

**STATE OF NEW JERSEY  
DEPARTMENT OF THE TREASURY**

**DIVISION OF PURCHASE & PROPERTY  
CONTRACT COMPLIANCE AND AUDIT UNIT**

**EEO**  
**MONITORING PROGRAM**

**PUBLIC AGENCY**  
Guidelines for Administering  
Equal Employment Opportunity and  
Affirmative Action in Public Contracts



Pursuant to N.J.S.A. 10:5-31 et seq. and N.J.A.C. 17:27 et seq.

Website: [http://www.state.nj.us/treasury/contract\\_compliance](http://www.state.nj.us/treasury/contract_compliance)

Telephone: (609) 292-5473

Fax: (609) 292-1102

January 2016

## **Assistance With Using This Summary:**

If you wish to receive clarification concerning any item contained in this summary relating to EEO/AA legal requirements for **goods, general services and professional services contracts**, please contact:

NJ Department of the Treasury  
Division of Purchase and Property  
Contract Compliance and Audit Unit  
EEO Monitoring Program  
PO Box 206  
Trenton, NJ 08625-0206  
Telephone (609) 292-5473  
Fax (609) 292-1102

For clarification concerning any item contained in this summary relating to EEO/AA legal requirements for **construction contracts**, please contact:

NJ Department of Labor & Workforce Development  
Construction EEO Monitoring Program  
PO Box 209  
Trenton, New Jersey 08625-0209  
Telephone (609) 292-9550  
Fax (609) 984-4023

### **Diane B. Allen Equal Pay Act**

Please be advised that in accordance with P.L. 2018, c. 9, also known as the Diane B. Allen Equal Pay Act, which was signed in to law by Governor Phil Murphy on April 24, 2018, a contractor performing “qualifying services” or “public work” to the State or any agency or instrumentality of the State shall provide the Commissioner of Labor and Workforce Development a report regarding the compensation and hours worked by employees categorized by gender, race, ethnicity, and job category. For more information and report templates see

<https://nj.gov/labor/equalpay/equalpay.html>.

# Public Agency Guidelines For Administering EEO in Public Contracts

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# Public Agency Guidelines For Administering EEO in Public Contracts

## 1. General

Procurement and contracting responsibilities are a fundamental part of government. Successful implementation of these functions includes the recognition and awareness of Equal Employment Opportunities for minorities and women under the law (N.J.S.A. 10:5-31 et seq.). This summary has been prepared to assist you in comply with the law.

All Public Agencies that award contracts to vendors (goods, general services and professional services) and/or construction contractors are required to comply with N.J.S.A. 10:5-31 et seq. and N.J.A.C. 17:27 et seq. The Division of Purchase & Property's Contract Compliance and Audit Unit (hereafter referred to as "Division") is responsible for ensuring compliance with the statute and regulations. As such, the Division monitors the labor workforce employed by vendors that receive public funds for goods, general services and professional services. The Department of Labor and Workforce Development's Construction EEO Monitoring Program, (hereafter referred to as "Dept. of LWD") monitors legal compliance related to construction contracts.

In addition, Division representatives periodically review Public Agency contracting processes to ensure that they are complying with EEO/AA requirements. The result of such review will be a determination that the agency is performing its statutory functions in a "Satisfactory" or "Unsatisfactory" manner. If the result is "Satisfactory" the agency need only maintain its compliance. If the result is "Unsatisfactory" the agency may be required to make corrections to its processes and may be required to meet with Division representatives to ensure that all corrections have been completed. An unsatisfactory review may result in the issuance of sanctions or referral to the Attorney General for appropriate enforcement action in cases of continued non-compliance.

Public Agencies shall comply with the following requirements set forth at N.J.A.C. 17:27-3.2 in order to ensure equal employment opportunity in public contracting:

- Comply with all regulations promulgated by the Division with respect to its obligations to assist with equal employment opportunity and affirmative action compliance and enforcement efforts;
- Cooperate fully with the Division in the establishment and implementation of guidelines for determining whether a vendor or construction contractor has failed to provide equal employment opportunity in the hiring of minorities and women for public contracts;
- Include mandatory equal employment opportunity and affirmative action language in its advertisements, bids specifications and contracts;
- Include in each contract the State's intent to carry out its responsibilities requiring equal employment opportunity and affirmative action by vendors and construction contractors, the vendor and contractor's obligations under the law and related regulations, and the consequences of the failure to do so;
- Provide vendors and construction contractors with documentation describing the relevant law and rules and, as requested, copies of same;
- Provide to the Division or Dept. of LWD any information which indicates that a goods or services vendor; or a construction contractor is not in compliance with equal employment opportunity requirements and fully cooperate in any Division/ Dept. of LWD investigation of such entity's compliance with these requirements;

Provide the Division with such other information as it shall request and as shall be necessary to enable the Division to fulfill its mission;

# Public Agency Guidelines For Administering EEO in Public Contracts

- Require parties with contracts awarded by the Public Agency to certify that they are in compliance with equal employment opportunity and affirmative action in public contracting requirements by presenting mandatory evidence; and
- Include in any public contract a provision requiring all parties to the contract and any subcontracts, to make a good faith effort to provide equal employment opportunity for minorities and women, and further providing that a failure to make good faith efforts to provide equal employment opportunity for minorities and women may result in fines/penalties, suspension/debarment, a determination to lower a construction contractor's aggregate rating or such other action as provided by law.

A Public Agency may, at any time, request technical assistance from the Division. Such assistance shall consist of a Division representative visiting the Public Agency and explaining the requirements of the statute and regulations. A finding of "Satisfactory" or "Unsatisfactory" will not be made in response to a request for assistance.

## 2. Summary of Public Agency Requirements

### 2.1 Public Agency Compliance Officer (P.A.C.O.)

In accordance with N.J.A.C. 17:27-3.3, each Public Agency shall designate an individual to serve as its Public Agency Compliance Officer or P.A.C.O. (see Attachment 1). The P.A.C.O. is the liaison between the Division and the Public Agency and is the Public Agency point of contact for all matters concerning implementation and administration of the statute and regulations. The P.A.C.O. is also responsible for administering contracting procedures pertaining to equal employment opportunity regarding both the Public Agency and vendors with public contracts. Vendors shall include but is not limited to goods, professional services and general services; and construction contractors. As such, the P.A.C.O. must have the authority to recommend changes to effectively support the implementation of the statute and its regulations.

Each year, all Public Agencies are required to submit the name, title, address, telephone, number, fax, and email address of the P.A.C.O. designated by the Public Agency. This information must be submitted to the Division no later than January 10th of each year. In addition, it shall be the responsibility of the Public Agency to update the P.A.C.O. designation at any time during the year if any changes are made concerning the designated P.A.C.O.

### 2.2 Mandatory Bid Advertisement Language

As part of the review procedures, Division representatives will review the language in a Public Agency's advertisement for the receipt of bids, solicitations and/or request for proposals to ensure that the Public Agency has complied with N.J.A.C. 17:27 et seq. Accordingly, all Public Agencies must include the following language in all solicitations or advertisements for bid:

"Bidders are required to comply with the requirements of N.J.S.A. 10:5-31 et seq. and N.J.A.C. 17:27 et seq."

For all contracts exempt from public bidding, the Public Agency shall include the following language in its solicitation:

# Public Agency Guidelines For Administering EEO in Public Contracts

“If awarded a contract, your company/firm shall be required to comply with the requirements of N.J.S.A. 10:5-31 et seq. and N.J.A.C. 17:27 et. seq.”

## **2.3 Mandatory Contract Language**

All contracts issued by a Public Agency must contain the mandatory affirmative action language set forth in N.J.A.C. 17:27 et seq. During a review, Division representatives will review the Public Agency’s contracts to ensure compliance with this provision.

For all goods, general services and professional services vendors, Public Agency contracts must include the affirmative action language of Exhibit A (see Attachment 2).

For all construction contracts, Public Agency contracts must include the affirmative action language of Exhibit B (see Attachment 3). Additional mandatory language for State Agencies, Independent Authorities, Colleges and Universities is also required as a result of Executive Order 151 and P.L.2009, c.335 (see attachment 14).

## **2.4 Affirmative Action Evidence**

All successful bidders for goods, general services and professional services contracts are required to submit evidence of appropriate affirmative action compliance to the Division and the awarding Public Agency. For construction contracts, evidence must be submitted to Dept. of LWD and the awarding Public Agency. During a review, Division representatives will review the Public Agency files to determine whether the affirmative action evidence has been submitted by the vendor or contractor. Specifically, each vendor or contractor shall submit to the Public Agency, prior to execution of the contract, one of the following documents:

### **Goods, General Services and Professional Services Vendors**

1. Letter of Federal Approval indicating that the vendor is under an existing federally approved or sanctioned affirmative action program. A copy of the approval letter must be provided by the vendor to the Public Agency and the Division (see Attachment 4). This approval letter is valid for one year from the date of issuance. Or,
2. A Certificate of Employee Information Report (hereafter “Certificate”), issued in accordance with N.J.A.C. 17:27 et seq. The vendor must provide a copy of the Certificate to the Public Agency as evidence of its compliance with the regulations. The Certificate represents the review and approval of the vendor’s Employee Information Report, Form AA-302 by the Division (see Attachment 5). Or,

(Note: The period of validity of the Certificate is indicated on its face. Certificates must be renewed prior to their expiration date in order to remain valid. The Certificate is valid for three years for any vendor with 50 or more employees or for seven years for any vendor with less than 50 employees. The Public Agency should review any Certificate submitted to ensure the date is still valid.)

3. The successful bidder shall complete an Initial Employee Report, Form AA-302 and submit it to the Division with a check or money order for \$150.00 made payable to “Treasurer, State of NJ” and forward a copy of the Form to the Public Agency (see Attachment 6). Upon submission and review by the Division, the Report shall constitute evidence of compliance with the regulations.

# Public Agency Guidelines For Administering EEO in Public Contracts

The EEO/AA evidence must be submitted after notification of award but prior to execution of goods, general services and professional services contracts.

## **Construction Contractors**

The construction contractors shall complete and submit an Initial Project Workforce Report (see Attachment 7) Form AA-201 upon notification of award. Proper completion and submission of this Report shall constitute evidence of the contractor's compliance with the regulations. Failure to submit this form may result in the contract being terminated. The contractor also agrees to submit a copy of the Monthly Project Workforce Report, Form AA-202 (see Attachment 8) once a month thereafter for the duration of the contract to the Dept. of LWD and to the Public Agency Compliance Officer.

The EEO/AA evidence must be submitted after notification of award, but prior to signing a construction contract. All Public Agencies must retain the affirmative action evidence in their files for review by the Division. See Attachment 9 for a summary of EEO/AA procedure set forth above.

## **2.5 Emergency Contracts**

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

## **2.6 Forms**

### **Goods, General Services and Professional Services Contracts**

Upon award of a goods, general services or professional services contract, it is the responsibility of the Public Agency to provide the vendor with the Initial Employee Information Report, Form AA-302, if the vendor does not have a Certificate or Letter of Federal Approval. **The Division does not supply this form to the vendor.** If the Public Agency requires a supply of forms, the Public Agency may download the forms electronically at the following website address [http://www.state.nj.us/treasury/contract\\_compliance/forms.shtml](http://www.state.nj.us/treasury/contract_compliance/forms.shtml).

If the vendor has an expired certificate, the vendor must apply for a renewal directly to the Division and file Form AA-302, Employee Information Report. As early as 90 days prior to the expiration of a certificate, a vendor may submit an application for renewal of the certificate with a check or money order for \$150.00 made payable to "Treasurer, State of NJ". A vendor may obtain a duplicate certificate for a fee of \$75.00.

### **Construction Contracts**

Upon award of a construction contract, it shall be the responsibility of the Public Agency to provide the contractor with Form AA-201, Initial Project Workforce Report. The Division does not supply this form to the contractor. If the Public Agency requires a supply of forms, the Public Agency may download the forms electronically at the following website address [http://www.state.nj.us/treasury/contract\\_compliance/forms.shtml](http://www.state.nj.us/treasury/contract_compliance/forms.shtml).

# Public Agency Guidelines For Administering EEO in Public Contracts

## **2.7 Electronic Filing of Forms Available for Renewals Only**

Electronic filing is available for Form AA-302, Employee Information Report (for renewal of Certificates only) concerning goods, general services and professional services vendors; and Dept. of LWD's Form AA-202, Monthly Project Workforce Report for Construction Contractors. If a vendor or contractor prefers to file a hard-copy renewal, the forms may be obtained directly from the Division/Dept. of LWD or may be obtained at [http://www.state.nj.us/treasury/contract\\_compliance](http://www.state.nj.us/treasury/contract_compliance) (see Attachments 10 and 11). Please note, vendors and contractors are responsible for sending copies of the forms to the Public Agency.

## **2.8 Training Fund Requirements**

The Division also ensures that all State government agencies, including independent authorities, colleges and universities allocate one half of one percent of the total cost of a construction project awarded by State agencies that are equal to or greater than \$1 million for the training of minorities and women in the construction trades in accordance with N.J.A.C. 17:27-12.1, Executive Order 151 and P.L.2009, c.313 and 335. The State Agency must forward the training funds to the Department of Labor and Workforce Development immediately upon award of the contract. It must also provide the Division with a Training Fund Letter certifying that the funds have been allocated and released to the Department of Labor and Workforce Development (see Attachment 12). The funds are used to train minorities and women in the construction trades through the NJ Build Program (P.L..2009, c.313) and thereby develops a pool of qualified minorities and women for employment on public works projects. It is noted that local governments are also required to allocate and release training funds under P.L.2009, c.313 (see Attachment 13). However, the Division has held implementation of this law as it applies to local governments in abeyance pending Attorney General advice on certain issues. For information about the NJ Build Program contact the Department of Labor and Workforce Development at (609) 984-9414.

## **2.9 Public Agency Sanctions and Penalties**

The Division, acting on its own initiative or in response to a written complaint or allegation from an interested party, shall investigate any written complaint or allegation of a violation by a Public Agency. If the Division determines that there is a substantial probability that a violation is occurring, it may issue an advisement letter to a public agency. The advisement letter shall explain in sufficient detail the facts of the alleged violation.

If the Public Agency does not correct or sufficiently address to the satisfaction of the Division the alleged public agency violation explained in the letter of advisement within 30 days of the agency's receipt of the letter of advisement, the Division may conduct a further review or issue a show cause letter to the Public Agency. The show cause letter shall explain in sufficient detail the facts of the continuing violation.

Within 10 business days of receiving a show cause letter, the Public Agency shall submit a written statement explaining why it should not be found to have violated the law. If the Division determines that the Public Agency has not adequately explained why it is not in violation of the law or if the Division determines that there may be a violation of the law and it is continuing to occur, then it shall refer the matter to the Attorney General's Office for further action consistent with N.J.S.A. 10:5-36.

A meeting with, or technical assistance provided by an official of the Division may be requested by a vendor, contractor and/or subcontractor or Public Agency at any time, whether or not a violation has been alleged.

## **Public Agency Guidelines For Administering EEO in Public Contracts**

The following circumstances, for example, shall constitute indications of a party's failure to meet the legal requirements, which may form the basis for a finding of a violation by the Division. These indications are a representative sampling and are not intended to constitute the only indications that may be considered by the Division in its determination as to whether a violation has occurred:

- a. Failure of a Public Agency to pay one half of one percent of the total cost of the construction project, that is the subject of one or more construction contracts and equal to or greater than \$1,000,000, to the Department of Labor for the outreach and training of minorities and women in the construction trades in accordance with the notice required pursuant to N.J.A.C. 17:27-12.1;
- b. Failure to include mandatory language in bids, advertisements, contracts or specifications;
- c. Failure to obtain affirmative action evidence from vendor/contractor;
- d. Failure to submit the Public Agency Compliance Officer (P.A.C.O.) Letter or to notify the Division of changes in P.A.C.O. designation;
- e. Failure to cooperate fully with the Division in the establishment and implementation of guidelines for determining whether a vendor or contractor has failed to provide equal employment opportunity in the hiring of minorities and women for public contracts; or
- f. Failure to provide the Division with such other information as it shall request and as shall be necessary to enable the Division to fulfill its mission.

If the Director finds that a Public Agency has violated the Act or regulations, the Treasurer is authorized to assess and collect fines in the amounts and time frames as follows:

First Violation – \$250.00 per day for each violation during which the violation continues;

Second Violation – not more than \$500.00 per day for each violation during which the violation continues; and

Third and Subsequent Violations – not less than \$500.00 per day for each violation but not more than \$1,000.00 per day for each violation.

All fines and penalties shall be paid within 30 business days of the date of the final order. Failure to pay such penalties and fines shall result in a judgment being obtained in a court of competent jurisdiction.

All fines shall be made payable to the "Treasurer, State of New Jersey". All payments shall be made by certified check or money order, or payable in a form suitable to the Treasurer.

The Division may also recommend that the Public Agency withhold payment from a non-compliant contractor in accordance with Executive Order 151 and P.L.2009, c.335.

**Note:** Public Agencies shall have the right to appeal an imposition of a sanction or penalty as provided at N.J.A.C. 17:27-10.8.

STATE OF NEW JERSEY  
DEPARTMENT OF THE TREASURY  
DIVISION OF PURCHASE & PROPERTY  
CONTRACT COMPLIANCE AUDIT UNIT  
EEO MONITORING PROGRAM

Print Form

Submit by Email

### Designation Of Public Agency Compliance Officer (P.A.C.O)

The designated Public Agency Compliance Officer (P.A.C.O.) is:

Public Agency:	_____	Telephone:	_____
Name:	_____	Fax:	_____
Title:	_____	Email:	_____
Business Address:	_____ _____		

Current Highest Elected or Appointed Official: \_\_\_\_\_

- No Person currently serving as the P.A.C.O.
- The P.A.C.O will be appointed at the next Board/Council meeting. A copy of the resolution designating the appointee will be sent to the Division of Purchase & Property, Contract Compliance Audit Unit, EEO Monitoring Program.
- Additional technical assistance is required.

Public Agency Official Signature: \_\_\_\_\_

Please mail or fax form to:

\* Po Box 206 \* Trenton \* New Jersey \* 08625 \* Phone: 609-292-5473 \* Fax: 609-292-1102 \* [www.state.nj.us/treasury/contract\\_compliance](http://www.state.nj.us/treasury/contract_compliance)

**NEW JERSEY DEPARTMENT OF THE TREASURY  
DIVISION OF PURCHASE AND PROPERTY  
CONTRACT COMPLIANCE AUDIT UNIT  
EEO/AA MONITORING PROGRAM**

**General Exit Interview Acknowledgement for Public Agencies**

I have been visited by \_\_\_\_\_  
of the Equal Employment Opportunity and Affirmative Action Monitoring Program, concerning the re-  
quirements for public agencies pursuant to N.J.S.A. 10:5-31 et seq. and N.J.A.C. 17:27-1.1 et seq. This  
acknowledgement is to assert that I am familiar with the affirmative action requirements, as adminis-  
tered, and agree to comply with the legal requirements.

Name of Public Agency: \_\_\_\_\_

Public Agency Compliance Officer: \_\_\_\_\_

Public Agency Compliance Officer Signature: \_\_\_\_\_

Date: \_\_\_\_\_

EEO/AA Field Representative's Time of Arrival: \_\_\_\_\_

EEO/AA Field Representative's Time of Departure: \_\_\_\_\_

EEO/AA Field Representative's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## EXHIBIT A

### MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE

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

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

#### GOODS, GENERAL SERVICES, AND PROFESSIONAL SERVICES CONTRACTS

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

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

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

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

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

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

## **EXHIBIT A (Cont)**

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

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

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

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

Letter of Federal Affirmative Action Plan Approval;

Certificate of Employee Information Report; or

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

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

## EXHIBIT B

### MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE

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

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

#### CONSTRUCTION CONTRACTS

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

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

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

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

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

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

## EXHIBIT B (Cont)

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

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

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

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

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

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

## **EXHIBIT B** *(Cont)*

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

## **EXHIBIT B (Cont)**

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

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

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

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

# Sample Federal Letter of Approval

Attachment 5

**U.S. Department of Labor**

Employment Standards Administration  
Office of Federal Contract Compliance Programs  
Newark Area Office  
124 Evergreen Place, Fourth Floor  
East Orange, NJ 07108



<Date>

Dear

Our recent compliance review of your establishment's equal employment opportunity policies and practices was completed on <date>.

We found no apparent deficiencies or violations of Executive Order 11266, as amended, Section 503 of the Rehabilitation Act of 1973 or 38 USC 2012 (the Vietnam Era Veterans Readjustment Assistance Act). Accordingly, your establishment is deemed to be in compliance with these laws based on the material reviewed.

The Office of Federal Contract Compliance Programs sincerely appreciates the cooperation and courtesies extended by you and your staff during the conduct of the compliance review.

Sincerely,

Area Office Director

# SAMPLE CERTIFICATE OF EMPLOYEE INFORMATION REPORT

Certification 111XX

## CERTIFICATE OF EMPLOYEE INFORMATION REPORT

INITIAL

This is to certify that the contractor listed below has submitted an Employee Information Report pursuant to N.J.A.C. 17:27-1.1 et. seq. and the State Treasurer has approved said report. This approval will remain in effect for the period of 15-DEC-20XX to 15-DEC-20XX

SAMPLE COMPANY, INC.  
33 WEST STATE STREET  
TRENTON, NJ 08625

**VOID**



State Treasurer

Form AA302  
Rev. 11/11

**STATE OF NEW JERSEY**  
**Division of Purchase & Property**  
**Contract Compliance Audit Unit**  
**EEO Monitoring Program**  
**EMPLOYEE INFORMATION REPORT**

**IMPORTANT**-READ INSTRUCTIONS CAREFULLY BEFORE COMPLETING FORM. FAILURE TO PROPERLY COMPLETE THE ENTIRE FORM AND TO SUBMIT THE REQUIRED \$150.00 FEE MAY DELAY ISSUANCE OF YOUR CERTIFICATE. DO NOT SUBMIT EEO-1 REPORT FOR SECTION B, ITEM 11. For Instructions on completing the form, go to: [http://www.state.nj.us/treasury/contract\\_compliance/pdf/aa302ins.pdf](http://www.state.nj.us/treasury/contract_compliance/pdf/aa302ins.pdf)

**SECTION A - COMPANY IDENTIFICATION**

1. FID. NO. OR SOCIAL SECURITY	2. TYPE OF BUSINESS <input type="checkbox"/> 1. MFG <input type="checkbox"/> 2. SERVICE <input type="checkbox"/> 3. WHOLESALE <input type="checkbox"/> 4. RETAIL <input type="checkbox"/> 5. OTHER	3. TOTAL NO. EMPLOYEES IN THE ENTIRE COMPANY
4. COMPANY NAME		
5. STREET	CITY	COUNTY    STATE    ZIP CODE
6. NAME OF PARENT OR AFFILIATED COMPANY (IF NONE, SO INDICATE)		CITY    STATE    ZIP CODE
7. CHECK ONE: IS THE COMPANY: <input type="checkbox"/> SINGLE-ESTABLISHMENT EMPLOYER <input type="checkbox"/> MULTI-ESTABLISHMENT EMPLOYER		
8. IF MULTI-ESTABLISHMENT EMPLOYER STATE THE NUMBER OF ESTABLISHMENTS IN NJ		
9. TOTAL NUMBER OF EMPLOYEES AT ESTABLISHMENT WHICH HAS BEEN AWARDED THE CONTRACT		
10. PUBLIC AGENCY AWARDDING CONTRACT		CITY    COUNTY    STATE    ZIP CODE

<b>Official Use Only</b>	DATE RECEIVED	NAUG DATE	ASSIGNED CERTIFICATION NUMBER

**SECTION B - EMPLOYMENT DATA**

11. Report all permanent, temporary and part-time employees ON YOUR OWN PAYROLL. Enter the appropriate figures on all lines and in all columns. Where there are no employees in a particular category, enter a zero. Include ALL employees, not just those in minority/non-minority categories, in columns 1, 2, & 3. *DO NOT SUBMIT AN EEO-1 REPORT.*

JOB CATEGORIES	ALL EMPLOYEES			PERMANENT MINORITY/NON-MINORITY EMPLOYEE BREAKDOWN										
	COL. 1 TOTAL (Cols.2 &3)	COL. 2 MALE	COL. 3 FEMALE	MALE					FEMALE					
				BLACK	HISPANIC	AMER. INDIAN	ASIAN	NON MIN.	BLACK	HISPANIC	AMER. INDIAN	ASIAN	NON MIN.	
Officials/ Managers														
Professionals														
Technicians														
Sales Workers														
Office & Clerical														
Craftworkers (Skilled)														
Operatives (Semi-skilled)														
Laborers (Unskilled)														
Service Workers														
TOTAL														
Total employment From previous Report (if any)														
Temporary & Part-Time Employees	The data below shall NOT be included in the figures for the appropriate categories above.													

12. HOW WAS INFORMATION AS TO RACE OR ETHNIC GROUP IN SECTION B OBTAINED? <input type="checkbox"/> 1. Visual Survey <input type="checkbox"/> 2. Employment Record <input type="checkbox"/> 3. Other (Specify)	14. IS THIS THE FIRST Employee Information Report Submitted?  1. YES <input type="checkbox"/> 2. NO <input type="checkbox"/>	15. IF NO, DATE LAST REPORT SUBMITTED  MO. DAY YEAR
13. DATES OF PAYROLL PERIOD USED From: _____ To: _____		

**SECTION C - SIGNATURE AND IDENTIFICATION**

16. NAME OF PERSON COMPLETING FORM (Print or Type)	SIGNATURE	TITLE	DATE MO   DAY   YEAR
17. ADDRESS NO. & STREET	CITY	COUNTY	STATE    ZIP CODE    PHONE (AREA CODE, NO., EXTENSION)

FORM AA-201  
Revised 11/11

**STATE OF NEW JERSEY**  
DEPARTMENT OF LABOR & WORKFORCE DEVELOPMENT  
CONSTRUCTION EEO COMPLIANCE MONITORING PROGRAM

**INITIAL PROJECT WORKFORCE REPORT CONSTRUCTION**

**Official Use Only**

Assignment \_\_\_\_\_

Code \_\_\_\_\_

For instructions on completing the form, go to: [http://www.state.nj.us/treasury/contract\\_compliance/pdf/aa201ins.pdf](http://www.state.nj.us/treasury/contract_compliance/pdf/aa201ins.pdf)

1. FID NUMBER		2. CONTRACTOR ID NUMBER		5. NAME AND ADDRESS OF PUBLIC AGENCY AWARDDING CONTRACT			
3. NAME AND ADDRESS OF PRIME CONTRACTOR				Name:			
				Address:			
(Name)				CONTRACT NUMBER    DATE OF AWARD    DOLLAR AMOUNT OF AWARD			
(Street Address)				6. NAME AND ADDRESS OF PROJECT			
(City)                      (State)                      (Zip Code)				7. PROJECT NUMBER		8. IS THIS PROJECT COVERED BY A PROJECT LABOR AGREEMENT (PLA)? YES <input type="checkbox"/>	
4. IS THIS COMPANY MINORITY OWNED [ ] OR WOMAN OWNED [ ]				COUNTY			

9. TRADE OR CRAFT	PROJECTED TOTAL EMPLOYEES				PROJECTED MINORITY EMPLOYEES				PROJECTED PHASE - IN DATE	PROJECTED COMPLETION DATE
	MALE		FEMALE		MALE		FEMALE			
	J	AP	J	AP	J	AP	J	AP		
1. ASBESTOS WORKER										
2. BRICKLAYER OR MASON										
3. CARPENTER										
4. ELECTRICIAN										
5. GLAZIER										
6. HVAC MECHANIC										
7. IRONWORKER										
8. OPERATING ENGINEER										
9. PAINTER										
10. PLUMBER										
11. ROOFER										
12. SHEET METAL WORKER										
13. SPRINKLER FITTER										
14. STEAMFITTER										
15. SURVEYOR										
16. TILER										
17. TRUCK DRIVER										
18. LABORER										
19. OTHER										
20. OTHER										

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.

\_\_\_\_\_  
(Signature)

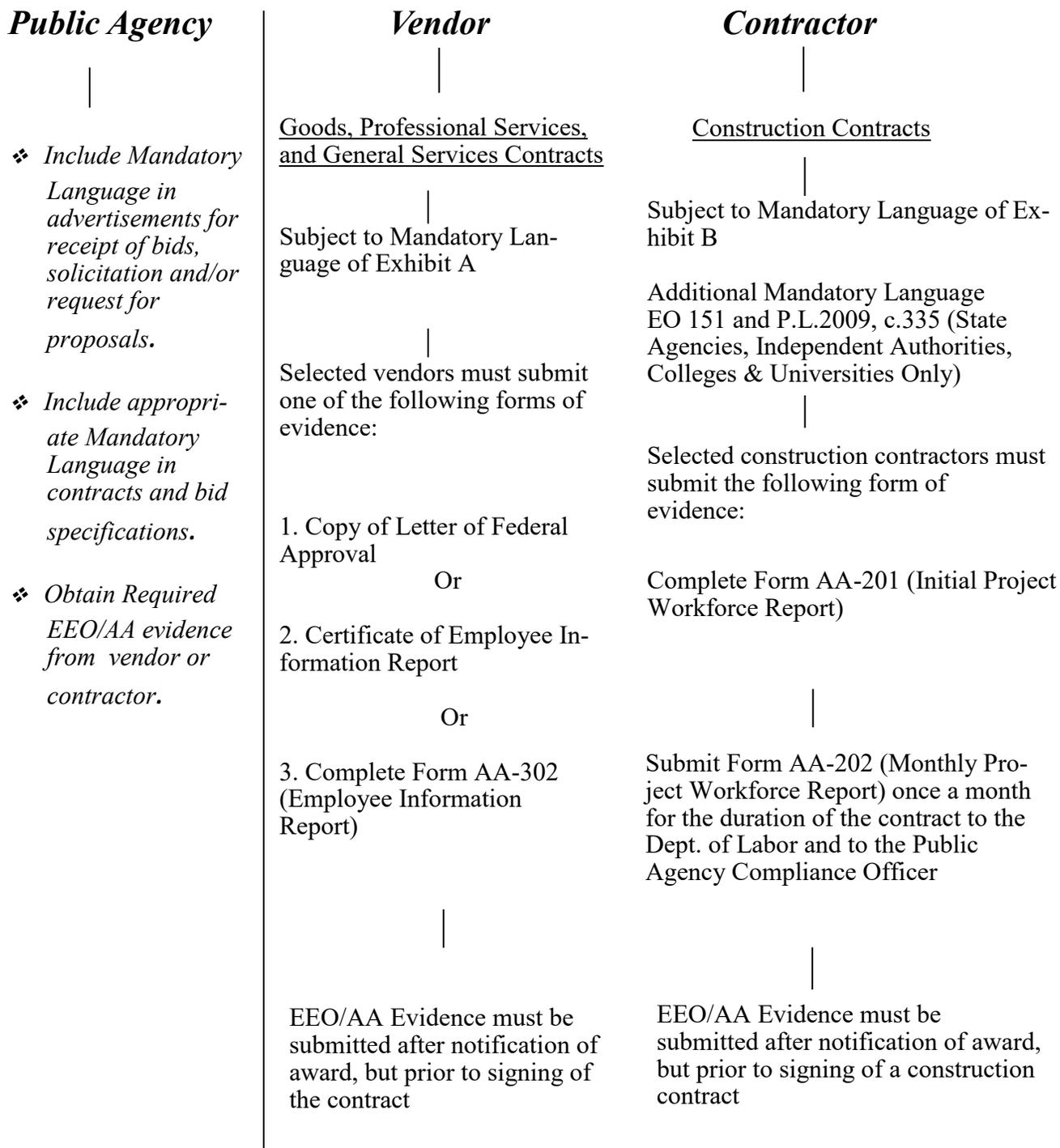
10. (Please Print Your Name) \_\_\_\_\_ (Title)

(Area Code)    (Telephone Number)    (Ext.)    (Date)



## PUBLIC CONTRACT EEO/AA COMPLIANCE PROCEDURES FLOW CHART

### EEO/AA Procedures In Awarding Public Contracts



**STATE OF NEW JERSEY  
DEPARTMENT OF LABOR & WORKFORCE DEVELOPMENT  
CONSTRUCTION EEO MONITORING PROGRAM**

**ATTENTION ALL CONSTRUCTION CONTRACTORS**

For your convenience, all contractors have two options in filing the Form AA-202, Monthly Project Workforce Report. As always, you may complete the form manually and mail it to the Dept. of LWD, Construction EEO Monitoring Program, with a copy to the Public Agency Compliance Officer, or you may input your employment data directly onto the Form AA-202 located on our website, with a copy to the Public Agency Officer. To access the Division's website, simply follow these steps:

1. Type [http://www.state.nj.us/treasury/contract\\_compliance/](http://www.state.nj.us/treasury/contract_compliance/).
2. Select the "Premier Business Services Online Forms Account Instructions" link.
3. Please follow all the instructions to set up online access to the web application.

The web application will provide access to current and past reports that can be printed and submitted to the Public Agency awarding the contract as required.

NJ Department of Labor & Workforce Development  
Construction EEO Monitoring Program  
PO Box 209  
Trenton, New Jersey 08625-0209  
(609) 292-9550  
Fax (609) 984-4023

**STATE OF NEW JERSEY  
DEPARTMENT OF THE TREASURY  
DIVISION OF PURCHASE & PROPERTY  
CONTRACT COMPLIANCE AUDIT UNIT  
EEO MONITORING PROGRAM**

**ATTENTION ALL GOODS, GENERAL SERVICES AND  
PROFESSIONAL SERVICES VENDORS**

For your convenience and for renewal of Certificates only, all goods, general services and professional services vendors have two options in filing the Form AA-302, Employee Information Report and Vendor Activity Summary Report forms. You may complete the form manually and mail it to this Division, or you may input your employment data directly onto the AA-302 and Vendor Activity Summary Report located on our website. To access the Division's website, simply follow these steps:

1. Type [http://www.state.nj.us/treasury/contract\\_compliance/](http://www.state.nj.us/treasury/contract_compliance/).
2. Select the "Premier Business Services Online Forms Account Instructions" link.
3. Please follow all the instructions to set up online access to the New Web Application.
4. Once your Renewal Forms have been completed online, please mail your \$150.00 certificate fee, in the form of a check or money order, made payable to "Treasurer, State of New Jersey" to the address below:

NJ Department of the Treasury  
Division of Purchase and Property  
Contract Compliance and Audit Unit  
EEO Monitoring Program  
PO Box 206  
Trenton, NJ 08625-0206  
Telephone (609) 292-5473  
Fax (609) 292-1102

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

<Date>

Department of Treasury  
Division of Purchase & Property  
Contract Compliance Audit Unit  
EEO Monitoring Program  
PO Box 206  
Trenton, New Jersey 08625-0206

Dear Sir or Madam:

Please be advised that <name of contracting agency> awarded contracts totaling <amount> for renovations to the <title of construction project> .

In accordance with N.J.A.C. 17:27-12.1 and EO 151 and P.L.2009, c.313 and 335, the <name of State agency> has allocated and released <amount> to the New Jersey Department of Labor and Workforce Development on <date> for the financing of outreach and training programs for minorities and women in the construction trades.

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

Sincerely,

Jane Doe, PACO

c:

**Sample Training Fund Verification Notice  
For Local Government Only  
(Use Agency Letterhead)**

<Date>

NJ Department of Labor & Workforce Development  
Office of Diversity Compliance  
Construction Contract Compliance Unit  
PO Box 209  
Trenton, New Jersey 08625-0209  
Telephone (609) 292-9550  
Fax (609) 984-4023

Dear Sir or Madam:

Please be advised that <name of contracting agency> awarded contracts totaling <amount> for the <title of construction project> .

In accordance with the P.L.2009, c.313, the <name of Public agency> has allocated <amount> on <date> for the financing of outreach and training programs for minorities and women in the construction trades. As per your directive, we have allocated these funds in our records only and are holding their release to the Dept. of Labor & Workforce Development in abeyance until certain issues regarding the law's implementation have been addressed by the Attorney General.

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

Sincerely,

Jane Doe, Business Administrator

c:

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

Executive Order 51 (Corzine, August 28, 2009) and P.L.2009, c.335 include a provision which require all state agencies, independent authorities and colleges and universities to include additional mandatory equal employment and affirmative action language in its construction contracts. **It is important to note that this language is in addition to and does not replace the mandatory contract language and good faith efforts requirements for construction contracts required by N.J.A.C. 17:27-3.6, 3.7 and 3.8, also known as Exhibit B.** The additional mandatory equal employment and affirmative action language is as follows:

It is the policy of the **[Reporting Agency]** that its contracts should create a workforce that reflects the diversity of the State of New Jersey. Therefore, contractors engaged by the **[Reporting Agency]** to perform under a construction contract shall put forth a good faith effort to engage in recruitment and employment practices that further the goal of fostering equal opportunities to minorities and women.

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

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

1. The Contractor shall recruit prospective employees through the State Job bank website, managed by the Department of Labor and Workforce Development, available online at <http://NJ.gov/JobCentralNJ>;
2. The Contractor shall keep specific records of its efforts, including records of all individuals interviewed and hired, including the specific numbers of minorities and women;
3. The Contractor shall actively solicit and shall provide the **[Reporting Agency]** with proof of solicitations for employment, including but not limited to advertisements in general circulation media, professional service publications and electronic media; and
4. The Contractor shall provide evidence of efforts described at 2 above to the **[Reporting Agency]** no less frequently than once every 12 months.
5. The Contractor shall comply with the requirements set forth at N.J.A.C. 17:27-1.1 et seq.

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