



**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   Debarment List (nj.gov)</a>
<b>PW and AA Pre-Construction Packet</b>	
3.	Contractor Registration Law (Chapter 376)
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”

# CONTRACTOR REGISTRATION LAW

## CHAPTER 376 (CORRECTED COPY)

AN ACT concerning public works contractor registration and amending P.L.1999, c.238.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

1. Section 3 of P.L.1999, c.238 (C.34:11-56.50) is amended to read as follows:

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

3. As used in this act:

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

"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.

"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" means an apprenticeship program which is registered with and approved by the United States Department of Labor and which provides each trainee with combined classroom and on-the-job training in an occupation recognized as an apprenticeable trade and meets the program standards of enrollment and graduation under 29 C.F.R. s.29.6

2. Section 4 of P.L.1999, c.238 (C.34:11-56.51) is amended to read as follows:

C.34:11-56.51 Registration required for contractors, subcontractors.

4. 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.

3. Section 8 of P.L.1999, c.238 (C.34:11-56.55) is amended to read as follows:

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

8. 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.

4. This act shall take effect on the first day of the third month following enactment.

Approved January 21, 2020.

# Custom Fabrication

*December 2021*



# Custom Fabrication

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❖ 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.

<b>Project Name, Address, and Description of where construction will be undertaken:</b>	
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<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 <b>X</b>	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 <b>X</b>	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 <b>X</b>	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 AAPWR NUMBER: \_\_\_\_\_

**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)	
	Signatory Name and Title <b>X</b>	Phone
	Signature of Authorized Representative	Date of Signature
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)	
	Signatory Name and Title <b>X</b>	Phone
	Signature of Authorized Representative	Date of Signature
Name of Person in Payroll, Accounting, etc. responsible for preparing monthly reports		
E-mail address		

<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)	
	Signatory Name and Title <b>X</b>	Phone
	Signature of Authorized Representative	Date of Signature
Name of Person in Payroll, Accounting, etc. responsible for preparing monthly reports		
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://aaonline.njeda.com/aaweb/>**



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



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>

Labor Compliance Department

36 West State Street

Trenton, NJ 08625-0990

(973) 855-3447 affirmativeaction@njeda.com \* e-mail

**MONTHLY PROJECT WORKFORCE REPORT - CONSTRUCTION (NJEDA AA Form 2)**

Complete and submit form at: <http://aaonline.njeda.com>

1. Name & Address of General Contractor		2. NJEDA AAPW Report ID		3. Contractor FID OR SS Number	
				4. Reporting Month (mm/dd/yyyy)	
(Name)		5. Name of Company that is Recipient of NJEDA Financial Assistance		6. Date Gen. Contract was awarded	
(Address)		7. Name & Address of Project		8. County	
				9. NJEDA Project No. (5 digits)	
(City)		(State)		(Zip Code)	

10. CONTRACTOR NAME <small>(LIST GENERAL CONTRACTOR WITH SUBS FOLLOWING)</small>	11. PERCENT OF WORK COMPLETED	12. TRADE OR CRAFT	13. CLASS.	14. NUMBER OF EMPLOYEES						15. TOTAL	16. WORK HOURS		17. % OF WORK HRS		18. CUMULATIVE WORK HRS		19. CUM. % OF W/H			
				A.	B.	C.	D.	E.	F.	NO. OF MIN. EMP.	TOTAL WORK HOURS	A.	B.	A.	B.	TOTAL WORK HOURS	A.	B.	A.	B.
				TOTAL	BLACK	HISPANIC	AMERICAN INDIAN	ASIAN	WOMEN			MIN W/H	WOM W/H	% OF MIN W/H	% OF WOM W/H		MIN. HOURS	WOMEN HOURS	% OF MIN W/H	% OF WOM W/H
			F																	
			J																	
			AP																	
			F																	
			J																	
			AP																	
			F																	
			J																	
			AP																	
			F																	
			J																	
			AP																	
			F																	
			J																	
			AP																	

CPRs **				
mm/dd/yyyy	mm/dd/yyyy	mm/dd/yyyy	mm/dd/yyyy	mm/dd/yyyy
week 1	week 2	week 3	week 4	week 5

20. COMPLETED BY (PRINT OR TYPE) *I CERTIFY THAT THE INFORMATION ON THIS FORM IS TRUE AND CORRECT*

(NAME)	(SIGNATURE)	(TITLE)
(AREA CODE)	(TELEPHONE NUMBER)	(EXT.)
(COMPANY NAME)	(DATE)	

\*\* Please indicate "No Work" for weeks where no construction was conducted at the construction site.

# *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**

**Payroll Certification for Public Works Projects**  
for Contractor and Subcontractor's Weekly and Final Certification

Other (specify)

Name of <input type="checkbox"/> Contractor or <input type="checkbox"/> Subcontractor			Business Address			Project Name		
F.E.I.N.			Project Location			Contract I.D. or Project I.D.		
Payroll No.	Date Wages Due & Paid (mm/dd/yyyy)	Week Ending Date or <input type="checkbox"/> Final Certification				Contractor Registration #		

**SUBMIT** form by  
email: [equalpayact@dol.nj.gov](mailto:equalpayact@dol.nj.gov)

**IMPORTANT:** For purposes of law,  
you must also submit this form to  
the appropriate public body or lessor.

1. Employee Name and Address	2. Work Job Title <i>e.g., apprentice, journeyman, foreman</i> Work Classification/ Occupational Category <i>e.g., carpenter, mason, plumber</i>		3. Demographics Sex <i>M=Male F=Female X=Non-Binary</i> Race <i>See Key</i>		4. Day and Date							5. Total Hours	6. Hourly Rate of Pay	7.		8.					9. Net Wages Paid for Week	10. Total Fringe Benefit Cost/Hour
					Hours worked each day									Gross Amt. Earned		Deductions						
					SU	MO	TU	WE	TH	FR	SA			This Project	This Week	FICA	Federal Tax	State Tax	Other (specify)	Total Deductions		

**KEY** **W**= White; **B**= Black or African American;  
**A**= Asian; **N**= American Indian or Native Alaskan;  
**I** = Native Hawaiian or Pacific Islander; **M**= 2 or More

Check if additional sheets used

**I, the undersigned, do hereby state and certify:**

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

\_\_\_\_\_ (Contractor or Subcontractor)  
on the \_\_\_\_\_

(Project Name & Location)  
that during the payroll period beginning on (date) \_\_\_\_\_, and  
ending on (date) \_\_\_\_\_, all persons employed on said project  
have been paid the full weekly wages earned, that no rebates have  
been or will be made either directly or indirectly to or on behalf of the  
aforenamed Contractor or Subcontractor from the full weekly wages  
earned by any person and that no deductions have been made either  
directly or indirectly from the full wages earned by any person, other  
than permissible deductions as defined in the New Jersey Prevailing  
Wage Act, N.J.S.A. 34:11-56.25 et seq. and Regulation N.J.A.C.  
12:60 et seq. and the Payment of Wages Law, N.J.S.A. 34:11-4.1 et  
seq.

(2) That any payrolls otherwise under this contract required to be sub-  
mitted for the above period are correct and complete; that the wage  
rates for laborers or mechanics contained therein are not less than  
the applicable wage rates contained in any wage determination in-  
corporated into the contract; that the classifications set forth therein  
for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly  
registered with the United States Department of Labor, Bureau of  
Apprenticeship and Training and enrolled in a certified apprenticeship  
program.

(4) That:  
(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS,  
FUNDS OR PROGRAMS  
 In addition to the basic hourly wage rates paid to each laborer  
or mechanic listed in the above-referenced payroll, payments of  
fringe benefits have been or will be made when due to appropriate  
programs for the benefit of such employ-ees, as noted in Section  
4(c) at right.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH  
 Each laborer or mechanic listed in the above-referenced payroll  
has been paid as indicated on the payroll, an amount not less than  
the sum of the applicable basic hourly wage rate plus the amount  
of the required fringe benefits as listed in the contract, except as  
noted in Section 4(c) at right.

(5) N.J.S.A. 12:60-2.1 and 5.1 – The Public Works employers shall sub-  
mit to the public body or lessor a certified payroll record each pay  
period within 10 days of the payment of wages.

(6) By checking this box and typing my name below, I am electronically  
signing this application. I understand that an electronic signature has  
the same legal effect as a written signature.

Name \_\_\_\_\_

Title \_\_\_\_\_ Date (mm/dd/yy) \_\_\_\_\_

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

To calculate the cost per hour, divide 2,000 hours into the benefit cost per year per employee.

Program Title, Classification Title, or Individual Workers	Health/ Welfare	Vacation/Holiday	Apprenticeship/ Training	Pension	Other Benefit Type and Amount (e.g., training, long-term disability or life ins.)	Name & Address of Fringe Benefit Fund, Plan, or Program Administrator	USDOL Benefit Plan Filing Number/EIN	Third-Party Trustee &/or Contract Person

THE FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. – N.J.S.A. 34:11- 56.25 ET SEQ. AND N.J.A.C. 12:60 ET SEQ. AND N.J.S.A. 34:11-4.1 ET SEQ.



**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

CONTRACTOR NAME  
ADDRESS  
CITY, STATE ZIP

Re: Project Owner: XXXXXXXX  
Project Number: P-XXXXXX / AAPWR-XXXXXX

Dear XXXXXX:

You are hereby notified that the NJEDA has determined, based on information available to us, that the general construction contractor(s) and/or subcontractor(s) on the referenced project, and therefore the project owner, are compliant with the Prevailing Wage and Affirmative Action Regulations of the New Jersey Economic Development Authority.

If you have any additional questions, please contact me at XXX-XXX-XXXX, or email, XXX@njeda.com

Sincerely,

COMPLIANCE OFFICER  
Labor Compliance Department

CC: Lorena Garcia, Program Manager, Labor Compliance Department  
File



## 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.

NJEDAinVisit  
NJEDA.com

@NewJerseyEDA

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