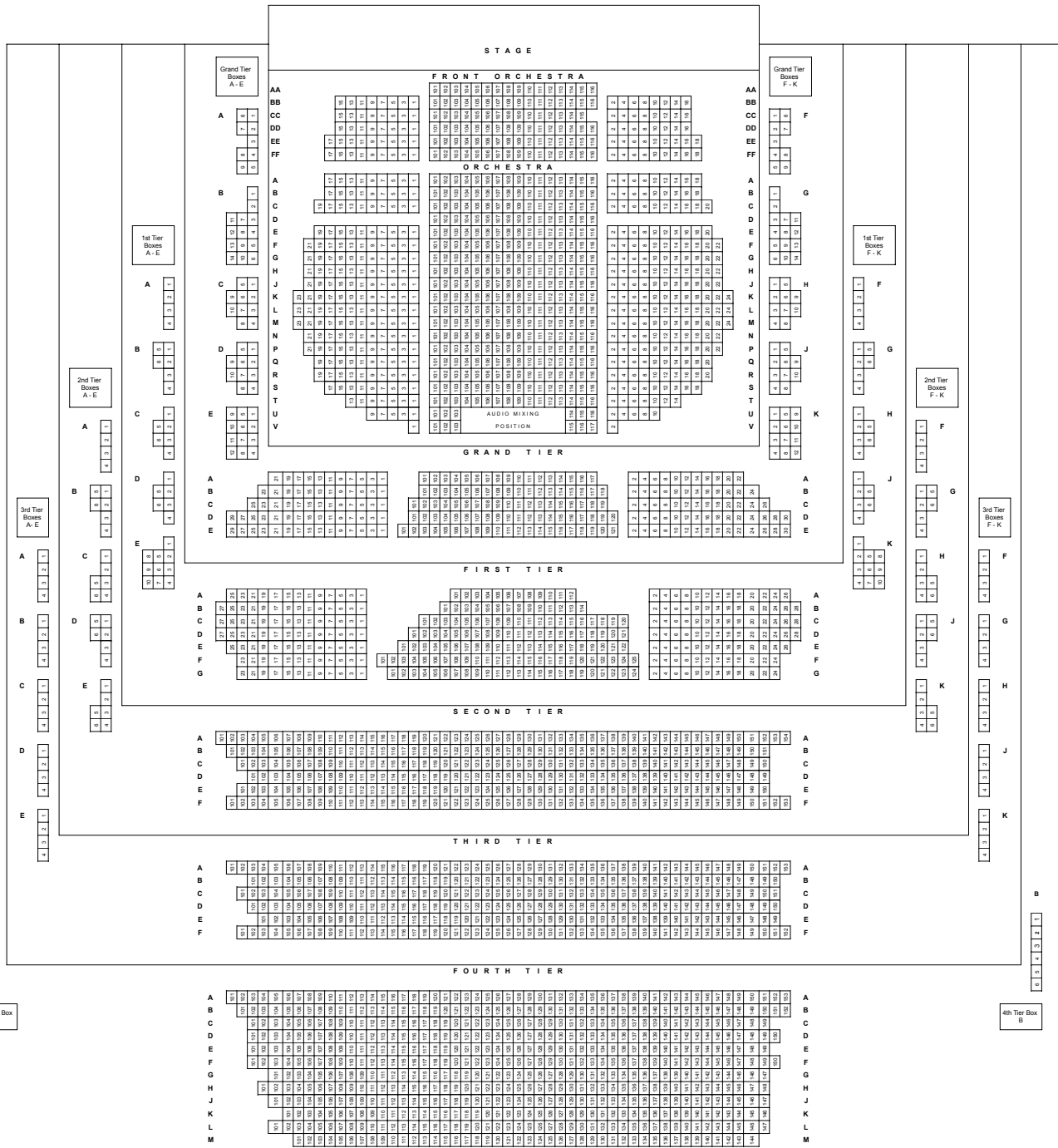
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**No Standing or Crossing**



PRUDENTIAL HALL



# Green Building Standards

GUIDANCE FOR POTENTIAL ASPIRE AND EMERGE INCENTIVE APPLICANTS

NJEDA

UPDATED: 2021

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## Green Building Standards Guidance for Potential Aspire & Emerge Incentive Applicants (Updated 2021)

*The below information is intended to be plain language guidance as to the process NJEDA uses to evaluate compliance with green building standards. For specific questions regarding this process or for more information on specific green building requirements for your project, please contact [greenbuilding@njeda.com](mailto:greenbuilding@njeda.com)*

### **Background**

The enabling acts establishing the Aspire and Emerge Programs require any applicant seeking incentive grants for redevelopment projects under these programs to certify that the project was designed and built to green building standards.

Given the fact that Aspire and Emerge were expanded under the Economic Recovery Act of 2020 to allow for a greater degree of variation in the projects that are eligible for these incentives, EDA has established a flexible menu of options that applies the best practice principles of the NJ Green Buildings Manual to the applicant's specific type of project.

Potential applicants should understand going into the application process that these standards exist and, depending on the scope of the project, compliance with green building standards can impact overall project cost. **Therefore, it may be in the applicant's best interest to review this information with a design professional as early in the process as possible for guidance as to how the requirements will impact overall project cost and implementation.**

### **Identifying a Project Type**

Given that green building standards differ depending on the scope of the project, during the application stage, the applicant will be asked to identify the specific project type (1 or 2, see below) that best applies to the scope of construction and which will drive capital investment costs. Please note that EDA staff will not recommend any project for EDA Board approval until a project type has been clearly identified on the program application.

The **project classification types** are as follows:

**Type 1:**

*Construction consisting of 50% or more of the building's value and/or square footage*

- **New Construction**
- **Reconstruction** – Commonly referred to as a “gut rehab” this includes extensive work involving the interior of a building, floor or tenant space to the degree that the work area cannot be occupied while the work is in progress, and where a new certificate of occupancy is required before the work area can be reoccupied. This does not include projects comprised only of floor finish replacement, painting, wall-papering, or the replacement of equipment or furnishings.

**Type 2:**

*Construction consisting of 50% or less of the building's value and/or square footage*

- **Renovation** – Work that is generally restorative in nature and involves the use of different materials. Examples include: replacement of interior finish, trim, doors, or equipment. Renovation does not involve the reconfiguration of space. Renovation also includes the replacement of equipment or fixtures.
- **Alteration** – Work that involves a change in layout of interior space while other portions of the space remain without rearrangement. For example, the rearrangement of any space by the construction of walls or partitions, the addition or elimination of any door or window, the extension or rearrangement of any system, the installation of any equipment or fixtures, or any work which affects a primary structural component.

For projects scopes considered “equipment only,” project teams must submit a letter signed by CEO (or equivalent) along with a project narrative and schedule of values clarifying the scope of work for the project to be reviewed for exemption from the green building standards stipulated above.

## **Basic Application of Standards**

For all Type 1 Projects: *Table 1: Applicable Standards for Type 1 New Construction/Major Reconstruction Project - page 7*

For all Type 2 Projects: *Table 2: Minimum Required Standards for Type 2 Renovation/Alteration Project – page 11*

**NJEDA will review for green building compliance at two (2) stages for every project; Pre-Development and Post-Construction.**

### **Submitting for a Pre-Development Review**

Upon Incentive application approval, EDA will require that a project's specific green building plan be submitted the sooner of six (6) months following application approval (when the first project update is due,) or upon the applicant's request for a grant agreement. **However, the plan must be submitted no later than the end of "Schematic Design" so green building elements can be incorporated into the design appropriately.** The plan is to be submitted via email to [greenbuilding@njeda.com](mailto:greenbuilding@njeda.com) with the name of the project in the subject line. The email should include the following information:

- NJEDA P #:
- Classification as described above (i.e.: New Construction, Reconstruction, Renovation or Alteration):
- Pre-Development or Post-Construction Review:
- Technical Contact Info (Owner, Architect/Engineer):
- Project Location(s):

All green building plans should include the following components:

1. A letter from the Applicant (on letterhead) outlining the project size and scope, plus a commitment to their specific standards based on project classification.
2. A signed and sealed letter (please rub lead on the seal so it's visible when scanning) from a licensed design professional outlining the scope of work for the project including the following:
  - a. Type of project (New Construction, Reconstruction, Renovation or Alteration as described above) with square footage of the project (and how the project relates to the overall building size – if applicable).
  - b. Identify which approved path of green building compliance the applicant is proposing (i.e., LEED Silver or % better than ASHRAE 90.1).
3. Comprehensive construction budget
4. The compliance documentation identified in the chart(s) below.

The submission of this green building plan along with the backup documentation identified in the chart below will start the Pre-Development Review process.

During this Pre-Development Review, EDA will evaluate the project specific green building plan for compliance with the referenced standards applicable to that specific project type. EDA will then either approve the plan or advise applicants as to the most applicable plan amendments to satisfactorily meet the standards. Should an applicant request a “preliminary” Pre-Development approval, a letter would be required from the applicant (on letterhead) clearly identifying a commitment to an approved metric in which the project’s performance shall be measured against. Once the required documentation demonstrating compliance with the identified metric (i.e., an energy model or COMcheck calculations) is available and ready for review, the applicant can submit for “final” Pre-Development Review. Once all submissions have been reviewed and approved, a project will receive an approved review letter clearly stating that project has met the pre-development green building requirements of the program.

Project design documents should not be finalized by the applicant until EDA has reviewed and approved the green building pre-development plan.

EDA’s Green Building staff are available at this stage to review the green building pre-development plan. However, applicants are advised to channel questions and information through their design professional charged with planning and executing the plan.

#### **Submitting for a Post-Construction Review for Final Certification**

Once EDA approves the green building pre-development plan, **the applicant will be expected to execute the plan as approved.** To ensure the plan was executed as approved, EDA will minimally require a signed and sealed letter from the licensed design professional certifying that the as-built project meets the specifications of the approved plan and all green building measures identified are actually installed and/or implemented. Additional required documentation will be outlined in the approval letter based on predevelopment submission. Refer to the chart below for requirements for each measure.



**Table 1: Applicable Standards for Type 1 New Construction/Major Reconstruction Projects**

Category	Project Type	Standard	Acceptable Measure	Pre-Development Review in addition to Green Building Plan	Proof of Compliance for Post-Construction Review
Commercial	New Construction or Reconstruction	U.S. Green Building Council (USGBC) Leadership in Energy and Environmental Design (LEED)	Minimum Silver for all USGBC-LEED rating systems	LEED Scorecard identifying at least 50 points and proof of project registration from GBCI. If project will not be registered and pursue actual certification, the applicant should clearly identify this approach in the green building plan.	Signed and sealed letter from the licensed design professional indicating construction is complete and in accordance with the approved green building plan and final LEED scorecard <b>OR</b> final LEED scorecard and award certificate indicating a minimum of Silver level. Should the project not actually receive certification but complied with all of the prerequisites and implemented green building strategies equivalent to at least 50 points, the applicant should submit compliance documentation with such prerequisites and credits just as the team would have been uploaded to LEED.
Commercial	New Construction or Reconstruction	American Society of Heating, Refrigerating and Air-Conditioning Engineers	Whole Building Energy Simulation verifying 5% (commercial) or 15% (multi-family) above ASHRAE 90.1-2016	Signed and sealed energy model summary results clearly identifying efficiency percentage over the referenced standard.	Signed and sealed letter from the licensed design professional indicating construction is complete and in accordance with the approved green building plan

Category	Project Type	Standard	Acceptable Measure	Pre-Development Review in addition to Green Building Plan	Proof of Compliance for Post-Construction Review
Commercial	New Construction or Reconstruction	New Jersey Board of Public Utilities Pay for Performance	New Jersey BPU Pay for Performance. Minimum 5% above ASHRAE 90.1-2016	New Jersey Board of Public Utilities Pay for Performance Application and/or Energy Reduction Plan (ERP) from an approved Pay for Performance Provider. If project will not actually participate in the P4P Program, the applicant should clearly identify this approach in the green building plan along with P4P formatted ERP.	New Jersey Board of Public Utilities Pay for Performance Application. Should the project not actually submit for P4P, the applicant shall submit a signed/sealed letter from the licensed design professional indicating construction is complete and in accordance with the approved green building plan.
Commercial	New Construction or Reconstruction	American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE)	Standard 189.1-2014	Energy model and Identification of Mandatory Provisions	Proof of compliance with the mandatory provisions. Signed and sealed letter from the licensed design professional indicating construction is complete and in accordance with the approved green building plan.
Commercial	New Construction or Reconstruction	International Green Construction Code (IGCC) - 2015	Choose minimum of 15 electives from the Jurisdictional and/or Project Electives	Energy Model and Completed IGCC Table 302.1 and/or Table A103.2	Signed and sealed letter from the licensed design professional indicating construction is complete and in accordance with the approved green building plan.

Category	Project Type	Standard	Acceptable Measure	Pre-Development Review in addition to Green Building Plan	Proof of Compliance for Post-Construction Review
Residential/ Mixed Use	New Construction/ Reconstruction	LEED, Home Energy Rating System (HERS), and/or EPA Energy Star	Development projects can pursue LEED ND (Silver) or choose an identified EPA Green Building Standards Guidance compliance path for individual buildings within a development project. Residential projects (single or multifamily) within a mixed- use project, HERS 75 or less. If more than 50 percent of the project is residential, than utilize Energy Star Homes or Energy Star Multifamily, otherwise utilize Energy Star Commercial score of 75 or better	<p>LEED: Scorecard identifying at least 50 points and proof of project registration from GBCI. If project will not be registered and pursue actual certification, the applicant should clearly identify this approach in the green building plan.</p> <p>AND/OR</p> <p>HERS: Letter from RESNET provider confirming eligibility and engagement</p> <p>AND/OR</p> <p>EPA: Screen shot of Portfolio Manager with project's status</p>	<p>LEED: Signed and sealed letter from the licensed design professional indicating construction is complete and in accordance with the approved green building plan and final LEED scorecard <b>OR</b> final LEED scorecard and award certificate indicating a minimum of Silver level. Should the project not actually submit for actual certification but complied with all prerequisites and implemented green building strategies equivalent to at least 50 points, the applicant should submit compliance documentation with such prerequisites and credits just as would have been uploaded to LEED Online.</p> <p>AND/OR</p> <p>HERS: Certificate</p> <p>AND/OR</p> <p>EPA: Energy Star Certificate</p>

<b>Category</b>	<b>Project Type</b>	<b>Standard</b>	<b>Acceptable Measure</b>	<b>Pre-Development Review in addition to Green Building Plan</b>	<b>Proof of Compliance for Post-Construction Review</b>
Commercial/ Residential	New Construction or Reconstruction	International Living Future Institute	Net Zero Building Energy Certification	Proof of registration	Net Zero Building Energy Certification
Residential	New Construction or Reconstruction	NJ Housing and Mortgage Finance Authority (NJ-HMFA) and NJ Department of Community Affairs (NJ-DCA)	Residential projects that are utilizing affordable housing subsidies offered by NJ-HMFA and NJ-DCA are already required to conform to green building standards which meet the statutory requirement.	NJ Housing and Mortgage Finance Authority (NJ-HMFA) and NJ Department of Community Affairs (NJ-DCA) projects follow a separate and individual process outside of the green building standards review	HMFA final green building approval
Residential/Mixed Use	New Construction or Reconstruction	National Green Building Standard	National Green Building Standard	Proof of registration and NGBS Green Scoring Spreadsheet	NGBS Green certificate or the checklist
Residential/ Commercial	New Construction or Reconstruction	Passive House Institute US	Passive House Institute US Certification	Proof of registration	Passive House Institute US Certification

## Guidance for Type 2 Projects

Table 2 below outlines the minimum green building requirements for all Type 2 projects considered an Alteration or Renovation, that are less than 50% of the building's value and/or square footage and fitting the project type criteria. These requirements are intended to give clear guidance to program participants, provide a consistent level of expectation throughout varying project types and reduce complications during the compliance review process. As noted in submission section, project teams must submit a construction budget & scope of work narrative outlining the minimum proposed standards and any additional green measures the project intends to pursue that address, but not limited to, the following areas of sustainability:

- Energy & Water Efficiency
- Indoor Air Quality Management
- Fundamental Commissioning
- Construction & Demolition Waste Management
- Occupancy Sensors
- Daylighting
- Innovative Measures

### NOTES

1. Because of the variability in scope of work for each approved TYPE 2 project, not every category outlined below will/may be incorporated into every project. However, if the scope of work addresses one, any, or all categories listed in Table 2, project must adhere to the required measure.
2. LEED-CI Minimum Silver Certification will fulfill all prerequisites and requirements for TYPE 2 green building program approval

**Table 2: Minimum Required Standards for Type 2 Renovation/Alteration Project**

<b>Category</b>	<b>Project Type</b>	<b>Standard</b>	<b>Acceptable Measure</b>	<b>Pre-Development Review in addition to Green Building Plan</b>	<b>Proof of Compliance for Post-Construction Review</b>
Energy Efficiency	Newly installed lighting improvements including fixtures, ballasts and/or other electrical equipment	American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE)	Minimum 5 percent energy improvement over ASHRAE 90.1-2016	COM Check or energy model signed & sealed by project design professional	Signed and sealed letter from the licensed design professional indicating construction is complete and in accordance with the approved green building plan.
Energy Efficiency	Newly installed heating, ventilation, air conditioning & water heating equipment	American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE)	Minimum 5 percent energy improvement over ASHRAE 90.1-2016	COM Check or energy model signed & sealed by project design professional	Signed and sealed letter from the licensed design professional indicating construction is complete and in accordance with the approved green building plan.
Energy Efficiency	Appliance	EPA Energy Star	Energy Star Labeled	Spec Sheet highlighting compliance	Signed and sealed letter from the licensed design professional indicating construction is complete and in accordance with the approved green building plan.

Category	Project Type	Standard	Acceptable Measure	Pre-Development Submission	Proof of Compliance for Post Construction Review
Water Efficiency	Toilets	1.6 Gallons per flush	In aggregate, 20% better than baseline standard	LEED v4 Indoor Water Use Reduction Calculator	Signed and sealed letter from the licensed design professional indicating construction is complete and in accordance with the approved green building plan.
	Urinals	1.0 gpf			
	Public Lavatory Faucet	2.2. gpm@60psi			
	Kitchen Faucet	2.2 gpm@60psi			
Low Emitting Materials	Interior Wet Applied Paints	VOC Content Requirements for Wet Applied Products	Must meet the applicable VOC limits of the California Air Resources Board (CARB) 2007	Spec Sheets highlighting compliance	Signed and sealed letter from the licensed design professional indicating construction is complete and in accordance with the approved green building plan.
Low Emitting Materials	Interior Adhesives/ Sealants	VOC Content Requirements for Wet Applied Products	Must meet the applicable chemical content requirements of SCAQMD Rule 1168, July 1, 2005, Adhesive and Sealant Applications	Spec Sheet highlighting compliance	Signed and sealed letter from the licensed design professional indicating construction is complete and in accordance with the approved green building plan.
Low Emitting Materials	Carpet Flooring	VOC Content requirements	CRI Green Label Plus	Spec Sheets highlighting compliance	Signed and sealed letter from the licensed design professional indicating construction is complete and in accordance with the approved green building plan.



## **New Jersey Economic Development Authority (NJEDA)**

### **Labor Compliance Department**

### **Prevailing Wage (PW) & Affirmative Action (AA) Pre-Construction Packet**

All forms can be found online at:  
[Labor Standards Compliance - NJEDA](#)

This packet is intended as a guide for 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 and PW and AA projects.

<b>NJEDA Contractor Portal Registration and NJDOL Debarment Status</b>	
1.	Web Portal & Contractor Registration - Instructions
2.	Current NJ Debarment List: <a href="#">Wage and Hour Compliance</a>   <a href="#">Debarment List (nj.gov)</a>

<b>PW and AA Pre-Construction Packet</b>	
3.	Contractor Registration Act
4.	Custom Fabrication Law
5.	Mandatory Contract Language; NJ Prevailing Wage*
6.	Mandatory Contract Language; Affirmative Action
7.	PW & AA Addendum to the Construction Contract (Business Entity Receiving Financial Assistance & GC/Prime/CM and Landlord)
8.	PW & AA Addendum to the Construction Contract (GC/Prime/CM and Subcontractors)
9.	County Goals for Minority and Women Participation
10.	AA FORM 1: Initial Construction Project Workforce Report
11.	AA FORM 2: Monthly Project Workforce Report
12.	Certified Payroll Report
13.	Sample Referral Letters for Good Faith Efforts (GFE)
14.	NJ Law Prohibits Discrimination in Employment Labor Poster
15.	PW & AA Completion Certificate
16.	Sample Contractor Release Letter

<b>For Informational Purposes Only</b>	
17.	Employee Misclassification (Employee vs. Independent Contractors)

**PW & AA Requirements for Construction projects can be found on the NJEDA's Website at:**  
[Labor Standards Compliance - NJEDA](#)

**\*Information about the Economic Recovery Act:**  
[New Jersey Economic Recovery Act - NJEDA](#)





# New Jersey Economic Development Authority (NJEDA)

## Labor Compliance Department

### Affirmative Action (AA) & Prevailing Wage (PW) Contractor Web Portal

As of January 1, 2015, General Contractors are required to submit all mandatory NJEDA Labor Compliance Documents via the Contractor Web Portal.

Web Portal Address: <https://aaonline.njeda.com>

#### Mandatory NJEDA Labor Compliance Documents

- NJEDA Affirmative Action & Prevailing Wage - Addendum to Construction Contract Signature Page:
    - Business Entity Receiving Financial Assistance and General Contractor
    - General Contractor and each Subcontractor (all tiers)
    - Business Entity Receiving Financial Assistance, Landlord, and General Contractor (if applicable)
      - Contractor Registration Certificate for the General Contractor and each Subcontractor (all tiers)
  - NJEDA AA Form 1: Initial Construction Project Workforce Manning Report\*
  - NJEDA AA Form 2: Monthly Project Workforce Report\*
  - Certified Payroll Reports
  - Good Faith Effort (GFE) Referral Letters
- \* Electronic Submissions completed within the Contractor Web Portal – not uploaded

**NOTE:** Uploading of Certified Payroll Reports does not apply to Hurricane Sandy construction projects. Please contact the Sandy compliance officer for instructions.

#### Instructions for the PW and AA Contractor Web Portal

**REGISTRATION:** (Only for Contractors who do not already have an account)

1. Go to <http://aaonline.njeda.com>
2. Click on the box “REGISTER FOR AN ACCOUNT” located on the upper right-hand side
3. Read the Agreement page and click “Accept”
4. Fill in your information on the REGISTER FOR ELECTRONIC SUBMISSION page then click SUBMIT
5. Following your submission, you will receive an email notification with your logon information (which will be your email address) and a Temporary Password. Log back in with the temporary password and change your password

#### UPLOADING DOCUMENTS:

- 1) Go to <http://aaonline.njeda.com>
- 2) Log in to the Web Portal using your email address and Password
- 3) Click on the grey box “UPLOAD Document” located on the upper right-hand side
- 4) Select what type of document you would like to upload and press continue
- 5) Please note that all contractors (all Tiers) **AWARDED ON OR AFTER April 1, 2020** on an NJEDA project are required to be registered with DOL as a Public Works Contractor. All Contractors are required to provide their Contractor Registration Certificate (CRC) via the Portal. More information about this can be obtained by going to the DOL website: [Wage and Hour Compliance | Register with the Department \(nj.gov\)](#)
- 6) Select the AAPWR number after clicking the down arrow; or if the project number does not appear, please type in the number in the given box

\*\*If you do not know your AAPWR Number contact your EDA Compliance Officer\*\*
- 7) As prompted for each compliance document type, enter Subcontractor's name
- 8) Click Select and navigate to the file you wish to upload, **ALL** documents must be submitted in Adobe PDF format
- 9) Click “Upload File”
- 10) Use the “Click here” to continue to upload more documents or if you are finished click “Logout”

## **N.J. Stat. § 34:11-56.48**

Current through New Jersey 220th Second Annual Session, L. 2023, c. 150 and J.R. 12

**LexisNexis® New Jersey Annotated Statutes > Title 34. Labor and Workers' Compensation (Chs. 1 — 21) > Chapter 11. Wages (Arts. 1 — 4) > Article 2C. [Public Works Contractor Registration] (§§ 34:11-56.48 — 34:11-56.57)**

### **§ 34:11-56.48. Short title**

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This act shall be known and may be cited as “The Public Works Contractor Registration Act.”

### **History**

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L. [1999, c. 238](#), § 1, eff. April 11, 2000.

Annotations

### **Notes**

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#### **Effective Dates:**

Section 11 of L. [1999, c. 238](#) provides: “This act shall take effect on the 180th day after the date of enactment, but the Commissioner of Labor shall take such anticipatory administrative action in advance as shall be necessary for the implementation of the act.” Chapter 238, L. 1999, was approved on October 14, 1999.

### **Research References & Practice Aids**

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#### **Cross References:**

Prevailing wage rates on construction contracts, see [18A:7G-23](#).

Submission of sworn contractor certification; requirements, see [18A:7G-37](#).

Implementation of energy savings improvements program by board of education; definitions, see [18A:18A-4.6](#).

State, county college may enter into certain contracts with a private entity, see [18A:64-85](#).

Implementation of energy savings improvement program by public institution of higher education; definitions [Effective until July 1, 2013], see [18A:65A-1](#).

Definitions relative to suspension, revocation of certain employer licenses, see [34:1A-1.11](#).

## § 34:11-56.48. Short title

Noncompliance, rescinding of registration, see [34:8-76](#).

Registration required for contractors, subcontractors, see [34:11-56.51](#).

Implementation of energy savings improvement program by contracting unit; definitions, see [40A:11-4.6](#).

Implementation of energy savings improvement program by State contracting agency; definitions, see [52:34-25](#).

Implementation of energy savings improvement by public agency; definitions, see [52:35A-1](#).

**Administrative Code:**

[N.J.A.C. 12:62](#) (2013), CHAPTER PUBLIC WORKS CONTRACTOR REGISTRATION, 12, Chapter 62 — Chapter Notes.

[N.J.A.C. 12:62-1.1](#) (2013), CHAPTER PUBLIC WORKS CONTRACTOR REGISTRATION, Application and scope.

[N.J.A.C. 12:62-2.1](#) (2013), CHAPTER PUBLIC WORKS CONTRACTOR REGISTRATION, Definitions.

[N.J.A.C. 12:62-2.1](#) (2013), CHAPTER PUBLIC WORKS CONTRACTOR REGISTRATION, Registration required.

[N.J.A.C. 16:44-7.3](#) (2013), CHAPTER CONSTRUCTION SERVICES, Bid procedure.

[N.J.A.C. 16:44-9.1](#) (2013), CHAPTER CONSTRUCTION SERVICES, Contracts.

[N.J.A.C. 19:32-4.2](#) (2013), NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY, Contract award and compliance.

**NJ ICLE:**

[Commercial Real Estate Transactions in New Jersey 8.5](#) The Construction Process

## **N.J. Stat. § 34:11-56.49**

Current through New Jersey 220th Second Annual Session, L. 2023, c. 150 and J.R. 12

**LexisNexis® New Jersey Annotated Statutes > Title 34. Labor and Workers' Compensation (Chs. 1 — 21) > Chapter 11. Wages (Arts. 1 — 4) > Article 2C. [Public Works Contractor Registration] (§§ 34:11-56.48 — 34:11-56.57)**

### **§ 34:11-56.49. Findings, declarations relative to public works contractors**

The Legislature finds and declares that:

- a. There is growing concern over the increasing number of construction industry workers on public works projects laboring under conditions which violate State labor laws and regulations concerning wages, unemployment and temporary disability insurance, workers' compensation insurance, and the payment of payroll taxes;
- b. Contractors and subcontractors receiving the benefit of public tax dollars for their work should not be allowed to exploit their workers by denying them benefits and pay mandated by law;
- c. It is therefore necessary and proper for the Legislature to establish a registration system for contractors and subcontractors engaged in public works projects in order to better enforce existing labor laws and regulations in the public works industry.

### **History**

L. 1999, c. 238, § 2, eff. April 11, 2000.

Annotations

### **Notes**

#### **Effective Dates:**

Section 11 of L. 1999, c. 238 provides: "This act shall take effect on the 180th day after the date of enactment, but the Commissioner of Labor shall take such anticipatory administrative action in advance as shall be necessary for the implementation of the act." Chapter 238, L. 1999, was approved on October 14, 1999.

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## **N.J. Stat. § 34:11-56.50**

Current through New Jersey 220th Second Annual Session, L. 2023, c. 150 and J.R. 12

**LexisNexis® New Jersey Annotated Statutes > Title 34. Labor and Workers' Compensation (Chs. 1 — 21) > Chapter 11. Wages (Arts. 1 — 4) > Article 2C. [Public Works Contractor Registration] (§§ 34:11-56.48 — 34:11-56.57)**

### **§ 34:11-56.50. Definitions relative to public works contractors**

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As used in chapter 11 of Title 34 of the Revised Statutes:

“Apprenticeship Agreement” means a written agreement, complying with 29 C.F.R. s.29.7, between an apprentice and either the apprentice’s program sponsor, or an apprenticeship committee acting as agent for a program sponsor, which contains the terms and conditions of the employment and training of the apprentice.

“Apprenticeship cohort” means the group of individual apprentices registered to a specific individual program during a one-year time frame, except that a cohort does not include the apprentices whose apprenticeship agreement has been cancelled during the probationary period.

“Apprenticeship committee” means those persons designated by the sponsor to administer the program. A committee may be either joint or non-joint, as follows:

(1) A joint committee is composed of an equal number of representatives of the employer or employers and of the employees represented by a bona fide collective bargaining agent or agents.

(2) A non-joint committee, which may also be known as a unilateral or group non-joint committee, has employer representatives, but does not have a bona fide collective bargaining agent as a participant. A non-joint committee may include employees.

“Apprenticeable occupation” means a skilled trade or technical occupation that is included on the United States Department of Labor’s “List of Occupations Officially Recognized as Apprenticeable by the Office of Apprenticeship”.

“Apprenticeship program” means a plan containing all terms and conditions for the qualification, recruitment, selection, employment, and training of apprentices, as required under 29 C.F.R. ss.29 and 30, including such matters as the requirement for a written apprenticeship agreement.

“Commissioner” means the Commissioner of Labor and Workforce Development or his duly authorized representatives.

“Completion rate” means the percentage of an apprenticeship cohort who receive a certificate of apprenticeship completion within one year of the projected completion date.

“Contractor” means a person, partnership, association, joint stock company, trust, corporation, or other legal business entity or successor thereof who enters into a contract which is subject to the provisions of the “New Jersey Prevailing Wage Act,” P.L.1963, c.150 (C.34:11-56.25 et seq.), or who is required to pay its workers the prevailing wage by any other provision of law, and includes any subcontractor or lower tier subcontractor of a contractor as defined herein.

“Department” means the Department of Labor and Workforce Development.

## § 34:11-56.50. Definitions relative to public works contractors

“Director” means the Director of the Division of Wage and Hour Compliance in the Department of Labor and Workforce Development.

“Worker” includes laborer, mechanic, skilled or semi-skilled laborer and apprentices or helpers employed by any contractor or subcontractor and engaged in the performance of services directly upon a public work, who have completed or are actively participating in a registered apprenticeship program, regardless of whether their work becomes a component part thereof, but does not include material suppliers or their employees who do not perform services at the job site.

“Registered apprenticeship program” or “program” means an apprenticeship program which is registered with and approved by the United States Department of Labor, which provides each trainee with combined classroom and on-the-job training in an occupation recognized as an apprenticeable occupation, and which involves the attainment of manual, mechanical, or technical skills and knowledge which, in accordance with the industry standard for the specific apprenticeable occupation, are outlined under 29 C.F.R. s.29.5.

“Sponsor” means any person, association, committee, or organization operating an apprenticeship program and in whose name the program is or will be registered or approved.

## History

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L. 1999, c. 238, § 3, eff. April 11, 2000; amended 2003, c. 91, § 1, eff. Aug. 16, 2003; 2007, c. 67, § 2, eff. Apr. 26, 2007; 2019, c. 21, § 1, effective May 1, 2019; 2019, c. 376, § 1, effective April 1, 2020; 2019, c. 518, § 1, effective January 21, 2020.

### Annotations

## Notes

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### OLS Corrections:

Pursuant to R.S.1:3-1, the Office of Legislative Services, through its Legislative Counsel and with the concurrence of the Attorney General, corrected L. 2019, c. 376, § 1 to incorporate the provisions of the amendment of this section by L. 2019, c. 21, § 1.

### Effective Date Notes

Section 11 of L. 1999, c. 238 provides: “This act shall take effect on the 180th day after the date of enactment, but the Commissioner of Labor shall take such anticipatory administrative action in advance as shall be necessary for the implementation of the act.” Chapter 238, L. 1999, was approved on October 14, 1999.

Section 6 of L. 2003, c. 91 provides: “This act shall take effect on the 60th day after enactment.” Chapter 91, L. 2003, was approved on June 17, 2003.

Section 3 of L. 2019, c. 21 provides: “This act shall take effect on the 90th day next following the date of enactment.” Chapter 21, L. 2019, was approved on Jan. 31, 2019.

Section 4 of L. 2019, c. 376 provides: “This act shall take effect on the first day of the third month following enactment.” Chapter 376, L. 2019, was approved on Jan. 21, 2020.

### Amendment Notes

## § 34:11-56.50. Definitions relative to public works contractors

2007 amendment, by Chapter 67, inserted the definition of “Director”; substituted “Commissioner of Labor and Workforce Development” for “Commissioner of Labor” in the definition of “Commissioner”; and substituted “Department of Labor and Workforce Development” for “Department of Labor” in the definition of “Department.”

2019 amendment, by Chapter 21, inserted “who have completed or are actively participating in a registered apprenticeship program” in the definition of “Worker”; and added the definition of “Registered apprenticeship program.”

2019 amendment, by Chapter 376, inserted “or who is required to pay its workers the prevailing wage by any other provision of law” in the definition of “Contractor.”

2019 amendment, by Chapter 518, added the definitions of “Apprenticeship Agreement”, “Apprenticeship cohort”, “Apprenticeship committee”, “Apprenticeable occupation”, “Apprenticeship program”, “Completion rate”, and “Sponsor”; substituted “chapter 11 of Title 34 of the Revised Statutes” for “this act” in the introductory language; and in the definition of “Registered apprenticeship program”, inserted “or ‘program’” and substituted “occupation, and which involves the attainment of manual, mechanical, or technical skills and knowledge which, in accordance with the industry standard for the specific apprenticeable occupation, are outlined under 29 C.F.R. s.29.5” for “trade and meets the program standards of enrollment and graduation under 29 C.F.R. s.29.6”; and made a related change.

## **N.J. Stat. § 34:11-56.51**

Current through New Jersey 220th Second Annual Session, L. 2023, c. 150 and J.R. 12

**LexisNexis® New Jersey Annotated Statutes > Title 34. Labor and Workers' Compensation (Chs. 1 — 21) > Chapter 11. Wages (Arts. 1 — 4) > Article 2C. [Public Works Contractor Registration] (§§ 34:11-56.48 — 34:11-56.57)**

### **§ 34:11-56.51. Registration required for contractors, subcontractors**

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](#)), or for which payment of the prevailing wage is required by any other provision of law, 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.

### **History**

L. [1999, c. 238](#), § 4, eff. April 11, 2000; amended [2003, c. 91](#), § 2, eff. Aug. 16, 2003; [2019, c. 376](#), § 2, effective April 1, 2020.

Annotations

### **Notes**

#### **Effective Dates:**

Section 11 of L. [1999, c. 238](#) provides: "This act shall take effect on the 180th day after the date of enactment, but the Commissioner of Labor shall take such anticipatory administrative action in advance as shall be necessary for the implementation of the act." Chapter 238, L. 1999, was approved on October 14, 1999.

Section 6 of L. [2003, c. 91](#) provides: "This act shall take effect on the 60th day after enactment." Chapter 91, L. 2003, was approved on June 17, 2003.

Section 4 of L. [2019, c. 376](#) provides: "This act shall take effect on the first day of the third month following enactment." Chapter 376, L. 2019, was approved on Jan. 21, 2020.

#### **Amendment Notes**

2019 amendment, by Chapter 376, inserted "or for which payment of the prevailing wage is required by any other provision of law" in the first sentence.



## CASE NOTES

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### Public Contracts Law: Bids & Formation: Subcontracts & Subcontractors: General Overview

The subcontractor was required to register before it began performing work on the project, not before the general contractor submitted its bid proposal. *R.C.G. Constr. Co. v. Mayor*, 346 N.J. Super. 58, 786 A.2d 895, 2001 N.J. Super. LEXIS 462 (App.Div. 2001), *aff'd*, 175 N.J. 68, 812 A.2d 362, 2003 N.J. LEXIS 1 (N.J. 2003).

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## **N.J. Stat. § 34:11-56.51a**

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### **§ 34:11-56.51a. Subcontractor duties**

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Subcontractors of a contractor registered pursuant to P.L. 1999, c. 238 (C.34:11-56.48 et seq.) are not required to register under that act if they do not perform work at any construction site subject to that act.

### **History**

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L. 2021, c. 423, § 7, effective January 18, 2022.

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## **N.J. Stat. § 34:11-56.52**

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### **Notice**

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 This section has more than one version with varying effective dates.

### **§ 34:11-56.52. Contractor to register in writing; form; requisites [Effective until August 15, 2024]**

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a. A contractor shall register in writing with the department on a form provided by the commissioner. The form shall require the following information:

- (1) The name, principal business address and telephone number of the contractor;
- (2) Whether the contractor is a corporation, partnership, sole proprietorship, or other form of business entity;
- (3) If the contractor's principal business address is not within the State, the name and address of the contractor's custodian of records and agent for service of process in this State;
- (4) The name and address of each person with a financial interest in the contractor and the percentage interest, except that if the contractor is a publicly traded corporation, the contractor shall supply the names and addresses of the corporation's officers;
- (5) The contractor's tax identification number and unemployment insurance registration number;
- (6) A certification form provided by the commissioner, with documentation satisfactory to the commissioner, that the contractor has all valid and effective licenses, registrations or certificates required by State law, including registrations or certifications required to do business in the State of New Jersey, and the contractor, if directly employing craftworkers, participates in a registered apprenticeship program as defined in section 3 of P.L.1999, c.238 (C.34:11-56.50) for each craft they employ;
- (7) A certification form provided by the commissioner, with supporting documentation, establishing to the satisfaction of the commissioner that the registered apprenticeship program, as defined in section 3 of P.L.1999, c.238 (C.34:11-56.50), meets all of the requirements of section 6 of P.L.2021, c.423 (C.34:11-56.55a), and 29 C.F.R. ss.29.3, 29.4, 29.5, 29.6 and 29.7;
  - (a) If it is determined by the commissioner that a registered apprenticeship program in which the contractor participates does not meet all of the requirements of 29 C.F.R. ss.29.3, 29.4, 29.5, 29.6 and 29.7, that determination of the commissioner shall, subject to the requirements of subsection b. of section 9 of P.L.1999, c.238 (C.34:11-56.56), including the contractor's right to request a

§ 34:11-56.52. Contractor to register in writing; form; requisites [Effective until August 15, 2024]

hearing, result in initial registration application denial, registration renewal denial, revocation, or suspension of the certificate of registration to perform public work in New Jersey;

(b) The determination of the commissioner under this paragraph shall only impact the contractor's ability to obtain or maintain its public works contractor registration certificate under P.L. 1999, c. 238 (C.34:11-56.48 et seq.), and shall not affect the status of the registered apprenticeship program for the purpose of its continued operation in New Jersey;

(c) A determination by the commissioner under subparagraph (a) of this paragraph (7) that a registered apprenticeship program in which the contractor participates does not meet all of the requirements of 29 C.F.R. §§ 29.3, 29.4, 29.5, 29.6 and 29.7 shall result not only in initial registration application denial, registration renewal denial, revocation or suspension of that contractor's certificate of registration to perform public work in New Jersey, but also shall result in the initial registration application denial, registration renewal denial, revocation or suspension of every contractor who is meeting the apprenticeship program participation requirement through participation in the non-compliant registered apprenticeship program; provided that any initial registration application denial, registration renewal denial, revocation or suspension shall be subject to the requirements of subsection b. of section 9 of P.L. 1999, c. 238 (C.34:11-56.56), including the contractor's right to request a hearing; and

(8) Any other relevant and appropriate information as determined by the commissioner.

b. At the time of registration, and subsequently upon request, the contractor shall submit to the commissioner documentation demonstrating that the contractor has worker's compensation insurance coverage for all workers as required by law.

## History

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L. 1999, c. 238, § 5, eff. April 11, 2000; amended by 2019, c. 21, § 2, effective May 1, 2019; 2021, c. 423, § 1, effective January 18, 2022; 2023, c. 138, § 1, effective August 15, 2024.

### Annotations

## Notes

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### Effective Date Notes

Section 11 of L. 1999, c. 238 provides: "This act shall take effect on the 180th day after the date of enactment, but the Commissioner of Labor shall take such anticipatory administrative action in advance as shall be necessary for the implementation of the act." Chapter 238, L. 1999, was approved on October 14, 1999.

Section 3 of L. 2019, c. 21 provides: "This act shall take effect on the 90th day next following the date of enactment." Chapter 21, L. 2019, was approved on Jan. 31, 2019.

Section 3 of L. 2023, c. 138 provides: "This act shall take effect on the 365th day following enactment." Chapter 138, L. 2023, was approved on Aug. 16, 2023.

### Amendment Notes

2019 amendment, by Chapter 21, added a.(6); redesignated former a.(6) as a.(7); and made a related change.

2021 amendment, by Chapter 423, redesignated former a.(7) as present a.(8); added a.(7), and a.(7)(a) through a.(7)(c).

§ 34:11-56.52. Contractor to register in writing; form; requisites [Effective until August 15, 2024]

## Research References & Practice Aids

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### Cross References:

Issuance of certificate of registration, see [34:11-56.54](#).

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## **N.J. Stat. § 34:11-56.52**

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### **Notice**

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 This section has more than one version with varying effective dates.

### **§ 34:11-56.52. Contractor, register, electronically, form, requisites [Effective August 15, 2024]**

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a. A contractor shall register electronically with the department on an online form provided by the commissioner. The form shall require the following information:

- (1) The name, principal business address and telephone number of the contractor;
- (2) Whether the contractor is a corporation, partnership, sole proprietorship, or other form of business entity;
- (3) If the contractor's principal business address is not within the State, the name and address of the contractor's custodian of records and agent for service of process in this State;
- (4) The name and address of each person with a financial interest in the contractor and the percentage interest, except that if the contractor is a publicly-traded corporation, the contractor shall supply the names and addresses of the corporation's officers;
- (5) The contractor's tax identification number and unemployment insurance registration number;
- (6) A certification form provided by the commissioner, with documentation satisfactory to the commissioner, that the contractor has all valid and effective licenses, registrations or certificates required by State law, including registrations or certifications required to do business in the State of New Jersey, and the contractor, if directly employing craftworkers, participates in a registered apprenticeship program as defined in section 3 of P.L.1999, c.238 (C.34:11-56.50) for each craft they employ; and
- (7) A certification form provided by the commissioner, with supporting documentation, establishing to the satisfaction of the commissioner that the registered apprenticeship program, as defined in section 3 of P.L.1999, c.238 (C.34:11-56.50), meets all of the requirements of section 6 of P.L.2021, c.423 (C.34:11-56.55a), and 29 C.F.R. ss.29.3, 29.4, 29.5, 29.6 and 29.7;
  - (a) If it is determined by the commissioner that a registered apprenticeship program in which the contractor participates does not meet all of the requirements of 29 C.F.R. ss.29.3, 29.4, 29.5, 29.6 and 29.7, that determination of the commissioner shall, subject to the requirements of subsection b. of section 9 of P.L.1999, c.238 (C.34:11-56.56), including the contractor's right to request a

§ 34:11-56.52. Contractor, register, electronically, form, requisites [Effective August 15, 2024]

hearing, result in initial registration application denial, registration renewal denial, revocation, or suspension of the certificate of registration to perform public work in New Jersey;

(b) The determination of the commissioner under this paragraph shall only impact the contractor's ability to obtain or maintain its public works contractor registration certificate under P.L. 1999, c. 238 (C.34:11-56.48 et seq.), and shall not affect the status of the registered apprenticeship program for the purpose of its continued operation in New Jersey;

(c) A determination by the commissioner under subparagraph (a) of this paragraph (7) that a registered apprenticeship program in which the contractor participates does not meet all of the requirements of 29 C.F.R. §§ 29.3, 29.4, 29.5, 29.6 and 29.7 shall result not only in initial registration application denial, registration renewal denial, revocation or suspension of that contractor's certificate of registration to perform public work in New Jersey, but also shall result in the initial registration application denial, registration renewal denial, revocation or suspension of every contractor who is meeting the apprenticeship program participation requirement through participation in the non-compliant registered apprenticeship program; provided that any initial registration application denial, registration renewal denial, revocation or suspension shall be subject to the requirements of subsection b. of section 9 of P.L. 1999, c. 238 (C.34:11-56.56), including the contractor's right to request a hearing; and

(8) Any other relevant and appropriate information as determined by the commissioner.

b. At the time of registration, and subsequently upon request, the contractor shall submit to the commissioner documentation demonstrating that the contractor has worker's compensation insurance coverage for all workers as required by law.

## History

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L. 1999, c. 238, § 5, eff. April 11, 2000; amended by 2019, c. 21, § 2, effective May 1, 2019; 2021, c. 423, § 1, effective January 18, 2022; 2023, c. 138, § 1, effective August 15, 2024.

## **N.J. Stat. § 34:11-56.53**

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### **§ 34:11-56.53. Nonrefundable registration fees**

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- a. The contractor shall pay an initial annual non-refundable registration fee of \$500 to the commissioner. The non-refundable registration fee for the second annual registration shall be \$500. Upon successful completion of two consecutive years of registration, a contractor may elect to register for a two-year period and pay a non-refundable registration fee of \$750.
- b. A contractor who is performing public work on the effective date of this act shall submit the registration application form and fee to the commissioner within 30 days of the effective date of this act.
- c. Registration fees collected pursuant to this act shall be applied toward the enforcement and administration costs of the Division of Workplace Standards, Office of Wage and Hour Compliance, Public Contracts section and Registration section within the department.

### **History**

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L. 1999, c. 238, § 6, eff. April 11, 2000; amended 2003, c. 91, § 3, eff. Aug. 16, 2003; 2021, c. 423, § 2, effective January 18, 2022.

Annotations

### **Notes**

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#### **Effective Dates:**

Section 11 of L. 1999, c. 238 provides: "This act shall take effect on the 180th day after the date of enactment, but the Commissioner of Labor shall take such anticipatory administrative action in advance as shall be necessary for the implementation of the act." Chapter 238, L. 1999, was approved on October 14, 1999.

Section 6 of L. 2003, c. 91 provides: "This act shall take effect on the 60th day after enactment." Chapter 91, L. 2003, was approved on June 17, 2003.

#### **Amendment Notes**

2021 amendment, by Chapter 423, in a., substituted "\$500" for "\$300" in the first and second sentences, and "\$750" for "\$500" at the end of the third sentence.



§ 34:11-56.53. Nonrefundable registration fees

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## **N.J. Stat. § 34:11-56.54**

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### **§ 34:11-56.54. Issuance of certificate of registration**

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Upon receipt of the fee, form and documentation required by section 5 [C.34:11-56.52] of this act, and upon a finding that the applicant for the certificate of registration has met all of the requirements set forth at section 5 of P.L. 1999, c. 238 (C.34:11-56.52), the commissioner shall issue a certificate of registration to the contractor. A registration certificate shall be valid for one calendar year from the date of registration. Registrations shall be renewed not less than 30 days before the expiration date of the immediately preceding registration.

### **History**

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L. 1999, c. 238, § 7, eff. April 11, 2000; amended by 2021, c. 423, § 3, effective January 18, 2022.

Annotations

### **Notes**

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#### **Publisher's Note:**

The bracketed material was added by the Publisher to provide a reference.

#### **Effective Dates:**

Section 11 of L. 1999, c. 238 provides: "This act shall take effect on the 180th day after the date of enactment, but the Commissioner of Labor shall take such anticipatory administrative action in advance as shall be necessary for the implementation of the act." Chapter 238, L. 1999, was approved on October 14, 1999.

#### **Amendment Notes**

2021 amendment, by Chapter 423, inserted "and upon a finding that the applicant for the certificate of registration has met all of the requirements set forth at section 5 of P.L. 1999, C.238 (C.34:11-56.52)" in the first sentence.

### **Research References & Practice Aids**

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#### **Cross References:**

§ 34:11-56.54. Issuance of certificate of registration

Suspension of contractor's registration; notification, hearing, appeal; stop-work order, civil penalty for continued violation, see [34:20-7](#).

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## **N.J. Stat. § 34:11-56.54a**

Current through New Jersey 220th Second Annual Session, L. 2023, c. 150 and J.R. 12

**LexisNexis® New Jersey Annotated Statutes > Title 34. Labor and Workers' Compensation (Chs. 1 — 21) > Chapter 11. Wages (Arts. 1 — 4) > Article 2C. [Public Works Contractor Registration] (§§ 34:11-56.48 — 34:11-56.57)**

### **§ 34:11-56.54a. Contractor, sponsor obligations, registration certificate renewal cycles; compliance**

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- a. Each contractor or sponsor as defined herein, who is registered under P.L.1999, c.238 (C.34:11-56.48 et seq.) to bid on and perform public work shall be under a continuing obligation between registration certificate renewal cycles to ensure compliance with the requirements of section 5 of P.L.1999, c.238 (C.34:11-56.52).
- b. When between registration certificate renewal cycles it is determined by the department that a contractor has failed to comply with the requirements of section 5 of P.L.1999, c.238 (C.34:11-56.52), provided it is also determined by the department that the failure to comply with section 5 of P.L.1999, c.238 (C.34:11-56.52) existed at the time of the contractor's most recent certificate of registration application, whether that application was for contractor registration renewal or initial approval, the department shall consider the resulting failure of the contractor to accurately complete its registration application to have been the making or causing to be made of a false, deceptive or fraudulent statement on the public works contractor registration form, which pursuant to paragraph (7) of subsection a. of section 9 of P.L.1999, c.238 (C.34:11-56.56), constitutes grounds for revocation of the contractor's certificate of registration.
- c. When between registration certificate renewal cycles it is determined by the department that a contractor has failed to comply with section 5 of P.L.1999, c.238 (C.34:11-56.52), but where it is also determined by the department that the failure to comply with section 5 of P.L.1999, c.238 (C.34:11-56.52) did not exist at the time of the contractor's most recent certificate of registration application, whether that application was for contractor registration renewal or initial approval, the department shall suspend the contractor's certificate of registration pursuant to this section either until the contractor establishes compliance with section 5 of P.L.1999, c.238 (C.34:11-56.52) or until the beginning of the next registration certificate renewal cycle, whichever occurs first.
- d. When a contractor has had its registration certificate either revoked or suspended under subsections b. or c. of this section, for failure between registration certificate renewal cycles to comply with section 5 of P.L.1999, c.238 (C.34:11-56.52), that registration certificate revocation or suspension shall be taken into consideration by the department as a prior offense when determining whether to grant any subsequent certificate of registration application.

### **History**

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L. 2021, c. 423, § 4, effective January 18, 2022.

§ 34:11-56.54a. Contractor, sponsor obligations, registration certificate renewal cycles; compliance

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End of Document

## **N.J. Stat. § 34:11-56.55**

Current through New Jersey 220th Second Annual Session, L. 2023, c. 150 and J.R. 12

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### **§ 34:11-56.55. Submission of all subcontractor registration certificates by contractor**

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Each contractor shall, after the bid is made and prior to the awarding of the contract, submit to the public entity, including, but not limited to, any authority, board, or commission, the certificates of registration for all subcontractors listed in the bid proposal. Applications for registration shall not be accepted as a substitute for a certificate of registration for the purposes of this section.

### **History**

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L. 1999, c. 238, § 8, eff. April 11, 2000; amended 2003, c. 91, § 4, eff. Aug. 16, 2003; 2019, c. 376, § 3, effective April 1, 2020.

Annotations

### **Notes**

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#### **Effective Dates:**

Section 11 of L. 1999, c. 238 provides: "This act shall take effect on the 180th day after the date of enactment, but the Commissioner of Labor shall take such anticipatory administrative action in advance as shall be necessary for the implementation of the act." Chapter 238, L. 1999, was approved on October 14, 1999.

Section 6 of L. 2003, c. 91 provides: "This act shall take effect on the 60th day after enactment." Chapter 91, L. 2003, was approved on June 17, 2003.

Section 4 of L. 2019, c. 376 provides: "This act shall take effect on the first day of the third month following enactment." Chapter 376, L. 2019, was approved on Jan. 21, 2020.

#### **Amendment Notes**

2019 amendment, by Chapter 376, inserted "including, but not limited to, any authority, board, or commission" in the first sentence.

§ 34:11-56.55. Submission of all subcontractor registration certificates by contractor

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End of Document

## N.J. Stat. § 34:11-56.55a

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### **§ 34:11-56.55a. Registered apprenticeship program requisites**

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A registered apprenticeship program shall require the completion of the on-the-job training hours which conform to the industry standards for learning the skills of a specific craft or trade, as well as on-the-job organized, related instruction in technical subjects related to the specific apprenticeable occupation in conformance with industry standards. The industry standards for program completion shall be based upon the training requirements as registered and certified by the United States Department of Labor each individual occupation and craft title published by the United States Department of Labor Employment and Training Administration.

The length of a program shall depend upon the complexity of the occupation. Program duration shall be not less than one year and not more than six years. During the program, the apprentice shall receive both structured on-the-job training and related classroom instruction. For each year of the program, the apprentice shall receive at least 2,000 hours of on-the-job training and at least 144 hours of related classroom instruction.

The program shall include all other recommended minimum requirements as outlined under 29 C.F.R. s.29.5 including, but not limited to, a successful demonstration of competency, the registration of program standards, the submission and publication of program completion rates which meet the program performance standards of enrollment and completion rates as outlined under 29 C.F.R. s.29.6, and meet the training recommendations, the terms and conditions of the employment and training agreement between the employer and the apprentice, and the publication of the graduated wages scales to be paid to the apprentice as outlined under 29 C.F.R. s.29.7.

### **History**

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L. 2021, c. 423, § 6, effective January 18, 2022.

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## **N.J. Stat. § 34:11-56.56**

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### **§ 34:11-56.56. Violation; disorderly persons offense; other penalties; suspension; hearing**

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a. A contractor who: (1) willfully hinders or delays the commissioner in the performance of his duties in the enforcement of this act; (2) fails to make, keep, and preserve any records as required under the provisions of the "New Jersey Prevailing Wage Act," P.L.1963, c.150 ([C.34:11-56.25](#) et seq.); (3) falsifies any such record, or refuses to make any such record accessible to the commissioner upon demand; (4) refuses to furnish a sworn statement of such records or any other information required for the enforcement of this act to the commissioner upon demand; (5) pays or agrees to pay wages at a rate less than the rate prescribed by the "New Jersey Prevailing Wage Act," P.L.1963, c.150 ([C.34:11-56.25](#) et seq.); (6) willfully makes, or causes to be made, a false, deceptive or fraudulent statement on the public works contractor registration form; or (7) otherwise violates any provision of this act, shall be guilty of a disorderly persons offense and shall, upon conviction, be subject to punishment by a fine of not less than \$2,500 nor more than \$25,000 and disqualification from bidding on or engaging in public work for a period of up to three years. Where the contractor has made or has caused to be made a false, deceptive or fraudulent statement on the public works contractor registration form in connection with the requirement of section 5 of [P.L.1999, c.238](#) ([C.34:11-56.52](#)) that the contractor participate in a registered apprenticeship program for each craft that the contractor employs, and where the false, deceptive or fraudulent statement was made by an officer or employee charged with the duty of completion of the registration form for a contractor, that officer or employee, upon conviction, shall be subject to punishment by the fine indicated in this subsection or by imprisonment not exceeding six months, or both.

b. As an alternative to or in addition to sanctions provided by the "New Jersey Prevailing Wage Act," P.L.1963, c.150 ([C.34:11-56.25](#) et seq.), the commissioner may, after providing the contractor with notice of any alleged violation of this act, and with an opportunity to request a hearing before the commissioner or his designee:

(1) Deny renewal, revoke or suspend the registration of a contractor for a period of not more than five years; or

(2) Require a contractor, as a condition of initial or continued registration, to provide a surety bond payable to the State. The surety bond shall be for the benefit of workers damaged by any failure of a contractor to pay wages or benefits pursuant to or otherwise comply with the provisions of the "New Jersey Prevailing Wage Act," P.L.1963, c.150 ([C.34:11-56.25](#) et seq.) or this act. The surety bond shall be in the amount and form that the commissioner deems necessary for the protection of the contractor's workers, but shall not exceed \$10,000 per worker. The surety bond shall be issued by a surety that meets the requirements of [N.J.S.2A:44-143](#).

c. The director may order the immediate suspension of a contractor's registration, prior to a formal hearing on the revocation of the contractor's registration pursuant to subsection b. of this section, if the director determines that ordering an immediate suspension is in the public interest and provided that the contractor is afforded an opportunity to contest the immediate suspension in the following manner:

§ 34:11-56.56. Violation; disorderly persons offense; other penalties; suspension; hearing

- (1) The director shall notify the contractor in writing of the immediate revocation and the contractor's rights under the subsection.
- (2) The contractor may notify the director of its request for an opportunity to be heard and contest the immediate suspension in writing within 72 hours of its receipt of immediate suspension notification.
- (3) Within seven business days of receipt of the notification from the contractor pursuant to paragraph (2) of this subsection, the director shall grant the contractor a hearing to contest the immediate suspension. The director shall permit the contractor to present evidence at the hearing.
- (4) The director shall issue a written decision within five business days of the hearing either upholding or reversing the contractor's immediate suspension. The decision shall include the grounds for upholding or reversing the contractor's immediate suspension.
- (5) If the contractor disagrees with the written decision, the contractor may appeal the decision to the commissioner, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

**d.** If the director intends to impose an immediate suspension as set forth in subsection c. of this section, based upon a rebuttable presumption as set forth in section 14 of P.L.1963, c.150 (C.34:11-56.38), the director shall provide the contractor with a notice of intent to suspend and the contractor may request a hearing before the Director of the Division of Wage and Hour Compliance within 72 hours of the receipt of the notice of intent to suspend in order to present evidence expeditiously in support of the position that the suspension should not be imposed. The suspension shall not take effect prior to the expiration of the 72-hour opportunity to request a hearing. If such a request is not made, the suspension shall take effect at the end of the 72-hour period. If such a request is made, the suspension shall take effect only after the director conducts the hearing.

**e.** If the director orders the immediate suspension of a contractor's registration pursuant to subsection b. of this section, the violation shall have no effect on the registration of any contractor or subcontractor, regardless of tier, in the contractual chain with the suspended contractor, unless the registration form for the contractual chain of contractors and subcontractors was filed by a sponsor, in which case all of the contractors of whatever tier who participated in the sponsor's apprenticeship program shall be suspended and their registrations shall be revoked by the commissioner.

## History

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L. 1999, c. 238, § 9, eff. April 11, 2000; amended 2003, c. 91, § 5, eff. Aug. 16, 2003; 2007, c. 67, § 3, eff. Apr. 26, 2007; 2021, c. 423, § 5, effective January 18, 2022.

### Annotations

## Notes

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### Effective Dates:

Section 11 of L. 1999, c. 238 provides: "This act shall take effect on the 180th day after the date of enactment, but the Commissioner of Labor shall take such anticipatory administrative action in advance as shall be necessary for the implementation of the act." Chapter 238, L. 1999, was approved on October 14, 1999.

Section 6 of L. 2003, c. 91 provides: "This act shall take effect on the 60th day after enactment." Chapter 91, L. 2003, was approved on June 17, 2003.

§ 34:11-56.56. Violation; disorderly persons offense; other penalties; suspension; hearing

**Amendment Note:**

2007 amendment, by Chapter 67, added c. through e.

2021 amendment, by Chapter 423, redesignated and rewrote former a.(6) as a.(7); added a.(6); added the last sentence of a.; and added “unless the registration form for the contractual chain of contractors and subcontractors was filed by a sponsor, in which case all of the contractors of whatever tier who participated in the sponsor’s apprenticeship program shall be suspended and their registrations shall be revoked by the commissioner” at the end of e.

**CASE NOTES**

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**Civil Rights Law: Immunity From Liability: Defenses****Labor & Employment Law: Wage & Hour Laws: Coverage & Definitions: Prevailing Wages****Civil Rights Law: Immunity From Liability: Defenses**

No precedent held the New Jersey Prevailing Wage Act, N.J. Stat. Ann. § 34:11-56.25 et seq., was preempted by federal labor law due to a dearth of legal precedent specific to the Act, thus, it could not be said that plaintiff employer had clearly established rights for purposes of 42 U.S.C.S. § 1983 and defendant New Jersey Department of Labor and Workforce Development officials had qualified immunity in issuing penalties and a debarment for violating the Act. R.I., Inc. v. McCarthy, 483 Fed. Appx. 745, 2012 U.S. App. LEXIS 10785 (3d Cir. N.J.), cert. denied, 568 U.S. 963, 133 S. Ct. 489, 184 L. Ed. 2d 298, 2012 U.S. LEXIS 8165 (U.S. 2012).

**Labor & Employment Law: Wage & Hour Laws: Coverage & Definitions: Prevailing Wages**

No precedent held the New Jersey Prevailing Wage Act, N.J. Stat. Ann. § 34:11-56.25 et seq., was preempted by federal labor law due to a dearth of legal precedent specific to the Act, thus, it could not be said that plaintiff employer had clearly established rights for purposes of 42 U.S.C.S. § 1983 and defendant New Jersey Department of Labor and Workforce Development officials had qualified immunity in issuing penalties and a debarment for violating the Act. R.I., Inc. v. McCarthy, 483 Fed. Appx. 745, 2012 U.S. App. LEXIS 10785 (3d Cir. N.J.), cert. denied, 568 U.S. 963, 133 S. Ct. 489, 184 L. Ed. 2d 298, 2012 U.S. LEXIS 8165 (U.S. 2012).

## **N.J. Stat. § 34:11-56.57**

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### **§ 34:11-56.57. Regulations**

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The commissioner may adopt regulations pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.) to carry out the purposes of this act.

### **History**

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L. 1999, c. 238, § 10, eff. April 11, 2000.

Annotations

### **Notes**

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#### **Effective Dates:**

Section 11 of L. 1999, c. 238 provides: "This act shall take effect on the 180th day after the date of enactment, but the Commissioner of Labor shall take such anticipatory administrative action in advance as shall be necessary for the implementation of the act." Chapter 238, L. 1999, was approved on October 14, 1999.

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Certificate Number

Registration Date: 04/21/2023  
Expiration Date: 04/20/2025



## State of New Jersey

### Department of Labor and Workforce Development Division of Wage and Hour Compliance

### Public Works Contractor Registration Act

Pursuant to N.J.S.A. 34:11-56.48, et seq. of the Public Works Contractor Registration Act, this certificate of registration is issued for purposes of bidding on any contract for public work or for engaging in the performance of any public work to:

# SAMPLE

**Responsible Representative(s):**

Kenneth Fritze, President

A handwritten signature in black ink, appearing to read "R Asaro-Angelo".

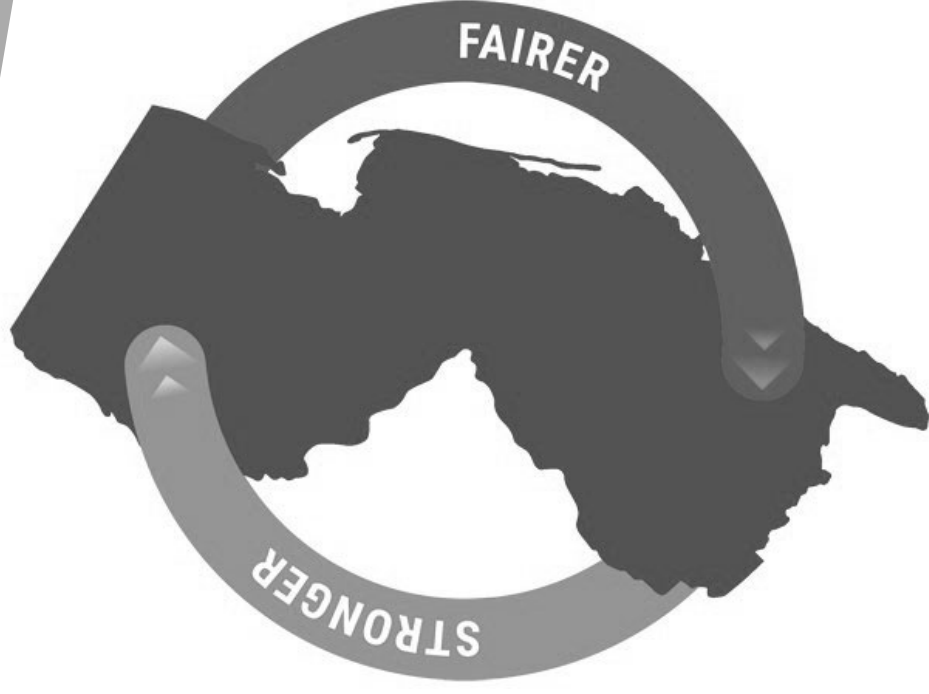
Robert Asaro-Angelo, Commissioner  
Department of Labor and Workforce Development

NON TRANSFERABLE

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

# Custom Fabrication

*December 2021*



# Custom Fabrication

- ❖ The custom fabrication law to include part (b) 34:11-56.26. Definitions, as used in this act:  
“*Custom fabrication*” means:
  - (a) the fabrication of plumbing, heating, cooling, ventilation or exhaust duct systems, and mechanical insulation; or
  - (b) any other fabrication which is either of components or structures pre-fabricated to specifications for a particular project of public work or of other materials finished into components without further modification for use in a project of public work or for use in a type or classification of a project of public work.
- ❖ As it applies to a prevailing wage project, when the offsite work meets the definition of custom fabrication the off-site work would also be covered.

***Essentially***, for the work to be covered under custom fabrication, it must be built to specifications for the project.

## **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 [Labor Standards Compliance - NJEDA](#) 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.

## 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 [Labor Standards Compliance - NJEDA](#), 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/](http://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](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.

**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 and Economic Recovery Act, P.L. 2020, c. 156 (as amended by P.L. 2021, c. 160)**

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 the greater of the tenant required occupancy percentage of the facility as required for the Program under which the recipient is receiving financial assistance 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:**

<b>ENTITY RECEIVING EDA FINANCIAL ASSISTANCE AND/OR APPLICANT/LEASEE</b>		
	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	

<b>GENERAL CONTRACTOR/ PRIME CONTRACTOR/ CONSTRUCTION MANAGER</b>		
	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

<b>LANDLORD OF RECIPIENT (IF APPLICABLE)</b>		
	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 - Labor Compliance Dept. via <https://aonline.njeda.com/aaweb/>**

# 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 one for each sub-contractor, both the General Contractor and Sub-Contractor must sign below)

Pursuant to N.J.A.C. 19:30 SUBCHAPTER 3 & 4 and Economic Recovery Act, P.L. 2020, c. 156 (as amended by P.L. 2021, c. 160)

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.

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)
	<div> <div>Signatory Name and Title</div> <div>X</div> </div> <div> <div>Phone</div> <div></div> </div>
	<div> <div>Signature of Authorized Representative</div> <div></div> </div> <div> <div>Date of Signature</div> <div></div> </div>
	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)
	<div> <div>Signatory Name and Title</div> <div>X</div> </div> <div> <div>Phone</div> <div></div> </div>
	<div> <div>Signature of Authorized Representative</div> <div></div> </div> <div> <div>Date of Signature</div> <div></div> </div>
	<div> <div>Name of Person in Payroll, Accounting, etc. responsible for preparing monthly reports</div> <div>E-mail address</div> </div>
SUBCONTRACTOR (Lower tier) if applicable	
	Company Name of Subcontractor (lower tier)
	Mailing Address of Subcontractor (lower tier) (Street Address / P.O. / City / State/ Zip)
	<div> <div>Signatory Name and Title</div> <div>X</div> </div> <div> <div>Phone</div> <div></div> </div>
	<div> <div>Signature of Authorized Representative</div> <div></div> </div> <div> <div>Date of Signature</div> <div></div> </div>
	<div> <div>Name of Person in Payroll, Accounting, etc. responsible for preparing monthly reports</div> <div>E-mail address</div> </div>

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





New Jersey Department of Treasury  
Equal Employment Opportunity and Affirmative Action

COUNTY GOALS FOR MINORITY AND WOMEN  
WORKFORCE PARTICIPATION - CONSTRUCTION  
(In accordance with N.J.A.C. 17:27-7.2)

Available at the Department's website at : [http://www.state.nj.us/treasury/contract\\_compliance](http://www.state.nj.us/treasury/contract_compliance)

Trade	Minority %	Women %
ATLANTIC	18	6.9
BERGEN	22	6.9
BURLINGTON	15	6.9
CAMDEN	19	6.9
CAPE MAY	5	6.9
CUMBERLAND	27	6.9
ESSEX	53	6.9
GLOUCESTER	9	6.9
HUDSON	60	6.9
HUNTERDON	3	6.9
MERCER	30	6.9
MIDDLESEX	24	6.9
MONMOUTH	15	6.9
MORRIS	16	6.9
OCEAN	7	6.9
PASSAIC	36	6.9
SALEM	10	6.9
SOMERSET	20	6.9
SUSSEX	4	6.9
UNION	45	6.9
WARREN	5	6.9

## LABOR COMPLIANCE DEPARTMENT

36 West State Street, Trenton, NJ 08625-0990

## INITIAL CONSTRUCTION PROJECT WORKFORCE REPORT (NJEDA AA Form 1)

1. NJEDA PROJECT No. (5 digits e.g. 12345)		2. AAPW Record ID		5. Co. receiving EDA Finance Assistance or Real Estate Project Name	
3. NAME AND ADDRESS OF GENERAL CONTRACTOR OR CONSTRUCTION MGR.					
(NAME)		6. DATE OF AWARD		7. DOLLAR AMOUNT OF AWARD	
(STREET ADDRESS)		8. NAME & ADDRESS OF PROJECT			
NJ					
(CITY)	(STATE)	(ZIP CODE)	9. NJ COUNTY that Project is Located in:		10. IS THIS PROJECT COVERED BY A PROJECT LABOR AGREEMENT (PLA)?
					Yes or No
11. TRADE OR CRAFT		PROJECTED EMPLOYEES (HEADCOUNT)			PROJECT MILESTONES
	12. TOTAL HEADCOUNT	13. # OF WOMEN (AS A SUBSET OF 12. TOTAL)	14. # OF MINORITIES (AS A SUBSET OF 12. TOTAL)	15. PROJECTED PHASE-IN DATE	16. PROJECTED COMPLETION DATE
1. ASBESTOS WORKER					
2. ASPHALT WORKER					
3. BOILER MAKER					
4. BRICK LAYER					
5. CARPENTER					
6. CEMENT FINISHERS					
7. DOCK BUILDER					
8. DRILLER					
9. ELECTRICIAN					
10. ELEVATOR CONSTRUCTION					
11. FLOOR LAYER					
12. GLAZIERS					
13. HVAC					
14. IRON WORKER					
15. INSULATION MECHANIC					
16. LABORER					
17. MASON					
18. MECHANIC					
19. MILLWRIGHT					
20. OPERATING ENGINEER					
21. PAINTERS					
22. PIPE FITTER					
23. PLASTERER					
24. PLUMBER					
25. ROOFER					
26. SHEETMETAL WORKER					
27. SPRINKLER FITTER					
28. SURVEYOR					
29. TEAMSTER, TRUCK DRIVER					
30. TELEDATA - ELECTRICIAN					
31. TILE LAYER; TITLE SETTER					
32. TAPER					
33. WELDER					
34. OTHER LABOR FOREMAN					
TOTAL					

SAMPLE

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.

Please submit electronically on the AA Web Portal

<https://aaonline.njeda.com>

[illegible]

# New Jersey Law Prohibits Discrimination in Employment

- ON THE BASIS OF:** Race, Creed, Color, National Origin, Age, Ancestry, Nationality, Marital or Domestic Partnership or Civil Union Status, Sex, Gender Identity or Expression, Disability, Liability for Military Service, Affectional or Sexual Orientation, Atypical Cellular or Blood Trait, Genetic Information (including the refusal to submit to genetic testing)
- BY:** Private or State and Local Government Employers, Employment Agencies, or Labor Unions
- WITH RESPECT TO:** Hiring, Promotion, Transfer, Demotion, Termination, Salary, Benefits, Other Privileges, Conditions or Terms of Employment, Layoff, Harassment, Apprenticeship and Training Programs, Job Referrals, or Union Membership
- OR:** In Retaliation for Filing a Complaint, Participating or Testifying in Any Proceedings or for Opposing Any Acts Forbidden under the New Jersey Law Against Discrimination
- REMEDY MAY INCLUDE:** An Order Restraining Unlawful Discrimination, Back Pay, Damages for Pain and Humiliation Experienced as a Result of Unlawful Discrimination, Punitive Damages, and Attorney's Fees

*It is also unlawful to publish employment advertisements which discriminate against persons in violation of the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq.*

**Violations Should Be Reported To the Nearest Office  
of the NJ Division on Civil Rights or Call Toll Free at 866-405-3050**

**Atlantic City**

26 S. Pennsylvania Avenue, 3<sup>rd</sup> Floor  
Atlantic City, NJ 08401  
(609) 441-3100 (Phone)  
(609) 441-7648 (TTY)

**Camden**

One Port Center  
2 Riverside Drive, 4<sup>th</sup> Floor  
Camden, NJ 08103  
(856) 614-2550 (Phone)  
(856) 614-2574 (TTY)

**Jersey City**

574 Newark Avenue, 3<sup>rd</sup> Floor  
Jersey City, NJ 07306  
(201) 798-5168 (Phone)

**Newark**

31 Clinton Street, 3<sup>rd</sup> Floor  
Newark, NJ 07102  
(973) 648-2700 (Phone)  
(973) 648-4678 (TTY)

**Paterson**

100 Hamilton Plaza, 8<sup>th</sup> Floor  
Paterson, NJ 07501  
(973) 977-4500 (Phone)  
(973) 977-1955 (TTY)

**Trenton**

140 East Front Street, 6<sup>th</sup> Floor  
Trenton, NJ 08625  
(609) 292-4605 (Phone)  
(609) 292-1785 (TTY)

**[www.NJCivilRights.org](http://www.NJCivilRights.org)**

*The regulations of the New Jersey Division on Civil Rights require that all employers, employment agencies and labor organizations who are covered by the New Jersey Law Against Discrimination shall display this official poster in places easily visible to all employees and applicants. N.J.A.C. 13:8-1.2.*



**CIVIL RIGHTS**

## NJ Department of Labor &amp; Workforce Development

## Payroll Certification for Public Works Projects

Other (specify) \_\_\_\_\_

[illegible]





**NJEDA SAMPLE REFERRAL LETTER TO UNION HALL**

DATE

LOCAL UNION HALL  
CONTACT NAME  
ADDRESS  
CITY, STATE, ZIP

RE: Request for Minority and Women Workers  
For (NJEDA Project Number and Name)

Dear Sir or Madam:

Acting in accordance with the New Jersey Economic Development Authority Act N.J.A.C 19:30 Subchapter 3 “Affirmative Action in Authority Financed Construction Projects” please provide us with qualified minority and women workers to reach our goals of \_\_\_\_% minority work hours and **6.9%** women work hours for each trade:

\_\_\_\_ # of Minority Workers for the following trades:

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\_\_\_\_ # of Women Workers for the following trades:

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Please send us your written response within 48 hours of receipt of this request.

Sincerely,

Contractor representative  
(with signature)



**NJEDA SAMPLE REFERRAL LETTER TO A MINORITY AND WOMEN  
REFERRAL ORGANIZATION**

DATE

REFERRAL ORGANIZATION NAME

CONTACT NAME

ADDRESS

CITY, STATE, ZIP

**RE:** Request for Minority and Women Workers

For P#XXX

Project Name XXX

Dear Sir or Madam:

Acting in accordance with the New Jersey Economic Development Authority Act N.J.A.C 19:30 Subchapter 3 “Affirmative Action in Authority Financed Construction Projects” please provide us with qualified minority and women workers to reach our goals of \_\_\_\_% minority work hours and **6.9%** women work hours for each trade:

\_\_\_\_ # of Minority Workers for the following trades:

---

---

---

\_\_\_\_ # of Women Workers for the following trades:

---

---

---

Please send us your written response within 48 hours of receipt of this request.

Sincerely,

Contractor representative  
(with signature)



# NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

## Affirmative Action & Prevailing Wage Completion Certificate

**RECIPIENT OF AUTHORITY FINANCIAL ASSISTANCE COMPANY NAME** *(Legal Name of Recipient of NJEDA Financial Assistance (e.g. Bond, Loan, GrowNJ or ERG, etc.))*

--

**PROJECT NAME and LOCATION** *(include the Facility Name, Street Address, City and Zip Code of where construction was undertaken)*

--

**CONSTRUCTION COMPLETION DATE**

--

**NJ COUNTY** *(Project Location)*

--

**AAPWR NUMBER**

--

***Completion Certificate to be completed and signed by the Recipient and the General Contractor and submitted to NJEDA Labor Compliance Department:***

Instructions:

When the project is substantially complete (at least 90%), complete the document below and email it to your assigned NJEDA Compliance Officer with a list of all sub-contractors(all tiers) who worked on this project.

I/We, the undersigned, certify to the New Jersey Economic Development Authority as follows:

The construction of the above project is substantially complete (at least 90% of the entire project's construction is completed)

All workers employed in construction of the Project have been paid at a rate not less than the NJ Prevailing Wage rate unless specifically exempted by N.J.A.C. 19:30-4.2 (a) or (b), or N.J.A.C. 19:30-4.4 if applicable; In making this certification I have relied on payroll certifications prepared and submitted by the general contractor, prime contractor, all subcontractors including all lower-tier subcontractors.

We have made good faith efforts to achieve minority and women workforce participation goals and submitted all reports and certificates required by the Authority.

<b>RECIPIENT OF AUTHORITY FINANCIAL ASSISTANCE</b>		
	Date (mm/dd/yyyy)	Signature of Authorized Representative - Recipient of NJEDA Financial Assistance
	Authorized Rep. Phone Number	Print Authorized Representative Name and Title
	Print Company's Legal Name - Recipient of NJEDA Financial Assistance	
	Company's Street Address	
	City, State and Zip Code	
<b>GENERAL CONTRACTOR/ PRIME CONTRACTOR/ CONSTRUCTION MANAGER</b>		
	Date (mm/dd/yyyy)	Signature of Authorized Representative - General Contractor/Prime/ Construction Manager
	Authorized Rep. Phone Number	Print Authorized Representative Name and Title
	Print Company's Legal Name	
	Company's Street Address	
	City, State and Zip Code	

I/We, the authorized representative of the Recipient of NJEDA Financial Assistance and the Construction Manager or General Contractor, certify that I/We have no knowledge or information which would cause me/us to believe that any facts, information or representations made here in are false or misleading.



Date

General Contractor Name

Address

City, State, Zip Code

Re: Project Owner: Applicant Name  
Product Number: PROD-00XXXX  
AAPWR Number: AAPWR-00XXXX

Subject: Contractor Release Letter - [Project Name/Number]

Dear [XXXXXXXX],

This letter serves as formal notification that the New Jersey Economic Development Authority (NJEDA) has determined that you and, therefore, the project owner, have satisfactorily complied with the NJEDA and NJ Department of Labor's Prevailing Wage Act, Affirmative Action, and Contractor Registration regulations N.J.S.A.34:1B-5.1, N.J.A.C 19:30-3, and N.J.S.A 34:11-56.58).

The determination is based on information provided by you in the referenced project. The following contractor(s) are acknowledged to be in compliance with the NJEDA:

**[List of Contractors/AAPWR]**

AAPWR#	Contractor Company Name	Contractor Contact
	(If applicable, if not enter "NA")	

It is imperative to note that, as per the project owner's agreement with the NJEDA, ongoing compliance with the NJEDA regarding the NJ Department of Labor's Prevailing Wage, Affirmative Action, and Contractor Registration Act regulations may be required. We strongly recommend discussing these terms with the project owner to ensure sustained compliance.

Should you have any further inquiries, please feel free to contact me at XXX-XXX-XXXX or via email at [name@njeda.gov](mailto:name@njeda.gov).

Thank you for your cooperation and commitment to compliance.

Sincerely,

[Your Name]

[Your Title]

CC: Lorena Garcia, Director, NJEDA Labor Compliance  
Detra Lewis, Program Manager, NJEDA Labor Compliance  
Applicant Company Name



## Employee Misclassification

Employee (W2)

Independent Contractor (1099)

### Misclassification Task Force



#### Governor Murphy's Misclassification Task Force

- Chaired by the NJ Department of Labor, with combined representatives from the Departments of Agriculture, Economic Development, Human Services, Transportation, Treasury, and the Attorney General's office works in a collaborative effort on strengthening misclassification enforcement.
- By misclassifying workers as independent contractors – workers who file 1099s, not W2s – employers avoid paying unemployment and disability taxes, costing state and federal taxpayers untold millions of dollars.
- In New Jersey alone, auditors have identified more than \$80 million in underreported employer contributions since 2010.

## A Side-by-Side Comparison Employee vs. Independent Contractor



### Employee

*To be classified as an Employee of a company, the worker will:*

- Receive a W2 which includes
  - ✓ W2-Includes wages and withholding
  - ✓ W2-includes Withheld Federal & State taxes, Social Security, Workers Comp and Unemployment
- Employee is paid hourly or salaried
- An Employee's hours for work performed will be captured on the Certified Payroll of the Reporting Company that hired them.
- The Employer will report Prevailing Wage requirements on behalf of the (W2) Employee
- Labor Compliance reporting is not the responsibility of the Employee, but submitted through the Employer

### Independent Contractor

*To be classified as an Independent Contractor, the worker:*

- Also Known As the 1099 worker
- Receives a 1099 for taxes to be paid by the worker and not the employee
- Is paid based on contract
- Earned income with no withholding
- Expectation of annual payment to Federal & State Government
- The Independent Contractor prepares and reports workhours on a Certified Payroll for work performed
- All Labor Compliance requirements (e.g. AA,PW) are reported by the Independent Contractor as a registered contractor for the project

## Classifying an W2 Employee / Independent Contractor (1099)



### What is a Misclassified Worker?

- Misclassification occurs when workers are mislabeled as independent contractors vs regular employees.
- Misclassified Workers do not have legal protections of Wage and Hour laws, Unemployment, and Workers Comp
- Unemployment, Workers Comp, other legally required withholdings not taken out.
- Employer must repay all withholding, back taxes and penalties for misclassified workers.
- Misclassification is a form of tax evasion and may result in costly financial penalties

## Tax Responsibilities W2 Employee / Independent Contractor (1099)

**NJEDA**

### What are the differences in Withholding?

- For employers, determining the classification status of employees and clearly communicating this status is important for maintaining understanding between the parties and clarifying expectation in terms of taxation.
- Understanding the difference in tax payment accountability between a full time (W-2) and contract (1099) employee is important because the responsibility for withholding and paying taxes is different but the individual responsibility for payment is the same.
- The employee with a 1099 is entirely responsible for determining and withholding the appropriate amount from their pay, so that they can pay the state and federal government what they owe.

**NJEDA**

in



Visit  
NJEDA.com

@NewJerseyEDA

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## EXHIBIT B

### NJEDA MANDATORY CONSTRUCTION CONTRACT LANGUAGE PAYMENT OF PREVAILING WAGES IN AUTHORITY PROJECTS

*[See attached]*

## **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 [Labor Standards Compliance - NJEDA](#) 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.



## 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 [Labor Standards Compliance - NJEDA](#), 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/](http://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](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.

**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 and Economic Recovery Act, P.L. 2020, c. 156 (as amended by P.L. 2021, c. 160)**

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 the greater of the tenant required occupancy percentage of the facility as required for the Program under which the recipient is receiving financial assistance 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:**

<b>ENTITY RECEIVING EDA FINANCIAL ASSISTANCE AND/OR APPLICANT/LEASEE</b>		
	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	

<b>GENERAL CONTRACTOR/ PRIME CONTRACTOR/ CONSTRUCTION MANAGER</b>		
	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

<b>LANDLORD OF RECIPIENT (IF APPLICABLE)</b>		
	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 - Labor Compliance Dept. via <https://aonline.njeda.com/aaweb/>**

**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 one for each sub-contractor, both the General Contractor and Sub-Contractor must sign below)

**Pursuant to N.J.A.C. 19:30 SUBCHAPTER 3 & 4 and Economic Recovery Act, P.L. 2020, c. 156 (as amended by P.L. 2021, c. 160)**

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.

Project Name, Address, and Description of where construction will be undertaken:	
<b>GENERAL CONTRACTOR/ PRIME CONTRACTOR/ or CONSTRUCTION MANAGER</b>	
	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)
	<div style="display: flex; justify-content: space-between;"> <span>Signatory Name and Title</span> <span>Phone</span> </div> <div style="display: flex; justify-content: space-between;"> <span>X</span> <span></span> </div>
	<div style="display: flex; justify-content: space-between;"> <span>Signature of Authorized Representative</span> <span>Date of Signature</span> </div> <div style="display: flex; justify-content: space-between;"> <span></span> <span></span> </div>
	Name of Person in Payroll, Accounting, etc. responsible for preparing monthly reports
<b>SUBCONTRACTOR</b>	
	Company Name of Subcontractor
	Mailing Address of Subcontractor (Street Address / P.O./ City / State/ Zip)
	<div style="display: flex; justify-content: space-between;"> <span>Signatory Name and Title</span> <span>Phone</span> </div> <div style="display: flex; justify-content: space-between;"> <span>X</span> <span></span> </div>
	<div style="display: flex; justify-content: space-between;"> <span>Signature of Authorized Representative</span> <span>Date of Signature</span> </div> <div style="display: flex; justify-content: space-between;"> <span></span> <span></span> </div>
	<div style="display: flex; justify-content: space-between;"> <span>Name of Person in Payroll, Accounting, etc. responsible for preparing monthly reports</span> <span>E-mail address</span> </div>
<b>SUBCONTRACTOR (Lower tier) if applicable</b>	
	Company Name of Subcontractor (lower tier)
	Mailing Address of Subcontractor (lower tier) (Street Address / P.O./ City / State/ Zip)
	<div style="display: flex; justify-content: space-between;"> <span>Signatory Name and Title</span> <span>Phone</span> </div> <div style="display: flex; justify-content: space-between;"> <span>X</span> <span></span> </div>
	<div style="display: flex; justify-content: space-between;"> <span>Signature of Authorized Representative</span> <span>Date of Signature</span> </div> <div style="display: flex; justify-content: space-between;"> <span></span> <span></span> </div>
	<div style="display: flex; justify-content: space-between;"> <span>Name of Person in Payroll, Accounting, etc. responsible for preparing monthly reports</span> <span>E-mail address</span> </div>

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



New Jersey Department of Treasury  
Equal Employment Opportunity and Affirmative Action

COUNTY GOALS FOR MINORITY AND WOMEN  
WORKFORCE PARTICIPATION - CONSTRUCTION  
(In accordance with N.J.A.C. 17:27-7.2)

Available at the Department's website at : [http://www.state.nj.us/treasury/contract\\_compliance](http://www.state.nj.us/treasury/contract_compliance)

Trade	Minority %	Women %
ATLANTIC	18	6.9
BERGEN	22	6.9
BURLINGTON	15	6.9
CAMDEN	19	6.9
CAPE MAY	5	6.9
CUMBERLAND	27	6.9
ESSEX	53	6.9
GLOUCESTER	9	6.9
HUDSON	60	6.9
HUNTERDON	3	6.9
MERCER	30	6.9
MIDDLESEX	24	6.9
MONMOUTH	15	6.9
MORRIS	16	6.9
OCEAN	7	6.9
PASSAIC	36	6.9
SALEM	10	6.9
SOMERSET	20	6.9
SUSSEX	4	6.9
UNION	45	6.9
WARREN	5	6.9



## LABOR COMPLIANCE DEPARTMENT

36 West State Street, Trenton, NJ 08625-0990

## INITIAL CONSTRUCTION PROJECT WORKFORCE REPORT (NJEDA AA Form 1)

1. NJEDA PROJECT No. (5 digits e.g. 12345)		2. AAPW Record ID		5. Co. receiving EDA Finance Assistance or Real Estate Project Name	
3. NAME AND ADDRESS OF GENERAL CONTRACTOR OR CONSTRUCTION MGR.					
(NAME)		6. DATE OF AWARD		7. DOLLAR AMOUNT OF AWARD	
(STREET ADDRESS)		8. NAME & ADDRESS OF PROJECT			
NJ					
(CITY)	(STATE)	(ZIP CODE)	9. NJ COUNTY that Project is Located in:		10. IS THIS PROJECT COVERED BY A PROJECT LABOR AGREEMENT (PLA)?
					Yes or No
11. TRADE OR CRAFT		PROJECTED EMPLOYEES (HEADCOUNT)			PROJECT MILESTONES
		12. TOTAL HEADCOUNT	13. # OF WOMEN (AS A SUBSET OF 12. TOTAL)	14. # OF MINORITIES (AS A SUBSET OF 12. TOTAL)	15. PROJECTED PHASE-IN DATE
					16. PROJECTED COMPLETION DATE
1.	ASBESTOS WORKER				
2.	ASPHALT WORKER				
3.	BOILER MAKER				
4.	BRICK LAYER				
5.	CARPENTER				
6.	CEMENT FINISHERS				
7.	DOCK BUILDER				
8.	DRILLER				
9.	ELECTRICIAN				
10.	ELEVATOR CONSTRUCTION				
11.	FLOOR LAYER				
12.	GLAZIERS				
13.	HVAC				
14.	IRON WORKER				
15.	INSULATION MECHANIC				
16.	LABORER				
17.	MASON				
18.	MECHANIC				
19.	MILLWRIGHT				
20.	OPERATING ENGINEER				
21.	PAINTERS				
22.	PIPE FITTER				
23.	PLASTERER				
24.	PLUMBER				
25.	ROOFER				
26.	SHEETMETAL WORKER				
27.	SPRINKLER FITTER				
28.	SURVEYOR				
29.	TEAMSTER, TRUCK DRIVER				
30.	TELEDATA - ELECTRICIAN				
31.	TILE LAYER; TITL SETTER				
32.	TAPER				
33.	WELDER				
34.	OTHER LABOR FOREMAN				
TOTAL					

SAMPLE

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.

Please submit electronically on the AA Web Portal

<https://aaonline.njeda.com>

[illegible]

# New Jersey Law Prohibits Discrimination in Employment

- ON THE BASIS OF:** Race, Creed, Color, National Origin, Age, Ancestry, Nationality, Marital or Domestic Partnership or Civil Union Status, Sex, Gender Identity or Expression, Disability, Liability for Military Service, Affectional or Sexual Orientation, Atypical Cellular or Blood Trait, Genetic Information (including the refusal to submit to genetic testing)
- BY:** Private or State and Local Government Employers, Employment Agencies, or Labor Unions
- WITH RESPECT TO:** Hiring, Promotion, Transfer, Demotion, Termination, Salary, Benefits, Other Privileges, Conditions or Terms of Employment, Layoff, Harassment, Apprenticeship and Training Programs, Job Referrals, or Union Membership
- OR:** In Retaliation for Filing a Complaint, Participating or Testifying in Any Proceedings or for Opposing Any Acts Forbidden under the New Jersey Law Against Discrimination
- REMEDY MAY INCLUDE:** An Order Restraining Unlawful Discrimination, Back Pay, Damages for Pain and Humiliation Experienced as a Result of Unlawful Discrimination, Punitive Damages, and Attorney's Fees

*It is also unlawful to publish employment advertisements which discriminate against persons in violation of the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq.*

**Violations Should Be Reported To the Nearest Office  
of the NJ Division on Civil Rights or Call Toll Free at 866-405-3050**

**Atlantic City**

26 S. Pennsylvania Avenue, 3<sup>rd</sup> Floor  
Atlantic City, NJ 08401  
(609) 441-3100 (Phone)  
(609) 441-7648 (TTY)

**Camden**

One Port Center  
2 Riverside Drive, 4<sup>th</sup> Floor  
Camden, NJ 08103  
(856) 614-2550 (Phone)  
(856) 614-2574 (TTY)

**Jersey City**

574 Newark Avenue, 3<sup>rd</sup> Floor  
Jersey City, NJ 07306  
(201) 798-5168 (Phone)

**Newark**

31 Clinton Street, 3<sup>rd</sup> Floor  
Newark, NJ 07102  
(973) 648-2700 (Phone)  
(973) 648-4678 (TTY)

**Paterson**

100 Hamilton Plaza, 8<sup>th</sup> Floor  
Paterson, NJ 07501  
(973) 977-4500 (Phone)  
(973) 977-1955 (TTY)

**Trenton**

140 East Front Street, 6<sup>th</sup> Floor  
Trenton, NJ 08625  
(609) 292-4605 (Phone)  
(609) 292-1785 (TTY)

**[www.NJCivilRights.org](http://www.NJCivilRights.org)**

*The regulations of the New Jersey Division on Civil Rights require that all employers, employment agencies and labor organizations who are covered by the New Jersey Law Against Discrimination shall display this official poster in places easily visible to all employees and applicants. N.J.A.C. 13:8-1.2.*



**CIVIL RIGHTS**

## NJ Department of Labor &amp; Workforce Development

## Payroll Certification for Public Works Projects

Other (specify) \_\_\_\_\_

[illegible]

**4(c) Benefit Program Information in AMOUNT CONTRIBUTED PER HOUR (Must be completed if 4(a) is checked)**

(1) That I pay or supervise the payment of the persons employed by

(Contractor or Subcontractor)

on the \_\_\_\_\_  
(Project Name & Location)

[illegible][illegible][illegible]

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[illegible][illegible]

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[illegible][illegible][illegible]

Name \_\_\_\_\_

Date (mm/dd/yy)

[illegible]



**NJEDA SAMPLE REFERRAL LETTER TO UNION HALL**

DATE

LOCAL UNION HALL  
CONTACT NAME  
ADDRESS  
CITY, STATE, ZIP

RE: Request for Minority and Women Workers  
For (NJEDA Project Number and Name)

Dear Sir or Madam:

Acting in accordance with the New Jersey Economic Development Authority Act N.J.A.C 19:30 Subchapter 3 “Affirmative Action in Authority Financed Construction Projects” please provide us with qualified minority and women workers to reach our goals of \_\_\_\_% minority work hours and **6.9%** women work hours for each trade:

\_\_\_\_ # of Minority Workers for the following trades:

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\_\_\_\_ # of Women Workers for the following trades:

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Please send us your written response within 48 hours of receipt of this request.

Sincerely,

Contractor representative  
(with signature)



**NJEDA SAMPLE REFERRAL LETTER TO A MINORITY AND WOMEN  
REFERRAL ORGANIZATION**

DATE

REFERRAL ORGANIZATION NAME

CONTACT NAME

ADDRESS

CITY, STATE, ZIP

**RE:** Request for Minority and Women Workers

For P#XXX

Project Name XXX

Dear Sir or Madam:

Acting in accordance with the New Jersey Economic Development Authority Act N.J.A.C 19:30 Subchapter 3 “Affirmative Action in Authority Financed Construction Projects” please provide us with qualified minority and women workers to reach our goals of \_\_\_\_% minority work hours and **6.9%** women work hours for each trade:

\_\_\_\_ # of Minority Workers for the following trades:

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\_\_\_\_ # of Women Workers for the following trades:

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Please send us your written response within 48 hours of receipt of this request.

Sincerely,

Contractor representative  
(with signature)

# NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

## Affirmative Action & Prevailing Wage Completion Certificate

**RECIPIENT OF AUTHORITY FINANCIAL ASSISTANCE COMPANY NAME** *(Legal Name of Recipient of NJEDA Financial Assistance (e.g. Bond, Loan, GrowNJ or ERG, etc.))*

--

**PROJECT NAME and LOCATION** *(include the Facility Name, Street Address, City and Zip Code of where construction was undertaken)*

--

**CONSTRUCTION COMPLETION DATE**

--

**NJ COUNTY** *(Project Location)*

--

**AAPWR NUMBER**

--

***Completion Certificate to be completed and signed by the Recipient and the General Contractor and submitted to NJEDA Labor Compliance Department:***

Instructions:

When the project is substantially complete (at least 90%), complete the document below and email it to your assigned NJEDA Compliance Officer with a list of all sub-contractors(all tiers) who worked on this project.

I/We, the undersigned, certify to the New Jersey Economic Development Authority as follows:

The construction of the above project is substantially complete (at least 90% of the entire project's construction is completed)

All workers employed in construction of the Project have been paid at a rate not less than the NJ Prevailing Wage rate unless specifically exempted by N.J.A.C. 19:30-4.2 (a) or (b), or N.J.A.C. 19:30-4.4 if applicable; In making this certification I have relied on payroll certifications prepared and submitted by the general contractor, prime contractor, all subcontractors including all lower-tier subcontractors.

We have made good faith efforts to achieve minority and women workforce participation goals and submitted all reports and certificates required by the Authority.

<b>RECIPIENT OF AUTHORITY FINANCIAL ASSISTANCE</b>		
	Date (mm/dd/yyyy)	Signature of Authorized Representative - Recipient of NJEDA Financial Assistance
	Authorized Rep. Phone Number	Print Authorized Representative Name and Title
	Print Company's Legal Name - Recipient of NJEDA Financial Assistance	
	Company's Street Address	
	City, State and Zip Code	
<b>GENERAL CONTRACTOR/ PRIME CONTRACTOR/ CONSTRUCTION MANAGER</b>		
	Date (mm/dd/yyyy)	Signature of Authorized Representative - General Contractor/Prime/ Construction Manager
	Authorized Rep. Phone Number	Print Authorized Representative Name and Title
	Print Company's Legal Name	
	Company's Street Address	
	City, State and Zip Code	

I/We, the authorized representative of the Recipient of NJEDA Financial Assistance and the Construction Manager or General Contractor, certify that I/We have no knowledge or information which would cause me/us to believe that any facts, information or representations made here in are false or misleading.





Date

General Contractor Name

Address

City, State, Zip Code

Re: Project Owner: Applicant Name  
Product Number: PROD-00XXXX  
AAPWR Number: AAPWR-00XXXX

Subject: Contractor Release Letter - [Project Name/Number]

Dear [XXXXXXXX],

This letter serves as formal notification that the New Jersey Economic Development Authority (NJEDA) has determined that you and, therefore, the project owner, have satisfactorily complied with the NJEDA and NJ Department of Labor's Prevailing Wage Act, Affirmative Action, and Contractor Registration regulations N.J.S.A.34:1B-5.1, N.J.A.C 19:30-3, and N.J.S.A 34:11-56.58).

The determination is based on information provided by you in the referenced project. The following contractor(s) are acknowledged to be in compliance with the NJEDA:

**[List of Contractors/AAPWR]**

AAPWR#	Contractor Company Name	Contractor Contact
	(If applicable, if not enter "NA")	

It is imperative to note that, as per the project owner's agreement with the NJEDA, ongoing compliance with the NJEDA regarding the NJ Department of Labor's Prevailing Wage, Affirmative Action, and Contractor Registration Act regulations may be required. We strongly recommend discussing these terms with the project owner to ensure sustained compliance.

Should you have any further inquiries, please feel free to contact me at XXX-XXX-XXXX or via email at [name@njeda.gov](mailto:name@njeda.gov).

Thank you for your cooperation and commitment to compliance.

Sincerely,

[Your Name]

[Your Title]

CC: Lorena Garcia, Director, NJEDA Labor Compliance  
Detra Lewis, Program Manager, NJEDA Labor Compliance  
Applicant Company Name



## Employee Misclassification

Employee (W2)

Independent Contractor (1099)

### Misclassification Task Force



#### Governor Murphy's Misclassification Task Force

- Chaired by the NJ Department of Labor, with combined representatives from the Departments of Agriculture, Economic Development, Human Services, Transportation, Treasury, and the Attorney General's office works in a collaborative effort on strengthening misclassification enforcement.
- By misclassifying workers as independent contractors – workers who file 1099s, not W2s – employers avoid paying unemployment and disability taxes, costing state and federal taxpayers untold millions of dollars.
- In New Jersey alone, auditors have identified more than \$80 million in underreported employer contributions since 2010.

## A Side-by-Side Comparison Employee vs. Independent Contractor



### Employee

*To be classified as an Employee of a company, the worker will:*

- Receive a W2 which includes
  - ✓ W2-Includes wages and withholding
  - ✓ W2-includes Withheld Federal & State taxes, Social Security, Workers Comp and Unemployment
- Employee is paid hourly or salaried
- An Employee's hours for work performed will be captured on the Certified Payroll of the Reporting Company that hired them.
- The Employer will report Prevailing Wage requirements on behalf of the (W2) Employee
- Labor Compliance reporting is not the responsibility of the Employee, but submitted through the Employer

### Independent Contractor

*To be classified as an Independent Contractor, the worker:*

- Also Known As the 1099 worker
- Receives a 1099 for taxes to be paid by the worker and not the employee
- Is paid based on contract
- Earned income with no withholding
- Expectation of annual payment to Federal & State Government
- The Independent Contractor prepares and reports workhours on a Certified Payroll for work performed
- All Labor Compliance requirements (e.g. AA,PW) are reported by the Independent Contractor as a registered contractor for the project

## Classifying an W2 Employee / Independent Contractor (1099)



### What is a Misclassified Worker?

- Misclassification occurs when workers are mislabeled as independent contractors vs regular employees.
- Misclassified Workers do not have legal protections of Wage and Hour laws, Unemployment, and Workers Comp
- Unemployment, Workers Comp, other legally required withholdings not taken out.
- Employer must repay all withholding, back taxes and penalties for misclassified workers.
- Misclassification is a form of tax evasion and may result in costly financial penalties

## Tax Responsibilities W2 Employee / Independent Contractor (1099)

**NJEDA**

### What are the differences in Withholding?

- For employers, determining the classification status of employees and clearly communicating this status is important for maintaining understanding between the parties and clarifying expectation in terms of taxation.
- Understanding the difference in tax payment accountability between a full time (W-2) and contract (1099) employee is important because the responsibility for withholding and paying taxes is different but the individual responsibility for payment is the same.
- The employee with a 1099 is entirely responsible for determining and withholding the appropriate amount from their pay, so that they can pay the state and federal government what they owe.

**NJEDA**

in



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**EXHIBIT C**

**GUARANTEED MAXIMUM PRICE PROPOSAL (GMP**  
**Exclusions and Qualifications)**

*[See attached]*

**EXHIBIT D**  
**FORM OF GMP AMENDMENT**

*[See attached]*

Init.

/

# DRAFT AIA® Document A133® – 2019

## Exhibit D

### ***Guaranteed Maximum Price Amendment***

This Amendment dated the « » day of « » in the year « », is incorporated into the accompanying AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price dated the « » day of « » in the year « » (the “Agreement”)  
(In words, indicate day, month, and year.)

for the following **PROJECT:**  
(Name and address or location)

« »  
« »

**THE OWNER:**  
(Name, legal status, and address)

« »« »  
« »

**THE CONSTRUCTION MANAGER:**  
(Name, legal status, and address)

« »« »  
« »

#### **TABLE OF ARTICLES**

- A.1 GUARANTEED MAXIMUM PRICE**
- A.2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION**
- A.3 INFORMATION UPON WHICH AMENDMENT IS BASED**
- A.4 CONSTRUCTION MANAGER’S CONSULTANTS, CONTRACTORS, DESIGN PROFESSIONALS, AND SUPPLIERS**

#### **ARTICLE A.1 GUARANTEED MAXIMUM PRICE**

##### **§ A.1.1 Guaranteed Maximum Price**

Pursuant to Section 3.2.6 of the Agreement, the Owner and Construction Manager hereby amend the Agreement to establish a Guaranteed Maximum Price. As agreed by the Owner and Construction Manager, the Guaranteed Maximum Price is an amount that the Contract Sum shall not exceed. The Contract Sum consists of the Construction Manager’s Fee plus the Cost of the Work, as that term is defined in Article 6 of the Agreement.

**§ A.1.1.1** The Contract Sum is guaranteed by the Construction Manager not to exceed « » (\$ « »), subject to additions and deductions by Change Order as provided in the Contract Documents.

**§ A.1.1.2 Itemized Statement of the Guaranteed Maximum Price.** Provided below is an itemized statement of the Guaranteed Maximum Price organized by trade categories,

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User Notes:

**ADDITIONS AND DELETIONS:** The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201™–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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including allowances; the Construction Manager's contingency; alternates; the Construction Manager's Fee; and other items that comprise the Guaranteed Maximum Price as defined in Section 3.2.1 of the Agreement.  
(Provide itemized statement below or reference an attachment.)

« »

§ A.1.1.3 The Construction Manager's Fee is set forth in Section 6.1.2 of the Agreement.

§ A.1.1.4 The method of adjustment of the Construction Manager's Fee for changes in the Work is set forth in Section 6.1.3 of the Agreement.

§ A.1.1.5 Alternates

§ A.1.1.5.1 Alternates, if any, included in the Guaranteed Maximum Price:

Item	Price

§ A.1.1.5.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Exhibit A. Upon acceptance, the Owner shall issue a Modification to the Agreement.  
(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance

§ A.1.1.6 Unit prices, if any:

(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)

ARTICLE A.2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ A.2.1 The date of commencement of the Work shall be:

(Check one of the following boxes.)

[ « » ] The date of execution of this Amendment.

[ « » ] Established as follows:

(Insert a date or a means to determine the date of commencement of the Work.)

« »

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of execution of this Amendment.

§ A.2.2 Unless otherwise provided, the Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work. The Contract Time shall be measured from the date of commencement of the Work.

§ A.2.3 Substantial Completion

§ A.2.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Construction Manager shall achieve Substantial Completion of the entire Work:

(Check one of the following boxes and complete the necessary information.)

[ « » ] Not later than « » ( « » ) calendar days from the date of commencement of the Work.

[ « » ] By the following date: « »



§ A.2.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Construction Manager shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date

§ A.2.3.3 If the Construction Manager fails to achieve Substantial Completion as provided in this Section A.2.3, liquidated damages, if any, shall be assessed as set forth in Section 6.1.6 of the Agreement.

#### ARTICLE A.3 INFORMATION UPON WHICH AMENDMENT IS BASED

§ A.3.1 The Guaranteed Maximum Price and Contract Time set forth in this Amendment are based on the Contract Documents and the following:

§ A.3.1.1 The following Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

§ A.3.1.2 The following Specifications:  
(Either list the Specifications here, or refer to an exhibit attached to this Amendment.)

« »

Section	Title	Date	Pages

§ A.3.1.3 The following Drawings:  
(Either list the Drawings here, or refer to an exhibit attached to this Amendment.)

« »

Number	Title	Date

§ A.3.1.4 The Sustainability Plan, if any:  
(If the Owner identified a Sustainable Objective in the Owner's Criteria, identify the document or documents that comprise the Sustainability Plan by title, date and number of pages, and include other identifying information. The Sustainability Plan identifies and describes the Sustainable Objective; the targeted Sustainable Measures; implementation strategies selected to achieve the Sustainable Measures; the Owner's and Construction Manager's roles and responsibilities associated with achieving the Sustainable Measures; the specific details about design reviews, testing or metrics to verify achievement of each Sustainable Measure; and the Sustainability Documentation required for the Project, as those terms are defined in Exhibit C to the Agreement.)

Title	Date	Pages

Other identifying information:

§ A.3.1.5 Allowances, if any, included in the Guaranteed Maximum Price:  
(Identify each allowance.)

Item	Price

§ A.3.1.6 Assumptions and clarifications, if any, upon which the Guaranteed Maximum Price is based:

(Identify each assumption and clarification.)

« »

§ A.3.1.7 The Guaranteed Maximum Price is based upon the following other documents and information:  
(List any other documents or information here, or refer to an exhibit attached to this Amendment.)

« »

**ARTICLE A.4 CONSTRUCTION MANAGER'S CONSULTANTS, CONTRACTORS, DESIGN PROFESSIONALS, AND SUPPLIERS**

§ A.4.1 The Construction Manager shall retain the consultants, contractors, design professionals, and suppliers, identified below:

(List name, discipline, address, and other information.)

« »

This Amendment to the Agreement entered into as of the day and year first written above.

\_\_\_\_\_  
**OWNER** (Signature)

« »« »

\_\_\_\_\_  
(Printed name and title)

\_\_\_\_\_  
**CONSTRUCTION MANAGER** (Signature)

« »« »

\_\_\_\_\_  
(Printed name and title)