

MONTCLAIR STATE UNIVERSITY

Affirmative Action Guidelines for Construction Projects

1. Overview

Montclair State University (“MSU”) is an agency of the State of New Jersey and therefore must abide by the Equal Employment Opportunity/Affirmative Action laws (EEO/AA) pursuant to N.J.S.A. 10:5-31 et seq and N.J.A.C. 17:27 et seq in carrying out its public contracts for construction. The State of New Jersey and MSU support equal employment opportunities for qualified minorities and women. MSU is subject to yearly audits by the State, and penalties apply for non-compliance (see Attachment A). The law can be accessed on the State’s website at: http://www.state.nj.us/treasury/contract_compliance

Strict adherence to EEO/AA law is critical to the public procurement and contract administration process. Every MSU supplier, contractor and vendor agrees to comply with the law as it applies to the goods and/or services they provide to MSU.

If any vendor is unsure whether or not the law applies to their work, they must obtain clarification from the State of New Jersey Department of the Treasury.

2. Requirements

For all construction contract awards **greater than or equal to \$34,400 in value**, the selected construction contractor must submit the following form of evidence:

1. Form AA-201 (**Initial Project Workforce Report, see Attachment B**). This step is performed by MSU Procurement as part of the bidding and contract award process.
2. Submit Form AA-202 (**Monthly Project Workforce Report, see Attachment C**) once a month for the duration of the contract to the Dept. of Labor and to the Public Agency Compliance Officer. A copy of this form must also be submitted to Montclair State University. This step is typically performed as part of the monthly payment application process. Forms must be included prior to the approval of a payment of work performed.

Attachment A

Sanctions and Penalties for Non-Compliance

Sanctions and Penalties may be imposed against Contractors, Vendors and Public Agencies for Non-Compliance with EEO/AA regulations. The following circumstances shall constitute some of the indications of a party's failure to meet the requirements of this Chapter or of an affirmative action plan, which may form the basis for a finding of a violation by the Division. These indicia are a representative sampling of indicia, but are not intended to constitute the only indicia that may be considered by the State in its determination as to whether a violation has occurred:

1. For Construction Contractors

- a. Failure to submit EEO/AA Form 201 (Initial Project Workforce Report);
- b. Failure to submit EEO/AA Form 202 (Monthly Project Workforce Report);
- c. Failure to submit documentation of good faith efforts to provide equal employment opportunity in the hiring of minorities and women in each trade, such as that noted at N.J.A.C. 17:27-7.4;
- d. Failure to provide additional requested information to determine compliance;
- e. Failure to respond to an Alert or Violation Notice; and
- f. Failure to attend an investigatory conference.

2. For Goods, Services and Professional Services Vendors

- a. Failure to submit EEO/AA Evidence (i.e., Form 302 Employee Information Report), Certificate of Employee Information Report, or current Letter of Federal Approval to public agency;
- b. Failure to submit EEO/AA Form 302 (Employee Information Report) to the Division for issuance of a Certificate of Employee Information Report;
- c. Failure to submit documentation of good faith efforts to provide equal employment opportunity in the hiring of minorities and women;
- d. Failure to submit Affirmative Action Plan; and
- e. Alteration or Forgery of Certificate of Employee Information Report.

Sanctions and Penalties for Non-Compliance

(continued)

When the State finds that a contractor, vendor or public agency has violated the Act or its implementing rules, the Treasurer is authorized to assess and collect fines in the amounts and time frames that follow:

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 for each day 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. In assessing a fine or penalty pursuant to this chapter, the State shall consider the following factors:

1. Size of vendor/contractor's business or population of public Agency;
2. Past history of compliance;
3. Frequency of violation for a third or subsequent violation;
4. Seriousness of violation;
5. Indication of good faith efforts to comply with equal employment opportunity requirements and/or affirmative action program;
6. Level of cooperation of entity in exchanging information regarding its efforts to correct deficiencies that resulted in violation; and
7. Indication of any intentional or misleading conduct.

Any other factors which the State deems to be appropriate in determining the penalty assessed with all such factors to be explicitly articulated by the Division or the Department in its assessment of such penalty.

No fine or penalty shall be levied unless the State provides the alleged violator with notification by certified mail which includes the amount of the penalty following the opportunity for an investigatory conference and the hearing process outlined in N.J.A.C. 17:27-10.8.

Attachment B

Sample Initial Project Workforce Report Form AA-201

<p style="text-align: center;">STATE OF NEW JERSEY DEPARTMENT OF LABOR & WORKFORCE DEVELOPMENT CONSTRUCTION EEO COMPLIANCE MONITORING PROGRAM</p> <p><small>FORM AA-201 Revised 11/11</small></p> <p style="text-align: center;">INITIAL PROJECT WORKFORCE REPORT CONSTRUCTION</p> <p><small>For instructions on completing the form, go to: http://www.state.nj.us/treasury/contract_compliance/pdf/aa201ins.pdf</small></p>	<p style="text-align: right;">Official Use Only</p> <p>Assignment</p> <hr/> <p>Code</p> <hr/>
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1. FID NUMBER	2. CONTRACTOR ID NUMBER	5. NAME AND ADDRESS OF PUBLIC AGENCY AWARDOING CONTRACT	
3. NAME AND ADDRESS OF PRIME CONTRACTOR		Name:	
(Name)		Address:	
(Street Address)		CONTRACT NUMBER	DATE OF AWARD
(City) (State) (Zip Code)		DOLLAR AMOUNT OF AWARD	
4. IS THIS COMPANY MINORITY OWNED [] OR WOMAN OWNED []		6. NAME AND ADDRESS OF PROJECT	
		Name:	
		Address:	
		COUNTY	
		7. PROJECT NUMBER	
		8. IS THIS PROJECT COVERED BY A PROJECT LABOR AGREEMENT (PLA)? YES <input type="checkbox"/> NO <input type="checkbox"/>	

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										

Thereby 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) _____

Sample Initial Project Workforce Report Form AA-201

Instructions

INSTRUCTIONS FOR COMPLETING THE INITIAL PROJECT WORKFORCE REPORT—CONSTRUCTION (AA-201)

DO NOT COMPLETE THIS FORM FOR GOODS AND/OR SERVICE CONTRACTS

1. Enter the Federal Identification Number assigned to the contractor by the Internal Revenue Service. If a Federal Employer Identification Number has been applied for, but not yet issued, or if your business is such that you have not, or will not, receive a Federal Identification Number, enter the Social Security number assigned to the single owner, or one partner, in the case of a partnership;
2. Note: The Department of Labor & Workforce Development, Construction EEO Monitoring Program will assign a contractor ID number to your company. This number will be your permanently assigned contractor ID number that must be on all correspondence and reports submitted to this office;
3. Enter the prime contractor's name, address and zip code number;
4. Check box if Company is Minority Owned or Woman Owned;
5. Enter the complete name and address of the Public Agency awarding the contract. Include the contract number, date of award and dollar amount of the contract;
6. Enter the name and address of the project, including the county in which the project is located;
7. Note: A project contract ID number will be assigned to your firm upon receipt of the completed Initial Project Workforce Report (AA-201) for this contract. This number must be indicated on all correspondence and reports submitted to this office relating to this contract;
8. Check "Yes" or "No" to indicate whether a Project Labor Agreement (PLA) was established with the labor organization(s) for this project;
9. Under the Projected Total Number of Employees in each trade, or craft, and at each level of classification, enter the total composite workforce of the prime contractor and all subcontractors projected to work on the project. Under Projected Employees, enter total minority and female employees of the prime contractor and all subcontractors projected to work on the project. Minority employees include Black, Hispanic, American Indian and Asian (J=Journeyworker, AP=Apprentice). Include projected phase-in and completion dates; and
10. Print or type the name of the company official, or authorized Equal Employment Opportunity (EEO) official and include signature, title, phone number and date the report is submitted.

This report must be submitted to the Public Agency that awards the contract and the Department of Labor & Workforce Development, Construction EEO Compliance Monitoring Program after notification of award, but prior to signing the contract.

THE CONTRACTOR IS TO RETAIN A COPY AND SUBMIT COPY TO THE PUBLIC AGENCY
AWARDING THE CONTRACT AND FORWARD A COPY TO:

NEW JERSEY DEPARTMENT OF LABOR & WORKFORCE DEVELOPMENT CONSTRUCTION EEO
COMPLIANCE MONITORING UNIT
P.O. BOX 209
TRENTON, NJ 08625-0209

Attachment C

Sample Monthly Project Workforce Report Form AA-202

Construction contractors shall be responsible for the completion of Monthly Project Workforce Reports, Form AA-202, for each project on forms made available by the Division. The report shall include the contractor Id, project Id and an analysis of the contractor and its subcontractor's workforce. The monthly workforce utilization report shall be submitted to the Department of Labor & Workforce Development Construction EEO Compliance Monitoring Program and

FORM AA-202
REVISED 1/11

State Of New Jersey
Department of Labor & Workforce Development
Construction EEO Compliance Monitoring Program

MONTHLY PROJECT WORKFORCE REPORT - CONSTRUCTION
For instructions on completing the form, go to:
http://www.state.nj.us/treasury/contract_compliance/pdfiles/aa202.pdf

1. Name and address of Prime Contractor _____

2. FID or SS Number _____

3. Contractor ID Number _____

4. Reporting Period _____

5. Public Agency Awarding Contract _____

6. Name and Location of Project _____ County _____

7. Project ID Number _____

8. CONTRACTOR NAME (LET FIRM CONTRACTOR WITH SUBS FOLLOWING)	9. TRADE OR CLASSIFICATION	10. NUMBER OF EMPLOYEES						11. RACE/ETHNICITY						12. SEX					
		A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P		
		TOTAL	BLACK	HISPANIC	AMERICAN INDIAN	ASIAN	PACIFIC ISLANDER	WHITE	BLACK	HISPANIC	AMERICAN INDIAN	ASIAN	PACIFIC ISLANDER	MALE	FEMALE	OTHER	OTHER		
	J																		
	AP																		
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	J																		
	AP																		

13. COMPLETED BY (PRINT OR TYPE) _____

14. SIGNATURE _____

15. TITLE _____

16. PHONE NUMBER _____

17. E-MAIL _____

Sample Monthly Project Workforce Report Form AA-202

Instructions

INSTRUCTIONS FOR COMPLETING MONTHLY PROJECT WORKFORCE REPORT - (AA-202)

1. Enter the prime contractor's name, address and zip code number.
2. Enter the **CONTRACTOR ID NUMBER** assigned by the Dept. of Labor & Workforce Development Construction EEO Compliance Monitoring Program.
3. Enter the Federal Identification Number assigned to the contractor by the Internal Revenue Service, or if a Federal Employer Identification Number has not been applied for or issued, or if your business is such that it will not receive a Federal Identification Number, enter the Social Security Number of the owner or of one partner, in the case of a partnership.
4. Reporting Period - enter the beginning and ending dates of the month for the report being submitted. (i.e., 1/1/00 - 1/31/00).
5. Enter the complete name of the public agency awarding the contract. Include the date of contract award.
6. Enter the name and location of the project, including the county in which the project is located.
7. Enter the **PROJECT NUMBER** assigned by the Dept. of Labor & Workforce Development Construction EEO Compliance Monitoring Program.
8. Enter the company name(s) of the contractor(s) performing work at the construction site. List the prime contractor first with subcontractor(s) following.
9. Enter the total percent (%) of project work the contractor or subcontractor has completed, to date.
10. Identify the trades or crafts applicable to the prime contractor and each subcontractor listed in column #8. Use a single line for each trade or craft.
11. Enter the total number of employees for each contractor at each level of classification (J=Journeyworker, AP=Apprentice) and the total number of each minority group - Black, Hispanic, American Indian, Asian and Female. Note: Column A shall include Total Number of employees. Columns B-B shall also include minority females. Column F shall include both non-minority and minority females.
12. Enter the total number of minority employees for each employer at each level of classification. Note: This shall be the sum of columns B-E.
13. Enter the Total Monthly work hours for all employees in each craft at each level of classification.
(A) Enter the Total Monthly minority work hours for each craft at each level of classification (Columns B-E).
(B) Enter the Total Monthly female work hours for each craft at each level of classification (Column F).
14. (A) Enter the Total Monthly PERCENT of minority work hours for each craft at each level of classification.
(B) Enter the Total Monthly PERCENT of female work hours for each craft at each level of classification.
15. Enter the Total Cumulative work hours for each craft at each level of classification.
(A) Enter the Total Cumulative minority work hours for each craft at each level of classification.
(B) Enter the Total Cumulative female work hours for each craft at each level of classification.
16. (A) Enter the Cumulative Percent of minority work hours for each craft at each level of classification.
(B) Enter the Cumulative Percent of female work hours for each craft at each level of classification.
17. Print or type the name of the company official submitting the report; include signature, title, telephone number, and date the report is submitted.

THE CONTACTOR SHOULD RETAIN ONE COPY AND SUBMIT A COPY TO THE PUBLIC AGENCY WHICH AWARDED THE CONTRACT. ANOTHER COPY MUST BE FORWARDED TO:

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

(8/18/17)