



**LFN 2021-20**

**November 1, 2021**

# Local Finance Notice

Philip D. Murphy  
 Governor

Lt. Governor Sheila Y. Oliver  
 Commissioner

Jacquelyn A. Suárez  
 Director

## Contact Information

### Director's Office

V. 609.292.6613

F. 609.633.6243

### Local Assistance Bureau

V. 609.292.6858

F. 609.633.6243

### Financial Regulation and Assistance

V. 609.292.4806

F. 609.984.7388

### Local Finance Board

V. 609.292.0479

F. 609.633.6243

### Administrative Services Unit

V. 609.292.6126

F. 609.633.6243

### Mail and Delivery

101 South Broad St.

PO Box 803

Trenton, New Jersey

08625-0803

[www.nj.gov/dca/divisions/dlgs](http://www.nj.gov/dca/divisions/dlgs)

E-mail: [dlgs@dca.nj.gov](mailto:dlgs@dca.nj.gov)

## Distribution

Procurement Officials

School Business Officials

Chief Finance Officers

Administrators/Managers

Municipal Clerks

Clerks – Boards of County

Commissioners

Authorities & Fire Districts

Auditors

## Discussion and Update on Various Public Works Contracting Issues

This Notice reminds local government and school district contracting units of public works contractor registration, prevailing wage, debarment, and equal opportunity/affirmative action requirements. Also reviewed is a recent law expanding the types of projects for which a contracting unit may require a project labor agreement. Local Finance Notices [2004-9](#), [2005-15](#), [2007-12](#), and [2010-4](#) are hereby supplemented by this Notice. Local Finance Notice 2020-18 is repealed and superseded by this Notice.

National cooperative contracts cannot be utilized for public works projects and as such are not covered by this Notice. Contracting units shall continue to adhere to [Local Finance Notice 2012-10](#) regarding use of national cooperative contracts. The Division will be issuing further guidance on the use of public works contracts awarded by the State or by DLGS-registered cooperative purchasing systems, as this issue warrants individual treatment.

### Public Works Contractor Registration and Prevailing Wage

The [Public Works Contractor Registration Act](#) (N.J.S.A. 34:11-56.48 et seq.) requires contractors and subcontractors working on public works projects covered under the [Prevailing Wage Act](#) (N.J.S.A. 34:11-56.25 et seq.) to be registered with the New Jersey Department of Labor and Workforce Development ("Department of Labor"). In addition to the information and resources referenced in this section, contracting units are strongly encouraged to consult the Department of Labor's [Prevailing Wage FAQ](#) for further details on both laws.

### When the Prevailing Wage Act Applies to a Public Works Contract

Prevailing wage covers contracts for "construction, reconstruction, demolition, alteration, custom fabrication or repair work, or maintenance work, including painting and decorating, done under contract and paid for in whole or in part out of the funds of a public body, except work performed under a rehabilitation program." N.J.S.A. 34:11-56.26(5).

The fabrication of plumbing, heating, cooling, ventilation or exhaust duct systems, and mechanical insulation constitutes “custom fabrication” for purposes of prevailing wage. [P.L. 2019, c.44](#) amended the custom fabrication definition to extend prevailing wage to “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.” N.J.S.A. 34:11-56.26(12). For contracts awarded on or after October 18, 2021, [P.L. 2021, c. 253](#) added to the definition of custom fabrication “one or more signs in a project which cost a total of more than \$30,000 and are part of a project upon completion.”

“Maintenance work” encompasses:

- the repair of existing facilities when the size, type or extent of such facilities is not thereby changed or increased; and
- any work on a “maintenance-related project,” which means a project related to the repair of existing facilities when the size, type or extent of such facilities is not thereby changed or increased that:
  - exceeds the scope of work and capabilities of in-house maintenance personnel;
  - requires the solicitation of bids; and
  - has an aggregate value exceeding \$50,000.

Even if the work is not paid for using public funds, prevailing wage applies if the property or premises is owned by the contracting unit at the time of entry into the contract, or if 1) not less than 55% of the property or premises is leased by a public body, or is subject to an agreement to be subsequently leased by the public body; and 2) the portion of the property or premises that is leased or subject to an agreement to be subsequently leased by the public body measures more than 20,000 square feet. Both are required, not either.

Contracts fitting within the aforementioned criteria must still exceed a certain monetary threshold before prevailing wage applies. As of July 1, 2019, the threshold is \$16,263 for contracts directly awarded by municipalities. Contracts awarded by school districts and all other public entities are subject to a \$2,000 threshold. The prevailing wage threshold for municipalities adjusts once every five years.

#### Contractors & Subcontractors - Public Works Contractor Registration

All contractors, subcontractors, or lower tier subcontractors who bid on or engage in the performance of any public works contract subject to Prevailing Wage Act, and after April 1, 2020, any contract for which another State law requires payment of prevailing wage, are required to register with the Department of Labor.

A contractor must have its Public Works Contractor Registration (PWCR) in place before responding to solicitations for bids on public works contracts subject to prevailing wage. All subcontractors listed in a bid proposal must possess a PWCR at the time the bid is made. However, failure to include a contractor’s or listed subcontractor’s PWCR certificate in a bid is not a fatal flaw that requires the bid to be thrown out. The PWCR certificate for the contractor and the certificates for any listed subcontractors shall be provided to the contracting unit prior to contract award and must be effective as of the date the contractor submitted its bid; a contracting unit

cannot accept a contractor's or subcontractor's application to the Department of Labor for a PWCR certificate in lieu of a PWCR certificate. All non-listed subcontractors must obtain a PWCR certificate before starting work on a prevailing wage public works project.

A contractor must also have its PWCR certificate before responding to a competitive quotation or agreeing to perform work for school districts or other non-municipal public entities that fall between the \$2,000 prevailing wage threshold and the contracting unit's quote threshold (15% of the bid threshold). Before issuing the purchase order/awarding the contract, the contracting unit must receive a PWCR that was current at the time of the contractor's proposal, as must be the submitted PWCR of any subcontractors named in the contractor's proposal.

Contractors awarded public works contracts under emergency procedures must be notified of applicable PWCR and prevailing wage requirements at the time of award. The contracting unit shall confirm compliance prior to making payment for completed work.

[P.L. 2019, c.376](#), applicable to contracts awarded on or after April 1, 2020, also applies the Public Works Contractor Registration Act to contractors and subcontractors on projects that are not covered under the Prevailing Wage Act, but are required to pay prevailing wage pursuant to any other provision of law.

As of May 1, 2019, [P.L. 2019, c.21](#) requires contractors that directly employ craftworkers to participate in a United States Department of Labor-registered apprenticeship program as a condition of initial or renewed PWCR registration. Contracting units are not responsible for verifying contractor participation in a registered apprenticeship program.

The Department of Labor's Division of Wage and Hour Compliance supplies an [online list](#) of contractors and subcontractors with PWCR certificates; however, the Division of Wage and Hour Compliance should be contacted at (609) 292-9464 if a contracting unit needs official verification of a contractor's or subcontractor's PWCR status.

#### Contractor Debarment for Prevailing Wage Violations

Contractors violating the Prevailing Wage Act are subject to administrative fees and penalties and may be debarred (*i.e.* prohibited) from work on future public works contracts. Before awarding a prevailing wage contract subject to the Prevailing Wage Act, a contracting unit needs to review the Department of Labor's [Prevailing Wage Debarment List](#) to confirm whether the contractor and any listed subcontractors are currently debarred. If so, the contracting unit cannot award the contract to the contractor. Likewise, if a debarred entity appears on a contractor's Ownership Disclosure Statement, the contract cannot be awarded to that contractor. For non-Prevailing Wage Act contracts to which another law requires the payment of prevailing wage, please consult the law applicable to the project for whether Department of Labor contractor debarment applies.

#### Certified Payrolls for Prevailing Wage Compliance (N.J.A.C. 12:60-5.1(c))

The contractor and all subcontractors must provide the contracting unit with certified payroll records for each employee performing work on a prevailing wage project. Contractors and subcontractors must use the Department of Labor's [Form MW-562](#) for certifying payroll records; owner/operators must also be included in the certification. Certified payroll records shall be provided for each pay period within ten (10) days of the payment of wages. In turn, the

contracting unit must collect, file, and store all certified payroll records on the project and make them available for inspection during normal business hours.

### Stop Work Orders Issued by Department of Labor

[P.L. 2019, c.158](#) and [P.L. 2019, c.372](#) together authorize the Department of Labor to issue stop-work orders against employers the Department determines are violating any State wage, benefit or tax law; including laws on prevailing wage, unemployment insurance, workers' compensation insurance, and temporary disability insurance. Local government and school district public works projects are not exempt from such stop-work orders, which could negatively impact project timelines. P.L. 2019, c.158 allows general contractors to terminate from a project any subcontractor upon whom the Department of Labor imposes a stop-work order for violating the Prevailing Wage Act.

### **Federal Debarment – Consequences for Certain Public Works Contracts**

[P.L. 2019, c.406](#) prohibits any contractor that is debarred from contracting with a federal government agency, along with any affiliates of the debarred contractor, from contracting for “public work” with any State or local government entity. This prohibition applies to all entities subject to the Local Public Contracts Law or Public School Contracts Law, as well as to county colleges.

The federal debarment law defines “public work” as the construction, reconstruction, repair or improvement of “any public building, public highway, bridge, or other public betterment, work, or improvement of a permanent nature” that is performed “wholly at the expense of the public.” This means that the law applies to construction, reconstruction, repair, or improvement of any structure or infrastructure, without regard to dollar threshold, that is fully funded by local, State, and/or federal dollars. Public roadwork and work on items such as curbs, sidewalks, and publicly owned underground infrastructure are covered under the law. The law also applies to installation, repair, and replacement of items such as HVAC, plumbing, and electrical. However, please note that the scope of projects to which the federal debarment law applies is narrower than the types of projects encompassed by the Prevailing Wage Act. For example, a contract solely for demolition work would not come under the federal debarment law; nor would painting, decorating, or routine maintenance work.

Before a contracting agency can award a contract for public work as defined in P.L. 2019, c.406, the contractor must provide a written certification to the contracting unit that neither the contractor nor the contractor's affiliates are debarred at the federal level from contracting with a federal government agency. The term “affiliate” means any entity that directly, indirectly, or constructively controls the contractor, or any entity that the contractor directly, indirectly, or constructively controls, or is subject to the control of a common entity. The law considers an entity to be in control of another entity if it owns, directly or indirectly, more than 50% of the ownership interest in that entity. This means the contractor must not directly or indirectly own or be owned by an entity debarred from contracting on the federal level. A [model certification form](#), adapted from the Ownership Disclosure Statement, asks a contractor to identify any individual or entity owning greater than 50% interest in the contractor, as well as the identity of any individual or entity owning greater than 50% of the contractor's parent entity. The contractor

must likewise disclose any entities in which the contractor directly or indirectly owns greater than a 50% share.

Upon receiving the contractor's certification and prior to contract award, the contracting unit must consult the federal government's [System for Award Management \(SAM\) exclusions database](#) to verify whether the contractor and any affiliated individuals or entities listed on the certification are currently debarred from contracting with a federal government agency. The federal government recently revamped and streamlined their exclusion database. Only those individuals and firms that are currently debarred are listed in the database. Please consult the [Quick Start Guide](#) for searching and viewing exclusion data and identifying federally-debarred contractors. Note: If the contractor has a DUNS number and/or CAGE code, these should be listed on the certification as well and typed into the Advanced Search function with the name. Contracting units may also search the Excel-based [SAM.gov Exclusions Extract](#) which is updated daily. The [Exclusions Extract User Guide](#) contains further instructions on using the extract.

In the case of emergency contracts, a contracting unit may award a contract to a contractor without first receiving the non-debarment certification if the contractor agrees to provide the certification within two weeks of the contract's execution. The contracting unit is not liable for payment until the contractor provides the completed non-debarment certification. Although not expressly required under the law, if practical, the contracting unit should use the SAM database before awarding an emergency contract to verify that the contractor, itself, is not debarred on the federal level. If a contractor completes the emergency work within the two-week timeframe but was debarred at the time the contract was awarded, the contracting unit should consult legal counsel to determine whether the debarred contractor must be paid. Where emergency contract work is ongoing, and the contracting unit learns that the contractor was federally debarred at the time of contract award, the contractor should be replaced with a non-debarred contractor if the project circumstances permit.

## **Equal Employment Opportunity & Affirmative Action (EEO/AA)**

### Workforce Reports for Construction Contracts

Each contracting unit's designated Public Agency Compliance Officer (P.A.C.O.) is responsible for ensuring compliance with State laws governing [equal employment opportunity and affirmative action](#) (EEO/AA) in public procurement. The Department of Labor's Construction EEO Monitoring Program is responsible for ensuring EEO/AA compliance on construction contracts, which are defined as contracts for "construction, alteration, repair, or demolition of any building or other public work." EEO/AA compliance for goods and services contracts is monitored by the Contract Compliance and Audit Unit of the State Treasury's Division of Purchase and Property. Contractual agreements between public agencies are not subject to EEO/AA requirements.

Before the award of a construction contract procured through competitive bidding, the contractor and any subcontractor with greater than four (4) employees must file an [AA-201 Initial Project Workforce Report-Construction](#) form with both the contracting unit and the Department of Labor. Every month thereafter, for the duration of the contract, the contractor must file an [AA-202 Monthly Project Workforce Report-Construction](#) form with the contracting unit and with the Department of Labor. Construction workforce report form instructions are available [here](#) and [here](#). The P.A.C.O. is responsible for ensuring that these reports are filed and available for

inspection; a contracting unit may be subject to penalties such as daily fines for EEO/AA non-compliance. Project Workforce Reports are not required for contracts that are subject to an affirmative action program approved or sanctioned by the federal government.

In the case of emergency contracts, a contracting unit may award a contract to a contractor without evidence of affirmative action compliance; however, the contracting unit must document that an actual emergency exists and that delaying immediate award of the contract would endanger public health, safety, welfare or property. N.J.A.C. 17:27-3.9 requires the contractor to provide evidence of compliance with affirmative action program requirements prior to receiving payment on an emergency contract.

Please note some public works projects may be considered “goods and services” contracts instead of “construction” contracts and are thus subject to different EEO/AA reporting requirements. Contracting units are strongly encouraged to review the Division of Purchase and Property’s [EEO/AA Guidelines](#) for further details.

#### Optional Set-Aside of Construction Contract Funds for Recruitment and Training

[P.L. 2019, c.76](#) amends N.J.S.A. 52:38-7 to allow local government and school districts the option of either retaining or transferring to the Department of Labor an amount equal to one half of one percent (0.5%) of the value of any construction contract for purposes of: 1) recruitment and training of women and minorities in the construction industry; or (2) providing incentives or otherwise facilitating a local hiring and employment program. As with EEO/AA workforce reporting, this law applies to contracts for “construction, alteration, repair, or demolition of any building or other public work.”

Retained funds must be used for job outreach and training programs for women and minorities in construction trade, engineering, and management occupations utilized in public works contracts. Any grants to implement such programs must go to community and faith-based organizations, labor and trade organizations, employers, contractors, educational institutions and other local public agencies best able to facilitate entry and success of women and minorities into training and long-term construction industry employment. The law particularly emphasizes registered apprenticeship programs. Reasonable and necessary costs incurred in administering such programs shall be reimbursed from the retained funds.

#### **Recent Amendments to Project Labor Agreement Law**

Effective April 20, 2021, a local government or school district contracting unit may enter into project labor agreements for any public works project for construction, reconstruction, demolition or renovation, so long as 1) the project requires payment of prevailing wage under State law; and 2) the total project cost, exclusive of land acquisition costs, will equal or exceed \$5 million. Before the enactment of [P.L. 2021, c. 69](#), project labor agreements were only allowed for projects involving buildings constructed at public expense except for pumping stations or water or sewage treatment plants.

Project labor agreements are a form of pre-hire collective bargaining agreement covering terms and conditions of a specific public works project. A contracting unit may include a project labor agreement in a public works project on a project-by-project basis if its governing body determines, taking into consideration the size, complexity and cost of the public works project,

that, with respect to that project, the project labor agreement will meet the requirements of N.J.S.A. 52:38-5 (included as an Appendix to this Notice), including promoting labor stability and advancing the contracting unit's interests in terms of cost, efficiency, skilled labor force, quality, safety and timeliness, and promoting employment of the contracting unit's residents. The inclusion of a project labor agreement requirement shall not be deemed to unduly restrict competition if the contracting unit finds that the project labor agreement is reasonably related to the satisfactory performance and completion of the public works project. Prior to advertising for bids, the governing body should put their determination on the record and pass a resolution memorializing it.

If the governing body determines that a project labor agreement will meet the above requirements with respect to a particular public works project, the contracting unit shall either: directly negotiate in good faith a project labor agreement with one or more labor organizations; or condition the award of a contract to a construction manager upon a requirement that the construction manager negotiate in good faith a project labor agreement with one or more labor organizations. A contracting unit may submit a written request to the [Department of Labor and Workforce Development, Office of the Commissioner](#) for assistance in facilitating negotiation of a project labor agreement and may also ask the Department for a written advisory statement on whether a finalized project labor agreement conforms with the underlying law.

Any project labor agreement negotiated between the contracting unit or its representative or a construction manager and one or more labor organizations shall be made binding on all contractors and subcontractors on the public works project through the inclusion of appropriate language in the bid specifications and in all relevant bid documents. A bidder refusing to agree to abide by the conditions of the project labor agreement or the requirement to negotiate a project labor agreement shall not be regarded as a responsible bidder.

Each project labor agreement shall stipulate that:

- a. the provisions of the project labor agreement shall apply to work done at construction sites of the public works project and shall not apply to work done outside of those sites; and
- b. if a union trust fund covered by the terms and conditions of the project labor agreement has not adopted the building and construction industry exemption authorized by subsection (b) of section 4203 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1383(b)), the signatory employers shall not be obligated to hire employees covered by that fund.<sup>1</sup>

Project labor agreements may include provisions that permit contractors and subcontractors working on the public works project to retain a percentage of their current workforce, along with provisions that the successful bidder and any subcontractor of the bidder need not be a party to a labor agreement with the labor organizations other than for the public works project covered by the project labor agreement.

---

Approved: Jacquelyn A. Suárez, Director

---

<sup>1</sup> 29 U.S.C. 1383(b) of the Employee Retirement Income Security Act of 1974 (ERISA) fully exempts a construction industry employer from a pension fund withdrawal liability obligation if the employer that ceases work and withdraws from a multi-employer pension fund. The statute establishes certain conditions that must be satisfied for the exemption to become effective.

Document	Internet Address
Local Finance Notice 2004-9	<a href="http://www.nj.gov/dca/divisions/dlgs/lfns/04/2004_9.doc">http://www.nj.gov/dca/divisions/dlgs/lfns/04/2004_9.doc</a>
Local Finance Notice 2007-12	<a href="https://www.nj.gov/dca/divisions/dlgs/lfns/07/2007-12.doc">https://www.nj.gov/dca/divisions/dlgs/lfns/07/2007-12.doc</a>
Local Finance Notice 2010-4	<a href="https://www.nj.gov/dca/divisions/dlgs/lfns/10/2010-04.doc">https://www.nj.gov/dca/divisions/dlgs/lfns/10/2010-04.doc</a>
Local Finance Notice 2005-15	<a href="https://www.nj.gov/dca/divisions/dlgs/lfns/05/2005-15.doc">https://www.nj.gov/dca/divisions/dlgs/lfns/05/2005-15.doc</a>
NJ Dept. of Labor – PWCR Page	<a href="https://www.nj.gov/labor/wagehour/regperm/pw_cont_reg.html">https://www.nj.gov/labor/wagehour/regperm/pw_cont_reg.html</a>
Dept. of Labor – Prev. Wage Act Page	<a href="https://www.nj.gov/labor/wagehour/regperm/public_contracts_general.html">https://www.nj.gov/labor/wagehour/regperm/public_contracts_general.html</a>
Dept. of Labor - Prevailing Wage Act & Regulation Booklet (MW-211)	<a href="https://www.nj.gov/labor/wagehour/content/MW-211.pdf">https://www.nj.gov/labor/wagehour/content/MW-211.pdf</a>
Dept of Labor Prev. Wage FAQ	<a href="https://www.nj.gov/labor/wagehour/content/prevailing_wage_rate_faqs.html">https://www.nj.gov/labor/wagehour/content/prevailing_wage_rate_faqs.html</a>
P.L. 2019, c.44	<a href="https://www.njleg.state.nj.us/2018/Bills/AL19/44_.PDF">https://www.njleg.state.nj.us/2018/Bills/AL19/44_.PDF</a>
P.L. 2021, c. 253	<a href="https://www.njleg.state.nj.us/2020/Bills/A2000/1536_R1.PDF">https://www.njleg.state.nj.us/2020/Bills/A2000/1536_R1.PDF</a>
P.L. 2019, c.376	<a href="https://www.njleg.state.nj.us/2018/Bills/AL19/376_.PDF">https://www.njleg.state.nj.us/2018/Bills/AL19/376_.PDF</a>
P.L. 2019, c.21	<a href="https://www.njleg.state.nj.us/2018/Bills/PL19/21_.PDF">https://www.njleg.state.nj.us/2018/Bills/PL19/21_.PDF</a>
List of PWCR Contractors	<a href="http://lwd.state.nj.us/lseapp/LSSERedirect.html?newPage=forms/RegisteredContractors">http://lwd.state.nj.us/lseapp/LSSERedirect.html?newPage=forms/RegisteredContractors</a>
Prevailing Wage Debarment List	<a href="https://www.nj.gov/labor/wagehour/wagerate/prevailing_wage_debarment_list.html">https://www.nj.gov/labor/wagehour/wagerate/prevailing_wage_debarment_list.html</a>
Payroll Certification for Public Works Projects Form MW-562	<a href="https://www.nj.gov/labor/forms_pdfs/equalpayact/MW-562withoutfein.pdf">https://www.nj.gov/labor/forms_pdfs/equalpayact/MW-562withoutfein.pdf</a>
P.L. 2019, c.158	<a href="https://www.njleg.state.nj.us/2018/Bills/PL19/158_.PDF">https://www.njleg.state.nj.us/2018/Bills/PL19/158_.PDF</a>
P.L. 2019, c.372	<a href="https://www.njleg.state.nj.us/2018/Bills/PL19/372_.PDF">https://www.njleg.state.nj.us/2018/Bills/PL19/372_.PDF</a>
P.L. 2019, c.406	<a href="https://www.njleg.state.nj.us/2018/Bills/PL19/406_.PDF">https://www.njleg.state.nj.us/2018/Bills/PL19/406_.PDF</a>
Federal Debarment Law – Model Certification Form	<a href="https://www.nj.gov/dca/divisions/dlgs/programs/lpcl.html">https://www.nj.gov/dca/divisions/dlgs/programs/lpcl.html</a>
System for Award Management (SAM) Exclusion Database	<a href="https://sam.gov/content/exclusions">https://sam.gov/content/exclusions</a>
SAM Exclusion Database Quick Start Guide	<a href="https://www.fsd.gov/sys_attachment.do?sys_id=dab895461bd4b4109ac5ddb6bc4bcb59">https://www.fsd.gov/sys_attachment.do?sys_id=dab895461bd4b4109ac5ddb6bc4bcb59</a>
SAM Exclusion Abstract	<a href="https://sam.gov/data-services/Exclusions?privacy=Public">https://sam.gov/data-services/Exclusions?privacy=Public</a>
User Guide – SAM Exclusion Abstract	<a href="https://www.fsd.gov/sys_attachment.do?sys_id=a29ebba51bd430d09ac5ddb6bc4bcb84">https://www.fsd.gov/sys_attachment.do?sys_id=a29ebba51bd430d09ac5ddb6bc4bcb84</a>
EEO/AA Contract Compliance	<a href="https://www.state.nj.us/treasury/contract_compliance/">https://www.state.nj.us/treasury/contract_compliance/</a>
Public Agency EEO/AA Guidelines	<a href="https://www.nj.gov/treasury/contract_compliance/documents/pdf/guidelines/pa.pdf">https://www.nj.gov/treasury/contract_compliance/documents/pdf/guidelines/pa.pdf</a>
P.L. 2019, c.76	<a href="https://www.njleg.state.nj.us/2018/Bills/PL19/76_.PDF">https://www.njleg.state.nj.us/2018/Bills/PL19/76_.PDF</a>
P.L. 2021, c.69	<a href="https://www.njleg.state.nj.us/2020/Bills/PL21/69_.PDF">https://www.njleg.state.nj.us/2020/Bills/PL21/69_.PDF</a>
N.J. Department of Labor	<a href="https://www.nj.gov/labor/">https://www.nj.gov/labor/</a>
P.L. 2017, c.317	<a href="https://www.njleg.state.nj.us/2016/Bills/PL17/317_.PDF">https://www.njleg.state.nj.us/2016/Bills/PL17/317_.PDF</a>
Local Finance Notice 2012-10	<a href="https://www.nj.gov/dca/divisions/dlgs/lfns/12/2012-10.pdf">https://www.nj.gov/dca/divisions/dlgs/lfns/12/2012-10.pdf</a>



## Appendix

### N.J.S.A. 52:38-5 Requirements for project labor agreement (Recent amendments underlined)

5. Each project labor agreement executed pursuant to the provisions of this act shall:
- a. Advance the interests of the public entity, including the interests in cost, efficiency, quality, timeliness, skilled labor force, and safety;
  - b. Contain guarantees against strikes, lock-outs, or other similar actions;
  - c. Set forth effective, immediate, and mutually binding procedures for resolving jurisdictional and labor disputes arising before the completion of the work;
  - d. Be made binding on all contractors and subcontractors on the public works project through the inclusion of appropriate bid specifications in all relevant bid documents;
  - e. Require that each contractor and subcontractor working on the public works project have an apprenticeship program;
  - f. Fully conform to all statutes, regulations, executive orders and applicable local ordinances regarding the implementation of set-aside goals for women and minority owned businesses, the obligation to comply with which shall be expressly provided in the project labor agreement;
  - g. Include a publicly available plan regarding:
    - (1) the shares of employment and apprenticeship positions in the public works project for minority group members, members of disadvantaged communities<sup>2</sup>, and women which are in full conformance with the requirements of all applicable statutes, regulations, executive orders and local ordinances and is mutually agreed upon by the participating labor organizations and the public entity which will own the facilities which are built, altered or repaired under the public works project, provided that any shares mutually agreed upon pursuant to this subsection shall equal or exceed the requirements of other statutes, regulations, executive orders or local ordinances; and
    - (2) all measures and programs to be undertaken to attain the goals of paragraph (1) of this subsection regarding minority group members, members of disadvantaged communities, and women, which may include measures giving them priority in referral and placement from the hiring halls of signatory unions, programs to provide on-the-job or off-the-job outreach and training, and programs to provide incentives for, or otherwise facilitate, their hiring and employment;
  - h. Require the contract for the public works project to provide whatever resources may be needed to prepare for apprenticeship a number of women, members of disadvantaged communities, and minority group members sufficient to enable compliance with the plan agreed upon pursuant to subsection g. of this section and provide that the use of those resources be administered jointly by the participating labor organizations and the public entity or community-based organizations selected by the public entity; and
  - i. Require the public body to monitor, or arrange to have a State agency monitor, the amount and share of work done on the project by minority group members, members of disadvantaged communities, and women and the progression of minority group members, members of disadvantaged communities, and women into apprentice and journey worker positions, and require the public body to make public, or have the State agency make public, all records of monitoring conducted pursuant to this subsection.

---

<sup>2</sup> “Disadvantaged community” means a census block group, as determined in accordance with the most recent United States Census, in which at least:

- (1) 35 percent of the households are low-income households (households that are at or below twice the poverty threshold as that threshold is determined annually by the United States Census Bureau.);
- (2) 40 percent of the residents are minority group members or members of a State-recognized tribal community; or
- (3) 40 percent of the households have limited English proficiency.