

SUBCHAPTER 3. AFFIRMATIVE ACTION IN AUTHORITY-FINANCED CONSTRUCTION PROJECTS

19:30-3.1 Definitions

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

“Construction contract” means any contract, subcontract, or agreement, whether written or oral, for construction, reconstruction, demolition, alteration, repair work, maintenance work, or construction related to installation of equipment, undertaken in connection with a project receiving Authority assistance and paid for in whole or in part with funds received through Authority assistance.

“Contractor” means any party who enters into a construction contract with the project owner/applicant, or any party to whom funds will be disbursed for payment of construction work, including any subcontractor of the Contractor.

“Minority worker” means any worker as defined by the New Jersey Department of the Treasury rule set forth in N.J.A.C. 17:27-2.1.

“Project owner/applicant” means the entity which or individual who has applied for, or is the recipient of, Authority financial assistance.

Amended by R.1990 d.411, effective August 20, 1990.
See: 22 N.J.R. 1537(a), 22 N.J.R. 2532(a).

Definition for construction contract amended; minority worker added. Section recodified from 6.1.

19:30-3.2 Application of affirmative action regulations

(a) Every contractor involved in a construction contract is required to undertake a program designed to employ minority workers and female workers in accordance with the hiring goals to be established by the Affirmative Action Office, New Jersey Department of the Treasury (see N.J.A.C. 17:27-7.3).

(b) The project owner/applicant shall be responsible for the performance of its contractors under this subchapter.

Amended by R.1990 d.411, effective August 20, 1990.
See: 22 N.J.R. 1537(a), 22 N.J.R. 2532(a).

References to female workers and the requirements of N.J.A.C. 17:27-7.3 added. Section recodified from 6.2.

19:30-3.3 Compliance

(a) A contractor will be considered in compliance with this subchapter only if the contractor has made every effort to meet the minority hiring goals and female 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 published annually by the Department of Treasury. At a minimum, the contractor must take the following steps in this effort.

1. Notify the Authority and at least two minority referral organizations of the contractor's labor needs, and request referrals of minority workers and female workers. The contractor shall leave standing requests for referrals of minority workers and female 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 time as the contractor has met its hiring goals;

2. Give notice of employment opportunities to all minority workers and female workers who have been listed with the contractor as awaiting available vacancies;

3. Employ qualified minority workers and female workers who have been listed with the contractor as candidates for available vacancies; and

4. Keep complete and accurate records of all requests for worker referrals and hours worked.

Amended by R.1990 d.411, effective August 20, 1990.
See: 22 N.J.R. 1537(a), 22 N.J.R. 2532(a).

References to female workers added. Section recodified from 6.3.
Amended by R.2000 d.297, effective July 17, 2000.
See: 32 N.J.R. 1705(a), 2602(c).

In (a), deleted “The Authority will publish these goals as part of its Affirmative Action program.” Added “The goals are published annually by the Department of the Treasury.”

19:30-3.4 Monitoring by the Authority

(a) The Authority will maintain an Affirmative Action Program, the staff of which will review contractor performance for compliance with this subchapter. Each contractor will be required to submit to the Affirmative Action Program, on a weekly basis, certified payroll records identifying the name, address, social security number, race, hourly wage rate, gross earnings of, and number of hours worked in each craft or trade by minority, female, and other workers. The Affirmative Action Officer will make field inspections of project sites, and may perform audits of records relating to construction activities on the project.

(b) The project owner/applicant and the contractor shall identify an officer or employee who will coordinate the Affirmative Action Program and act as liaison with the Authority's Affirmative Action Officer.

(c) Each project owner/applicant and contractor shall resolve any questions regarding this subchapter with the Authority's Affirmative Action Officer prior to the execution of any construction contracts in connection with a project receiving Authority assistance.

(d) The Authority may prioritize its monitoring of construction contracts based on available staff, cost, nature, timing and extent of the work to be performed under the contract, the number of workers needed to perform the contract, and any other relevant factors.

Amended by R.1990 d.411, effective August 20, 1990.

See: 22 N.J.R. 1537(a), 22 N.J.R. 2532(a).

Monitoring may be prioritized by Authority. Section recodified from 6.4.

Amended by R.1995 d.435, effective August 21, 1995.

See: 27 N.J.R. 2377(a), 27 N.J.R. 3216(a).

19:30-3.5 Contract provisions

(a) Every construction contract must require that:

1. Ten percent of each disbursement for the construction of the project will be retained by the project owner/applicant, agent or trustee until the Authority's Affirmative Action Officer gives written notice that the amount may be released.

2. The contractor will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, sex, or religion.

3. The contractor must make every effort to employ minority workers and female workers at a level consistent with the applicable hiring goals.

4. The contractor must submit employment reports to the Authority on a weekly basis.

5. The contractor must submit such certificates to the Authority as are required by the application for financial assistance.

6. The addendum to construction contract which is provided by the Authority with its application for financial assistance must be made a part of all construction contracts and must be signed by the contractor.

7. The contractor shall comply with any rules promulgated by the New Jersey Department of Treasury pursuant to P.L. 1975, c.127 as amended and supplemented from time to time.

Amended by R.1990 d.411, effective August 20, 1990.

See: 22 N.J.R. 1537(a), 22 N.J.R. 2532(a).

Reference to female workers and Treasury rules added. Section recodified from 6.5.

Amended by R.1995 d.435, effective August 21, 1995.

See: 27 N.J.R. 2377(a), 27 N.J.R. 3216(a).

19:30-3.6 Failure to comply

(a) In the event the Authority determines that a contractor is not in compliance with this subchapter, the Authority will notify the contractor, the project owner/applicant, the construction lender, and the agent or trustee, in writing, of the steps the contractor should take to be considered in compliance.

(b) If the contractor fails to comply or otherwise respond after receipt of the notice in (a) above, the Authority may take action against the contractor or project owner/applicant including:

1. Direct the project owner/applicant, agent or trustee to withhold 10 percent of any disbursements to that contractor of bond proceeds or construction funds obtained with Authority assistance;

2. Institute debarment proceedings to preclude a contractor from contracting on Authority projects (see N.J.A.C. 19:30-2); and

3. Refer reported violations to the Attorney General for enforcement action under the "Law Against Discrimination".

Amended by R.1990 d.411, effective August 20, 1990.

See: 22 N.J.R. 1537(a), 22 N.J.R. 2532(a).

Reference to subchapter 2 added. Section recodified from 6.6.

19:30-3.7 Executive Director to enforce regulation

The Executive Director may require applicants for Authority assistance and recipients of Authority assistance to make such additional representations to the Authority and to enter into such covenants and agreements with the Authority as are necessary to carry out the purposes of this subchapter. The Executive Director shall take such steps as are necessary to ensure compliance with this subchapter.

Amended by R.1990 d.411, effective August 20, 1990.

See: 22 N.J.R. 1537(a), 22 N.J.R. 2532(a).

Text allowing exemptions deleted at (b). Section recodified from 6.7.

SUBCHAPTER 4. PAYMENT OF PREVAILING WAGES IN AUTHORITY PROJECTS

19:30-4.1 Definitions

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

"Construction contract" means any contract, subcontract, or agreement, whether written or oral, for construction, reconstruction, demolition, alteration, repair work, maintenance work, or construction related to installation of equipment, undertaken in connection with a project receiving Authority assistance and paid for in whole or in part with funds received through Authority assistance.

"Prevailing wage rate" means the prevailing wage rate established by the Commissioner of the New Jersey Department of Labor from time to time in accordance with the provisions of N.J.S.A. 34:11-56.30 for the locality in which the Project is located.

Amended by R.1990 d.411, effective August 20, 1990.

See: 22 N.J.R. 1537(a), 22 N.J.R. 2532(a).

Definitions of Authority and Executive Director deleted; construction contract includes installation of equipment and any agreement, whether oral or written. Section recodified from 3.1.