

CHAPTER 27

AFFIRMATIVE ACTION RULES

Authority

N.J.S.A. 10:5-31 et seq., specifically 10:5-36K.

Source and Effective Date

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).

Executive Order No. 66(1978) Expiration Date

Chapter 27, Affirmative Action Rules, expires on August 2, 2004.

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: Source and Effective Date.

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 AWARDING CONTRACTS

- 17:27-3.1 Awarding of public contracts
- 17:27-3.2 Solicitation of bids
- 17:27-3.3 Mandatory bid specification language
- 17:27-3.4 Mandatory contract language and additional mandatory bid specification language
- 17:27-3.5 Designation of public agency compliance officers

SUBCHAPTER 4. AFFIRMATIVE ACTION PLAN FOR GOODS AND SERVICES CONTRACTORS AND SUBCONTRACTORS

- 17:27-4.1 Goods and services contracts subject to affirmative action plan requirements
- 17:27-4.2 Elements of an affirmative action plan for goods and services contractors and subcontractors
- 17:27-4.3 Procedure for establishing an approved affirmative action plan by contract

- 17:27-4.4 Affirmative action plan requirement for goods and services subcontractors
- 17:27-4.5 Procedures for the issuance and renewal of a certificate of employee information report
- 17:27-4.6 Public agency authority to set time periods
- 17:27-4.7 Emergency purchases

SUBCHAPTER 5. MINORITY AND FEMALE EMPLOYMENT GOAL OBLIGATIONS FOR GOODS AND SERVICES CONTRACTORS AND SUBCONTRACTORS

- 17:27-5.1 Exemptions
- 17:27-5.2 Establishment of goals
- 17:27-5.3 Mandatory contract language for employment goal compliance
- 17:27-5.4 Designation of approved minority referral agencies
- 17:27-5.5 Contractor and subcontractor compliance obligations
- 17:27-5.6 Criteria for determining good faith

SUBCHAPTER 6. AFFIRMATIVE ACTION PLAN FOR CONSTRUCTION CONTRACTORS AND SUBCONTRACTORS

- 17:27-6.1 Construction contracts subject to affirmative action plan requirements
- 17:27-6.2 Elements of an affirmative action plan for construction contractors and subcontractors
- 17:27-6.3 Procedure for establishing an approved affirmative action plan by contract
- 17:27-6.4 Affirmative action plan requirement for construction subcontractors
- 17:27-6.5 State-approved public agency affirmative action construction programs

SUBCHAPTER 7. MINORITY AND FEMALE EMPLOYMENT GOAL OBLIGATIONS FOR CONSTRUCTION CONTRACTORS AND SUBCONTRACTORS

- 17:27-7.1 Exemption
- 17:27-7.2 (Reserved)
- 17:27-7.3 Establishment of goals
- 17:27-7.4 Mandatory language for employment goal compliance
- 17:27-7.5 Financing minority and female worker outreach and training programs
- 17:27-7.6 Project workforce reports

SUBCHAPTER 8. (RESERVED)

SUBCHAPTER 9. MONITORING PUBLIC AGENCY CONTRACTS

- 17:27-9.1 Monitoring public works contracts
- 17:27-9.2 Attendance; project meetings

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

- 17:27-10.1 Scope
- 17:27-10.2 Alert notices
- 17:27-10.3 Correction of alleged violations; violation notice
- 17:27-10.4 Written statements; hearing
- 17:27-10.5 Requested meetings
- 17:27-10.6 (Reserved)
- 17:27-10.7 Enforcement; violations

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 Assistance
 17:27-12.2 Use of established public and private agencies
 17:27-12.3 Minority referral agencies
 17:27-12.4 Satisfaction of minority and female 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, P.L. 1975, c.127, provides that no public work 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 includes service and procurement contracts 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 P.L. 1975, c.127. To assure effective implementation of the affirmative action requirements of P.L. 1975, c.127, 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.

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 female worker who is classified by the public agency compliance officer, a contractor, subcontractor, union, the State training and employment service, apprentice program, referral agency or other party acceptable to the Affirmative Action Office 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 Office” means the Affirmative Action Office established in the State of New Jersey, Department of the Treasury.

“Affirmative Action Officer” means the State official in charge of the Affirmative Action Office.

“Certificate of employee information report” means the certificate issued by the Affirmative Action Office upon receipt of a properly completed initial employee information report, Form AA302, by a goods and services contractor.

“Construction contract” means any contract entered into by a public agency for the construction, alteration or repair of any building or other public work.

“Construction project” means the construction, alteration or repair of the specific building or other public work that is the subject of a construction contract.

“Contractor” means any party that enters into or offers to enter into a construction contract or a goods and services contract with a public agency.

“Goods and services contract” means any contract entered into by a public agency for the acquisition of materials, equipment, supplies or services, including professional services.

“Initial Employee Information Report” means Form AA302, which form requires a breakdown of the goods and services contractor’s workforce.

“Initial Project Workforce Report” means Form AA201, which form requires a breakdown of the number of workers per trade of minorities and women on the construction project.

“Journey worker” means a worker who has been certified by the public agency compliance officer, a contractor, subcontractor, union, the State training and employment service, apprentice program, referral agency, or other party acceptable to the Affirmative Action Office as having mastered a craft or trade.

“Minority worker” means a worker who is Black, Hispanic, Asian or American Indian defined as follows:

1. Black American means a person having origins in any of the black racial groups of Africa.
2. Hispanic American means a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.
3. Asian American means a person having origins in any of the original people of the Far East, Southeast Asia, and Indian subcontinent, Hawaii or the Pacific Islands.