

CHAPTER 27

EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION RULES

Authority

N.J.S.A. 10:5-31 et seq. (P.L. 1975, c. 127), specifically 10:5-36K.

Source and Effective Date

R.2010 d.053, effective March 9, 2010.
See: 41 N.J.R. 3041(a), 42 N.J.R. 723(a).

Chapter Expiration Date

Chapter 27, Equal Employment Opportunity and Affirmative Action Rules, expires on March 9, 2015.

Chapter Historical Note

Chapter 27, Affirmative Action Rules, was adopted as R.1977 d.364, effective November 27, 1977. See: 9 N.J.R. 191(a), 9 N.J.R. 543(c). Pursuant to Executive Order No. 66(1978), Chapter 27 expired on May 24, 1983.

Chapter 27, Affirmative Action Rules, was adopted as new rules by R.1983 d.506, effective November 7, 1983. Subchapter 13, Effective Date, was not adopted as a part of the new chapter. See: 15 N.J.R. 1459(a), 15 N.J.R. 1872(a).

Pursuant to Executive Order No. 66(1978), Chapter 27, Affirmative Action Rules, was readopted as R.1988 d.522, effective October 7, 1988. See: 20 N.J.R. 1780(a), 20 N.J.R. 2795(b), 20 N.J.R. 2934(a).

Pursuant to Executive Order No. 66(1978), Chapter 27, Affirmative Action Rules, was readopted as R.1993 d.531, effective October 6, 1993. See: 25 N.J.R. 3706(a), 25 N.J.R. 4927(a). Pursuant to Executive Order No. 66(1978), Chapter 27 expired on October 6, 1998.

Chapter 27, Affirmative Action Rules, was adopted as new rules by R.1999 d.256, effective August 2, 1999. See: 31 N.J.R. 939(a), 31 N.J.R. 1310(a), 31 N.J.R. 2238(a).

Chapter 27, Affirmative Action Rules, was readopted as R.2004 d.450, effective November 9, 2004. See: 36 N.J.R. 2623(b), 36 N.J.R. 5443(b).

Chapter 27, Affirmative Action Rules, was renamed Equal Employment Opportunity and Affirmative Action Rules; Subchapter 4, Affirmative Action Plan for Goods and Services Contractors and Subcontractors, was renamed Affirmative Action Plan for Vendors and Goods and Services Subcontractors; Subchapter 5, Minority and Women Employment Goal Obligations for Goods and Services Contractors and Subcontractors, was renamed Targeted Minority and Women Employment Goals for Determining Good Faith Equal Employment Opportunity Efforts by Vendors and Goods and Services Subcontractors; and Subchapter 7, Minority and Women Employment Goal Obligations for Construction Contractors and Subcontractors, was renamed Targeted Minority and Women Employment Goals for Determining Good Faith Equal Employment Opportunity Efforts by Construction Contractors and Subcontractors by R.2008 d.307, effective October 20, 2008. See: 40 N.J.R. 3601(a), 40 N.J.R. 6222(a).

Chapter 27, Equal Employment Opportunity and Affirmative Action Rules, was readopted as R.2010 d.053, effective March 9, 2010. As a part of R.2010 d.053, Subchapter 4, Affirmative Action Plan for Vendors and Goods and Services Subcontractors, was renamed Affirmative Action Program for Vendors and Goods And Services Subcontractors; and Subchapter 6, Affirmative Action Plan for Construction Contractors and Subcontractors, was renamed Affirmative Action Program for Construction Contractors and Subcontractors, effective April 5, 2010. See: Source and Effective Date. See, also, section annotations.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. INTRODUCTION AND POLICY

17:27-1.1 Policy

SUBCHAPTER 2. DEFINITIONS

17:27-2.1 Definitions

SUBCHAPTER 3. GENERAL REQUIREMENTS FOR PUBLIC AGENCIES AWARING CONTRACTS

- 17:27-3.1 Awarding of public agency contracts
- 17:27-3.2 Public agency requirements; generally
- 17:27-3.3 Designation of public agency compliance officers
- 17:27-3.4 Advertisement for bids and/or solicitation for proposals
- 17:27-3.5 Mandatory language for goods and services bid specifications and contracts (Exhibit A)
- 17:27-3.6 Mandatory language for construction bid specifications and contracts (Exhibit B)
- 17:27-3.7 Mandatory bid specification and contract language for good faith efforts toward achieving equal employment opportunities in goods and services contracts (Exhibit A)
- 17:27-3.8 Mandatory bid specification and contract language for good faith efforts toward achieving equal employment opportunities in construction contracts (Exhibit B)
- 17:27-3.9 Emergency purchases
- 17:27-3.10 State-approved public agency affirmative action construction programs; delegated authority

SUBCHAPTER 4. AFFIRMATIVE ACTION PROGRAM FOR VENDORS AND GOODS AND SERVICES SUBCONTRACTORS

- 17:27-4.1 Goods and services contracts, including professional services contracts, subject to affirmative action program requirements
- 17:27-4.2 Elements of affirmative action program for vendors
- 17:27-4.3 Procedure for establishing an approved affirmative action program by contract
- 17:27-4.4 Affirmative action program requirement for goods and services subcontractors
- 17:27-4.5 Exemptions to Affirmative Action requirements for goods and services subcontractors
- 17:27-4.6 Procedures for the issuance and renewal of a certificate of employee information report
- 17:27-4.7 Public agency authority to set time periods

SUBCHAPTER 5. TARGETED MINORITY AND WOMEN EMPLOYMENT GOALS FOR DETERMINING GOOD FAITH EQUAL EMPLOYMENT OPPORTUNITY EFFORTS BY VENDORS AND GOODS AND SERVICES SUBCONTRACTORS

- 17:27-5.1 Exemptions
- 17:27-5.2 Establishment of targeted goals
- 17:27-5.3 Designation of approved minority referral agencies
- 17:27-5.4 Vendor and subcontractor compliance obligations
- 17:27-5.5 Criteria for determining good faith efforts of vendors and goods and services subcontractors
- 17:27-5.6 (Reserved)

SUBCHAPTER 6. AFFIRMATIVE ACTION PROGRAM FOR CONSTRUCTION CONTRACTORS AND SUBCONTRACTORS

- 17:27-6.1 Construction contracts subject to affirmative action program requirements
- 17:27-6.2 Elements of an affirmative action program for construction contractors and subcontractors

- 17:27-6.3 Procedure for establishing an approved affirmative action program by contract
- 17:27-6.4 Affirmative action program requirement for construction subcontractors
- 17:27-6.5 (Reserved)

SUBCHAPTER 7. TARGETED MINORITY AND WOMEN EMPLOYMENT GOALS FOR DETERMINING GOOD FAITH EQUAL EMPLOYMENT OPPORTUNITY EFFORTS BY CONSTRUCTION CONTRACTORS AND SUBCONTRACTORS

- 17:27-7.1 Exemption
- 17:27-7.2 Establishment of targeted goals
- 17:27-7.3 Contractor and subcontractor compliance obligations
- 17:27-7.4 Criteria for determining good faith efforts of construction contractors and subcontractors
- 17:27-7.5 Construction project workforce reporting and compliance procedures
- 17:27-7.6 (Reserved)

SUBCHAPTER 8. (RESERVED)

SUBCHAPTER 9. MONITORING PUBLIC AGENCY CONTRACTS

- 17:27-9.1 Designation of principal officer
- 17:27-9.2 Division's on-site visits and attendance at job meetings

SUBCHAPTER 10. COMPLIANCE PROCEDURES AND SANCTIONS, APPLICABLE TO PUBLIC WORKS CONTRACTS

- 17:27-10.1 Scope
- 17:27-10.2 Alert notices for contractors and/or subcontractors
- 17:27-10.3 Correction of alleged violations; violation notice for contractors and/or subcontractors
- 17:27-10.4 Advisement notices for public agencies
- 17:27-10.5 Correction of alleged public agency violations; show cause letter
- 17:27-10.6 Contractor, vendor and public agency violations; remedial actions
- 17:27-10.7 Fines and penalties
- 17:27-10.8 Investigatory conference; hearings
- 17:27-10.9 Final determination against construction contractor; aggregate rating for State contract awards
- 17:27-10.10 Requested meetings

SUBCHAPTER 11. REPORT FOR PUBLIC WORKS CONTRACTORS, SUBCONTRACTORS AND PUBLIC AGENCIES

- 17:27-11.1 General provisions

SUBCHAPTER 12. TRAINING AND OUTREACH

- 17:27-12.1 Financing minority and women worker outreach and training programs
- 17:27-12.2 Assistance
- 17:27-12.3 Use of established public and private agencies
- 17:27-12.4 Minority and women referral agencies
- 17:27-12.5 Satisfaction of minority and women obligations

SUBCHAPTER 1. INTRODUCTION AND POLICY

17:27-1.1 Policy

(a) It has long been the policy of the State of New Jersey to promote equal employment opportunity by prohibiting discrimination in employment and requiring affirmative action in the performance of contracts funded by the State. That

policy was reinforced and expanded by an act of the Legislature, signed into law by the Governor, June 23, 1975. The statute, N.J.S.A. 10:5-31 et seq., (P.L. 1975, c. 127) provides that no public works contracts can be awarded nor any moneys paid until the prospective contractor has agreed to contract performance which complies with an approved affirmative action program. The law applies to each political subdivision and agency of the State and encompasses contracts for goods and services including professional services, and construction contracts.

(b) These rules establish the affirmative action employment practices necessary for public agencies, contractors, subcontractors, and business firms to comply with the equal employment opportunity standards of N.J.S.A. 10:5-31 et seq. To assure effective implementation of the equal employment opportunity and affirmative action requirements of N.J.S.A. 10:5-31 et seq., these rules prescribe procedures designed to minimize administrative paperwork, delays and unproductive red-tape.

As amended, R.1983 d.506, effective November 7, 1983.

See: 15 N.J.R. 1459(a), 15 N.J.R. 1872(a).

Original text deleted, text at 1.2 recodified to 1.1.

Amended by R.2004 d.450, effective December 6, 2004.

See: 36 N.J.R. 2623(b), 36 N.J.R. 5443(b).

Rewrote the section.

Amended by R.2008 d.307, effective October 20, 2008.

See: 40 N.J.R. 3601(a), 40 N.J.R. 6222(a).

In the last sentence of (b), inserted "equal employment opportunity and".

Amended by R.2010 d.053, effective April 5, 2010.

See: 41 N.J.R. 3041(a), 42 N.J.R. 723(a).

In (a), deleted a comma following the first occurrence of "services" and inserted a comma following the second occurrence of "services".

SUBCHAPTER 2. DEFINITIONS

17:27-2.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

"Advanced trainee" means a minority worker or woman worker who is classified by the public agency compliance officer, designated by a public agency that has received delegated authority from the Division, a contractor, subcontractor, union, the State training and employment service, apprentice program, referral agency or other party acceptable to the Division as having experience and skills used in a particular craft or occupation, but lacking the skills to be qualified as a journey worker.

"Affirmative action," whether used separately or in combination with other words or phrases (including, but not limited to, "program," "equal employment opportunity" and "EEO/AA"), means good faith steps taken to ensure equal opportunity employment for women and minority workers but does not include employment quotas, except where otherwise permitted and appropriate under applicable law.