

**GOODS AND SERVICES BID SPECIFICATIONS:
*A GUIDE FOR NEW JERSEY
LOCAL PUBLIC AGENCIES***

SECTION C

**STANDARD BID
DOCUMENT REFERENCE**

References Section A –
Instructions to Bidders and Statutory
Requirements

STANDARD BID DOCUMENT REFERENCE	
	Reference: I-A
Name of Form:	NOTICE TO BIDDERS
Statutory Reference:	N.J.S.A. 40A:11-23 Generally
Competitive Contracting Solid Waste	<ul style="list-style-type: none"> ▪ 40A:11-4.5a ▪ 40A:11-23a
Instructions Reference:	Submission of Bids (I-A)
Description:	<p>Prior to receipt, legal advertisement shall appear in the owner's official newspaper(s) no less than the number of days indicated and may be made part of specifications.</p> <ul style="list-style-type: none"> ▪ Goods & Services – 10 days ▪ Solid Waste – 60 days ▪ Competitive Contracting – 20 days

Owners should provide the following information in the text for each bid:

- Who is requesting bids?
- When will bids be opened?
- Where will bids be opened?
- Where will bids be submitted?
- What is being bid?
- Will there be a pre-bid conference? Where? When?
(State law does not permit mandatory attendance at a pre-bid conference. The term "strongly encouraged" is advised.)
- Where may specifications be obtained?
- How are bids to be submitted?
- Is there a cost for specifications?

The mandatory Affirmative Action Statement must appear in all legal advertisements.

The Notice to Bidders on Page C-2 is a sample.

NOTICE TO BIDDERS

NOTICE IS HEREBY GIVEN that sealed bids will be received by the *(title of individual)*, for the *(proper name of agency)*, County of *(county name)*, State of New Jersey on *(Date)* at *(am / pm)* prevailing time at *(full description of the location for the receipt of bids)* at which time and place bids will be opened and read in public for:

(description of goods or services)

Specifications and other bid information may be obtained at the *(name of the location where information is available)* during regular business hours *(hours of operation)*.

[OPTIONAL: A NON-REFUNDABLE fee of (insert specification cost if applicable) in the form of a check payable to the (name of agency) will be required for each set of specifications.]

(OPTIONAL: If pre-bid conference will be held, date, time and location.)

Bidders are required to comply with the requirements of N.J.S.A. 10:5-31 et seq. and N.J.A.C. 17:27-1 et seq.

Name & Title (of appropriate official)

Publication date:

STANDARD BID DOCUMENT REFERENCE	
	Reference: I-G
Name of Form:	BID PROPOSAL FORM
Statutory Reference:	NONE
Instructions Reference:	Submission of Bids I-G
Description:	This is a concise format for submittal of prices offered by bidder. Other formats that include detailed price breakdowns, unit prices and extensions may be suitable if the basic information is included.

The form must be completed fully and contain an original signature of the bidder or its authorized agent.

The Bid Proposal Form on page C-4 is a sample.

BID PROPOSAL FORM

(Contract Title and Bid Number, if applicable)

(Description of goods/services being bid)

The undersigned proposes to furnish and deliver the above goods/services pursuant to the bid specification and made part hereof:

Amount in words

\$ _____
Amount in numbers

Company Name

Federal I.D. # or Social Security #

Address

Signature of Authorized Agent

Type or Print Name

Title: _____

Telephone Number

Date

Fax Number

E-mail address

STANDARD BID DOCUMENT REFERENCE	
	Reference: II-B
Name of Form:	CONSENT OF SURETY
Statutory Reference:	N.J.S.A. 40A:11-22
Instructions Reference:	Bid Security II-B
Description:	The sample provides very basic language. If Owner requires a Consent of Surety certificate, it is important that the certificate supplied by surety be carefully reviewed.

When the Owner requires a performance bond, all bidders are required to submit a Consent of Surety certificate from a surety company stating that said company will provide the bidder with a performance bond. Contracting units have the option of requiring bonding for contracts with a value of less than \$100,000.

A Consent of Surety for construction contracts is required for those contracts over \$100,000.

The Consent of Surety on Page C-6 is a sample.

CONSENT OF SURETY

A performance bond will be required from the successful contractor on this project, and consequently, all bidders shall submit, with their bid, a consent of surety in substantially the following form:

To: _____
(Owner)

Re: _____
(Contractor)

(Project Description)

This is to certify that the _____
(Surety Company)

will provide to _____ a performance bond in
(Owner)

the full amount of awarded contract in the event that said contractor is awarded a contract for the above project.

(CONTRACTOR)

(Authorized Agent of Surety Company)

Date: _____

**CONSENT OF SURETY MUST BE SIGNED BY AN AUTHORIZED AGENT
OR REPRESENTATIVE OF A SURETY COMPANY AND NOT BY THE
INDIVIDUAL OR COMPANY REPRESENTATIVE SUBMITTING THE BID.**

STANDARD BID DOCUMENT REFERENCE	
	Reference: III
Name of Form:	ACKNOWLEDGEMENT OF RECEIPT OF ADDENDA
Statutory Reference:	N.J.S.A. 40A:11-23c. 1), 2), & 3)
Instructions Reference:	Interpretation and Addenda III
Description:	Recommended administrative method for securing Acknowledgment of receipt of addenda by bidders

This form could be used for complex purchases.

Should it be necessary to issue addenda, it is recommended that an acknowledgement form for receipt of addenda accompany same.

Publishing & Notice Requirements for Bid Addenda

N.J.S.A. 40A:11-23c, 1), 2), & 3)

TYPE OF BID SOLICITATION

Action	Goods & Services	Construction Work	Municipal Solid Waste Collection & Disposal Service
Publish in official newspaper of the contracting unit	Yes	Not required	Published in an official newspaper, and in at least one newspaper of general circulation published in the State.
Publication Time	No later than 7 days, Saturdays, Sundays, & holidays excepted, prior to the date for acceptance of bids.	A notice shall be provided no later than 7 days, Saturdays, Sundays, or holidays excepted, prior to the date for acceptance of bids, to any person who has submitted a bid or who has received a bid package.*	No later than 7 days, Saturdays, Sundays, & holidays excepted, prior to the date for acceptance of bids.
In writing by certified mail <u>or by:</u>	Yes	Yes	While the Local Public Contracts Law does not specifically provide for these three methods, it may be a best practice to use any one of the three.
...Certified facsimile transmission** <u>or by:</u>	Yes	Yes	
...A delivery service***	Yes	Yes	

* For all construction work contracts a notice must be provided, but the placement of an official newspaper notice is not statutorily required.

** Sender's facsimile machine produces a receipt showing date and time of transmission and that the transmission was successful.

*** Delivery service provides certification of delivery to the sender.

The Acknowledgement of Receipt of Addenda on Page C-8 is a sample.

(Name of Local Public Agency)

ACKNOWLEDGMENT OF RECEIPT OF ADDENDA

The undersigned Bidder hereby acknowledges receipt of the following Addenda:

<u>Addendum Number</u>	<u>Dated</u>	<u>Acknowledge Receipt</u> (initial)
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

No addenda were received:

Acknowledged for: _____
(Name of Bidder)

By: _____
(Signature of Authorized Representative)

Name: _____
(Print or Type)

Title: _____

Date: _____

STANDARD BID DOCUMENT REFERENCE	
	Reference: VII-A
Name of Form:	AFFIRMATIVE ACTION COMPLIANCE NOTICE
Statutory Reference:	N.J.S.A. 10:5-31 (P.L 1975, c.127) and N.J.A.C 17:27-1 et seq.
Instructions Reference:	Statutory and Other Requirements VII-A-1
Description:	To assure vendor compliance with State affirmative action requirements.

Each contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

1. A photocopy of a valid letter that the contractor is operating under an existing Federally approved or sanctioned affirmative action program (good for one year from the date of the letter); or
2. A photocopy of a Certificate of Employee Information Report approval, issued in accordance with N.J.A.C. 17:27-4; or
3. A photocopy of an Employee Information Report (Form AA302) provided by the Division and distributed to the public agency to be completed by the contractor in accordance with N.J.A.C. 17:27-4.

This form provides the bidder guidance on the requirements. It is advisory in nature only and is a non-mandatory, waiveable form.

For information on the requirements of the Affirmative Action Law, contact:

Division of Contract Compliance & Equal Employment Opportunity in Public Contracting
 Department of the Treasury
 State of New Jersey
 P.O. Box 209
 Trenton, NJ 08625-0209
 609-292-5473
 E-mail: www.state.nj.us/treasury/contract_compliance/ccmail.html

The Affirmative Action Compliance Notice on Page C-10 is a sample.

AFFIRMATIVE ACTION COMPLIANCE NOTICE
N.J.S.A. 10:5-31 and N.J.A.C. 17:27

GOODS AND SERVICES CONTRACTS
(INCLUDING PROFESSIONAL SERVICES)

This form is a summary of the successful bidder's requirement to comply with the requirements of N.J.S.A. 10:5-31 and N.J.A.C. 17:27-1 et seq.

The successful bidder shall submit to the public agency, after notification of award but prior to execution of this contract, one of the following three documents as forms of evidence:

(a) A photocopy of a valid letter that the contractor is operating under an existing Federally approved or sanctioned affirmative action program (good for one year from the date of the letter);

OR

(b) A photocopy of a Certificate of Employee Information Report approval, issued in accordance with N.J.A.C. 17:27-4;

OR

(c) A photocopy of an Employee Information Report (Form AA302) provided by the Division and distributed to the public agency to be completed by the contractor in accordance with N.J.A.C. 17:27-4.

The successful vendor may obtain the Affirmative Action Employee Information Report (AA302) from the contracting unit during normal business hours.

The successful vendor(s) must submit the copies of the AA302 Report to the Division of Contract Compliance and Equal Employment Opportunity in Public Contracts (Division). The Public Agency copy is submitted to the public agency, and the vendor copy is retained by the vendor.

The undersigned vendor certifies that he/she is aware of the commitment to comply with the requirements of N.J.S.A. 10:5-31 and N.J.A.C. 17:27.1 et seq. and agrees to furnish the required forms of evidence.

The undersigned vendor further understands that his/her bid shall be rejected as non-responsive if said contractor fails to comply with the requirements of N.J.S.A. 10:5-31 and N.J.A.C. 17:27-1 et seq.

COMPANY: _____

SIGNATURE: _____

PRINT NAME: _____

TITLE: _____

DATE: _____

STANDARD BID DOCUMENT REFERENCE	
	Reference: VII-A-1
Name of Form:	MANDATORY AFFIRMATIVE ACTION LANGUAGE FOR GOODS AND SERVICES (INCLUDING PROFESSIONAL SERVICES) CONTRACTS
Statutory Reference:	N.J.S.A. 10:5-31 and N.J.A.C. 17:27-1 et seq.
Instructions Reference:	Statutory and Other Requirements VII-A-1
Description:	Exhibit A of Bid Specification

Exhibit A of the model Instructions to Bidders and Statutory Requirements is the current and complete mandatory language for goods and services (including professional services) bid specifications and contracts. Section VII-A-1 of the Instructions summarizes the requirements and refers bidders to the full text.

The document is the mandatory language for goods and services bid specifications and contracts pursuant to N.J.A.C. 17:27-3.4, and the mandatory bid specification and contract language for employment goal compliance for goods and services at N.J.A.C. 17:27-3.6. A complete review of both rule provisions is recommended.

Please note that Exhibit A does not apply to construction contracts. There is a different document, Exhibit B, for such contracts. Exhibit B can be found on pages C-27 through C-30.

Exhibit A can be found on Page C-12 & 13.

EXHIBIT A

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE N.J.S.A. 10:5-31 et seq. (P.L. 1975, C. 127) N.J.A.C. 17:27

GOODS, PROFESSIONAL SERVICE AND GENERAL SERVICE CONTRACTS

During the performance of this contract, the contractor agrees as follows:

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 will take affirmative action to ensure that such applicants are recruited and employed, 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 action 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. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, 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.

The contractor or subcontractor, where applicable, will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to employ minority and women workers consistent with the applicable county employment goals established in accordance with N.J.A.C. 17:27-5.2, or a binding determination of the applicable county employment goals determined by the Division, pursuant to N.J.A.C. 17:27-5.2.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, 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.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the applicable employment goals, the contractor or subcontractor agrees to 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.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

Letter of Federal Affirmative Action Plan Approval

Certificate of Employee Information Report

Employee Information Report Form AA302

The contractor and its subcontractors shall furnish such reports or other documents to the Div. of Contract Compliance & EEO as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Div. of Contract Compliance & EEO for conducting a compliance investigation pursuant to **Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.**

STANDARD BID DOCUMENT REFERENCE	
	Reference: VII-B
Name of Form:	MANDATORY LANGUAGE – AMERICANS WITH DISABILITIES ACT OF 1990
Statutory Reference:	Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. S121 01 et seq.)
Instructions Reference:	Statutory and Other Requirements VII-B
Description:	The Act prohibits discrimination on the basis of disability by public entities in all services, programs and activities provided or made available by public entities.

The federal Americans with Disabilities Act of 1990 requires bid specifications and contracts to contain language that prohibits discrimination on the basis of disability by public entities in all services, programs and activities provided or made available by public entities.

Appendix A can be found on Page C-15.

APPENDIX A
AMERICANS WITH DISABILITIES ACT OF 1990
Equal Opportunity for Individuals with Disability

The contractor and the _____ of _____, (hereafter "owner") do hereby agree that the provisions of Title 11 of the Americans With Disabilities Act of 1990 (the "Act") (42 *U.S.C.* S121 01 et seq.), which prohibits discrimination on the basis of disability by public entities in all services, programs, and activities provided or made available by public entities, and the rules and regulations promulgated pursuant there unto, are made a part of this contract. In providing any aid, benefit, or service on behalf of the owner pursuant to this contract, the contractor agrees that the performance shall be in strict compliance with the Act. In the event that the contractor, its agents, servants, employees, or subcontractors violate or are alleged to have violated the Act during the performance of this contract, the contractor shall defend the owner in any action or administrative proceeding commenced pursuant to this Act. The contractor shall indemnify, protect, and save harmless the owner, its agents, servants, and employees from and against any and all suits, claims, losses, demands, or damages, of whatever kind or nature arising out of or claimed to arise out of the alleged violation. The contractor shall, at its own expense, appear, defend, and pay any and all charges for legal services and any and all costs and other expenses arising from such action or administrative proceeding or incurred in connection therewith. In any and all complaints brought pursuant to the owner's grievance procedure, the contractor agrees to abide by any decision of the owner which is rendered pursuant to said grievance procedure. If any action or administrative proceeding results in an award of damages against the owner, or if the owner incurs any expense to cure a violation of the ADA which has been brought pursuant to its grievance procedure, the contractor shall satisfy and discharge the same at its own expense.

The owner shall, as soon as practicable after a claim has been made against it, give written notice thereof to the contractor along with full and complete particulars of the claim, If any action or administrative proceeding is brought against the owner or any of its agents, servants, and employees, the *owner shall* expeditiously forward or have forwarded to the contractor every demand, complaint, notice, summons, pleading, or other process received by the owner or its representatives.

It is expressly agreed and understood that any approval by the owner of the services provided by the contractor pursuant to this contract will not relieve the contractor of the obligation to comply with the Act and to defend, indemnify, protect, and save harmless the owner pursuant to this paragraph.

It is further agreed and understood that the owner assumes no obligation to indemnify or save harmless the contractor, its agents, servants, employees and subcontractors for any claim which may arise out of their performance of this Agreement. Furthermore, the contractor expressly understands and agrees that the provisions of this indemnification clause shall in no way limit the contractor's obligations assumed in this Agreement, nor shall they be construed to relieve the contractor from any liability, nor preclude the owner from taking any other actions available to it under any other provisions of the Agreement or otherwise at law.

STANDARD BID DOCUMENT REFERENCE	
	Reference: VII-C
Name of Form:	STOCKHOLDER DISCLOSURE CERTIFICATION
Statutory Reference:	N.J.S.A. 52:25-24.2 (P.L. 1977, c.33)
Instructions Reference:	Statutory and Other Requirements VII–C
Description:	Meets statutory criteria for disclosure of bidder's ownership.

No corporation or partnership shall be awarded any contract for the performance of any work or the furnishing of any materials or supplies, unless, prior to the receipt of the bid or accompanying the bid of said corporation or partnership, there is submitted a statement setting forth the names and addresses of all stockholders in the corporation or partnership who own ten (10) percent or more of its stock of any class, or of all individual partners in the partnership who own a ten (10) percent or greater interest therein. Form of Statement shall be completed and attached to the bid proposal.

The Attorney General has concluded that the provisions of N.J.S.A. 52:25-24.2, in referring to corporations and partnerships, are intended to apply to all forms of corporations and partnerships, including, but not limited to, limited partnerships, limited liability corporations, limited liability partnerships, and Subchapter S corporations.

Bidders are required to disclose whether they are a partnership, corporation or sole proprietorship. The Stockholder Disclosure Certification form shall be completed, signed and notarized. Failure of the bidder to submit the required information is cause for automatic rejection of the bid.

The Stockholder Disclosure Certification on Page C-17 is a sample.

STOCKHOLDER DISCLOSURE CERTIFICATION
This Statement Shall Be Included with Bid Submission

Name of Business _____

I certify that the list below contains the names and home addresses of all stockholders holding 10% or more of the issued and outstanding stock of the undersigned.

OR

I certify that no one stockholder owns 10% or more of the issued and outstanding stock of the undersigned.

Check the box that represents the type of business organization:

- | | | |
|---|--|--|
| <input type="checkbox"/> Partnership | <input type="checkbox"/> Corporation | <input type="checkbox"/> Sole Proprietorship |
| <input type="checkbox"/> Limited Partnership | <input type="checkbox"/> Limited Liability Corporation | <input type="checkbox"/> Limited Liability Partnership |
| <input type="checkbox"/> Subchapter S Corporation | | |

Sign and notarize the form below, and, if necessary, complete the stockholder list below.

Stockholders:

Name: _____

Name: _____

Home Address: _____

Home Address: _____

Name: _____

Name: _____

Home Address: _____

Home Address: _____

Name: _____

Name: _____

Home Address: _____

Home Address: _____

Subscribed and sworn before me this ____ day of _____, 2__.

(Notary Public)

My Commission expires:

(Affiant)

(Print name & title of affiant)

(Corporate Seal)

STANDARD BID DOCUMENT REFERENCE	
	Reference: VII-D
Name of Form:	BUSINESS REGISTRATION CERTIFICATE
Statutory Reference:	N.J.S.A. 52:32-44 (P.L. 2004, c.57)
Instructions Reference	Statutory and Other Requirements VII-D
Description:	Contractor must provide State Division of Revenue issued Business Registration Certificate with the bid submission.

Detailed information on this requirement is found in Division of Local Government Services Local Finance Notices 2004-17 (8/6/04), 2004-24 (11/1/04), 2005-12 (4/27/05) and on the Division web site at www.nj.gov/dca/lgs/lpc/. These resources and a Frequently Asked Questions resource should be consulted when questions arise.

STANDARD BID DOCUMENT REFERENCE	
	Reference: VII-F
Name of Form:	REQUEST FOR PREVAILING WAGE DETERMINATION
Statutory Reference:	N.J.S.A. 34:11-56.25 et seq.
Instructions Reference:	Statutory and Other Requirements VII-F, but not applicable for material and service contracts.
Description:	To be used by the public body in requesting wage determination prior to commencing bid process. Used for public work contracts where the threshold requiring the use of prevailing wages has been exceeded. This form is completed by the public agency to request the minimum wage rates to be paid by a contractor(s)

If the contract is one for public work pursuant to N.J.S.A. 34:11-56. 25 et seq., be sure the current prevailing wage threshold for municipal and non-municipal entities is checked.

The term "public work" means construction, reconstruction, demolition, alteration, or repair work, or maintenance work, including painting and decorating, done under a contract and paid for in whole or in part out of the funds of a public body, except work performed under a rehabilitation program. This also includes off-site workers who custom fabricate plumbing, heating, cooling, ventilation, or exxhaust duct systems and mechanical insulation as part of a public works project. [N.J.S.A. 34:11-56.26(5)]

"Public work" shall also mean construction, reconstruction, demolition, alteration, or repair work, done on **any** property or premises, whether or not the work is paid for from public funds, if, at the time of the entering of the contract:

- 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
- 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. [N.J.S.A. 34:11-56.26(5)(a)(b)]

Public Law 2004, Chapter 101 took affect on July 14, 2004. This law, N.J.S.A. 34:11-56.26(5), adds to existing prevailing wage requirements off-site workers who custom fabricate plumbing, heating, cooling, ventilation, or exhaust duct systems and mechanical insulation as part of a public works project.

The New Jersey Department of Labor's Division of Wage and Hour Compliance's electronic application for official Prevailing Wage Rate Determinations can be obtained at: <https://wnjpin.state.nj.us/pw/prevwage.html>.

This page provides public body officials or their representatives an opportunity to apply for and download an official New Jersey Prevailing Wage Rate Determination. Official Prevailing Wage Rate Determinations are required for public work contracts and certain Economic Development Authority assisted projects.

STANDARD BID DOCUMENT REFERENCE	
	Reference: VII-G
Name of Form:	PUBLIC WORKS CONTRACTOR REGISTRATION
Statutory Reference:	N.J.S.A.34:11-56.48
Instructions Reference:	Statutory and Other Requirements VII-G
Description:	Used for public works contract when prevailing wage threshold will be exceeded.

The Public Works Contractor Registration Act (PWCRA) requires that all contractors, including named subcontractors, to register with the Department of Labor prior to submitting price proposals or engaging on certain public works contracts that exceed the prevailing wage threshold. The prevailing wage threshold is \$11,892 for municipalities and \$2,000 for all non-municipal entities, such as boards of education, authorities, fire districts, counties, etc.

Because the PWCRA uses the definition of public works contracts under the prevailing wage law, where the law uses the term "bidding", contracting units are advised to read that as meaning to "submit" a price proposal." Thus, the law applies to the formal bidding process where the contract is awarded to the lowest responsible bidder, and the receipt of informal quotations awarded to the vendor whose proposal is the "most advantageous, price and other factors considered."

Under the law a *contractor* is 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 [N.J.S.A. 34:11-56.25 et seq.]. It applies to contractors based in New Jersey or in another state.

The PWCRA defines "public works projects" as contracts for "public work" as defined in the Prevailing Wage Act [N.J.S.A. 34:11-56.26(5)]. The term means:

- "Construction, reconstruction, demolition, alteration, 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.
- "Public work" shall also mean construction, reconstruction, demolition, alteration, or repair work, done on any property or premises, whether or not the work is paid for from public funds,..."
- "Maintenance work" means the repair of existing facilities when the size, type or extent of such facilities is not thereby changed or increased. While "maintenance" includes painting and decorating and is covered under the law, it does not include work such as routine landscape maintenance or janitorial services.

In order to provide guidance to contracting officials on implementing the law, nine key principles have been identified in the law. The nine items follow:

1. The law applies to all "public works contracts" that exceed the contracting unit's prevailing wage threshold, as set by N.J.S.A 34:11-56.26 (a) and (b).
2. The law applies to contracts for which public bidding is required, as well as those for which quotations are received.
3. All named contractors in a bid proposal (including out-of-state contractors) must be registered with the Department of Labor's Division of Wage and Hour Compliance at the time proposals **are received** by the public entity.

For clarity, Local Finance Notice 2004-9 dated 4/28/04 uses the following term: "Received," in context of when "proposals are received," means the deadline or moment in time when proposals are formally opened and no other proposals are accepted.

4. The law requires contractors to submit certificates after a bid proposal is received and prior to awarding the contract. (N.J.S.A. 34:11-56.55)
5. After bid proposals are received, and prior to contract award, the contractor most likely to receive the contract award must submit to the public entity copies of certifications of all listed sub-contractors.
6. The contracting agent must review the certificates to be sure they were in effect at the time the bid proposals were received.
7. Non-listed subcontractors do not have to be registered until they physically start the public work assigned to them.
8. Bid proposal documents need to inform those submitting proposals of these requirements.
9. Emergency work is covered under the provisions of the Prevailing Wage Act and the PWCRA.

It is specifically recommended that language be included in specifications especially those sections regarding "Instructions to Bidders" advising potential bidders that:

1. All named sub-contractors must be registered with the Department of Labor pursuant to the PWCRA at the time the proposal is received, or the proposal will be determined to be non-responsive.
2. Any non-listed sub-contractor must be registered with the Department of Labor prior to physically starting work.

A contractor's certification can be confirmed by contacting the Department of Labor's Division of Wage and Hour Compliance website (www.nj.gov/labor/lssc/lspubcon.html). This site only shows approved contractors; there is no "pending" approval or a "grace" period. If a contracting unit encounters a problem in its review of certifications, or difficulty in making an award because of a non-registered contractor, they should contact the Contractor Registration Unit as soon as possible.

N.J.S.A. 34:11-56.56 provides several methods for the Department of Labor to enforce the law. The Department can deny renewal, revoke or suspend the registration of a contractor for a period of not more than five years, or, as a condition of initial or continued registration, require a surety bond payable to the State of New Jersey.

Additional information on the PWCRA can be obtained from the:

Contractor Registration Unit	Telephone: 609-292-9464
Division of Wage and Hour Compliance	Fax: 609-633-8591
New Jersey Department of Labor	E-mail: contreg@dol.state.nj.us
PO Box 389	Web site: www.nj.gov/labor/lssc/lspubcon.html
Trenton, New Jersey 08625-0389	

The web site has links to the PWCRA Registration Form, Listing of Contractors, Prevailing Wages and other useful information.

Contact the Division of Local Government Services at (609) 292-7842, by fax at (609) 633-6243 or by e-mail at lpcl@dca.state.nj.us for assistance in the application of the Local Public Contracts Law or related PWCRA issues. As specific situations are presented to the contracting unit, local legal advisors should review this guidance as to its applicability.

STANDARD BID DOCUMENT REFERENCE	
	Reference: VII-H
Name of Form:	NON-COLLUSION AFFIDAVIT
Statutory Reference:	No specific statutory reference State Statutory Reference N.J.S.A. 52:34-15
Instructions Reference:	Statutory and Other Requirements VII-H
Description:	The Owner's use of this form is optional. It is used to ensure that the bidder has not participated in any collusion with any other bidder or Owner representative or otherwise taken any action in restraint of free and competitive bidding.

The Non-Collusion Affidavit on Page C-23 is a sample.

NON-COLLUSION AFFIDAVIT

State of New Jersey
County of _____

ss:

I, _____ residing in _____
(name of affiant) (name of municipality)
in the County of _____ and State of _____ of
full age, being duly sworn according to law on my oath depose and say that:

I am _____ of the firm of _____
(title or position) (name of firm)

_____ the bidder making this Proposal for the bid
entitled _____, and that I executed the said proposal with
(title of bid proposal)
full authority to do so that said bidder has not, directly or indirectly entered into any agreement,
participated in any collusion, or otherwise taken any action in restraint of free, competitive bidding
in connection with the above named project; and that all statements contained in said proposal
and in this affidavit are true and correct, and made with full knowledge that the _____
relies upon the truth of the statements contained in said Proposal
(name of contracting unit)
and in the statements contained in this affidavit in awarding the contract for the said project.

I further warrant that no person or selling agency has been employed or retained to solicit or
secure such contract upon an agreement or understanding for a commission, percentage,
brokerage, or contingent fee, except bona fide employees or bona fide established commercial or
selling agencies maintained by _____.

Subscribed and sworn to

before me this day

_____, 2 _____

Signature

(Type or print name of affiant under signature)

Notary public of

My Commission expires _____

(Seal)

STANDARD BID DOCUMENT REFERENCE	
REFERENCE: None	
Name of Form:	BID DOCUMENT CHECKLIST
Statutory Reference:	NONE for goods and services. (Construction projects only - N.J.S.A. 40A:11-23.1 & 23.2)
Instructions Reference:	None - for reference purposes only
Description:	Summarizes all required documentation to be provided by prospective bidders.

This form can be used for the benefit of the bidder to assure submission of all required documents or information.

For goods and services, a checklist is optional, and may be expanded or customized depending upon owner's requirements.

For construction projects, refer to the statutes noted above for mandatory checklist items.

The Bid Document Checklist on Page C-25 is a sample.

(Name of Public Agency)

BID DOCUMENT CHECKLIST*

Required by owner	Submission Requirement	Initial each required entry and if required submit the item
<input type="checkbox"/>	Stockholder Disclosure Certification	
<input type="checkbox"/>	Non-Collusion Affidavit	
<input type="checkbox"/>	Bid Proposal Form	
<input type="checkbox"/>	References	
<input type="checkbox"/>	Status of Present Contracts	
<input type="checkbox"/>	Equipment Certification	
<input type="checkbox"/>	Bid Guarantee (with Power of Attorney for full amount of <i>Bid</i> Bond)	
<input type="checkbox"/>	Public Works Contractor Certificate	
<input type="checkbox"/>	Consent of Surety (with Power of Attorney for full amount of Bid Price)	
<input type="checkbox"/>	Mandatory Affirmative Action Language	
<input type="checkbox"/>	Prevailing Wage	
<input type="checkbox"/>	Americans with Disabilities Act of 1990 Language	
<input type="checkbox"/>	Proof of Business Registration	

*This form need not be submitted. It is provided for bidder's use in assuring compliance with all required documentation.

STANDARD BID DOCUMENT REFERENCE	
REFERENCE: None	
Name of Form:	EQUIPMENT CERTIFICATION
Statutory Reference:	N.J.S.A. 40A:11-20
Instructions Reference	None - for reference purposes only
Description:	Contractor is certifying the availability of the appropriate equipment to provide the specified services.

The Equipment Certification on Page C-27 is a sample.

EQUIPMENT CERTIFICATION

The undersigned Bidder hereby certifies as follows:

The bidder owns or controls all the necessary equipment required to accomplish the work described in the specifications.

Name of Bidder: _____

By: _____
(Signature)

Name of above: _____
(Print)

Title: _____

Date: _____

STANDARD BID DOCUMENT REFERENCE	
	Reference: None
Name of Form:	MANDATORY AFFIRMATIVE ACTION LANGUAGE FOR CONSTRUCTION CONTRACTS
Statutory Reference:	N.J.S.A. 10:5-31 and N.J.A.C. 17:27
Instructions Reference:	Statutory and Other Requirements
Description:	Exhibit B of Bid Specification

Exhibit B of the model Instructions to Bidders and Statutory Requirements is the current and complete mandatory language for construction bid specifications and contracts.

The document is the mandatory language for construction bid specifications and contracts pursuant to N.J.A.C. 17:27-3.5, and the mandatory bid specification and contract language for employment goal compliance for construction contracts at N.J.A.C. 17:27-3.7. A complete review of both rule provisions is recommended.

Exhibit B can be found on Pages C-29 through C-31.

(REVISED 9/07)

EXHIBIT B

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE N.J.S.A. 10:5-31 et seq. (P.L. 1975, C. 127) N.J.A.C. 17:27

CONSTRUCTION CONTRACTS

During the performance of this contract, the contractor agrees as follows:

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 will take affirmative action to ensure that such applicants are recruited and employed, 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 action shall include, but not be limited to the following: employment, up-grading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, 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.

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 or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer, pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

When hiring or scheduling workers in each construction trade, the contractor or subcontractor agrees to 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. 17:27-7.3; provided, however, that the Division may, in its discretion, exempt a contractor or subcontractor from compliance with the good faith procedures prescribed by the following provisions, A, B and C, as long as the Division is satisfied that the contractor or subcontractor is employing workers provided by a union which provides evidence, in accordance with standards prescribed by the Division, that its percentage of active "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. The contractor or subcontractor agrees that a good faith effort shall include compliance with the following procedures:

(A) 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 the rules promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as supplemented and amended from time to time and the Americans with Disabilities Act. If the contractor or subcontractor is unable to obtain said assurances from the construction trade union at least five business days prior to the commencement of construction work, the contractor or subcontractor agrees to 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 agrees to 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 (B) below; and the contractor or subcontractor further agrees to take said action immediately if it determines or is so notified by the Division that the union is not referring minority and women workers consistent with the applicable employment goal.

(B) 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) above, or if the contractor does not have a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor agrees to take the following actions consistent with the applicable county employment goals:

(1) To notify the public agency compliance officer, the Division, and minority and women referral organizations listed by the Division pursuant to N.J.A.C. 17:27-5.3, of its workforce needs, and request referral of minority and women workers;

(2) To notify any minority and women workers who have been listed with it as awaiting available vacancies;

(3) Prior to commencement of work, to 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;

(4) To 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 and other approved referral sources in the area until such time as the workforce is consistent with the employment goal;

(5) If it is necessary to lay off some of the workers in a given trade on the construction site, to 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 to 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.;

(6) To 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 possesses the requisite skills, and experience recognized by a union, apprentice program or a referral agency, provided the referral agency is acceptable to the Division. If necessary, the contractor or subcontractor shall hire or schedule minority and women workers who qualify as trainees pursuant to these rules. All of the requirements, however, are limited by the provisions of (C) below.

(ii) If the contractor's or subcontractor's workforce is consistent with the applicable employment goal, the name of any interested women 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, said 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 public agency compliance officer and to the Division.

(7) To 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 Division and submitted promptly to the Division upon request.

(C) The contractor or subcontractor agrees that nothing contained in (B) 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 pursuant to (B) 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 worker 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, the contractor or subcontractor agrees that, in implementing the procedures of (B) above, it 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 public agency compliance officer and the Division an initial project workforce report (Form AA 201) provided to the public agency by the Division for distribution to and completion by the contractor, in accordance with N.J.A.C. 17:27-7. The contractor also agrees to submit a copy of the Monthly Project Workforce Report once a month thereafter for the duration of this contract to the Division and to the public agency compliance officer.

The contractor agrees to cooperate with the public agency in the payment of budgeted funds, as is necessary, for on-the-job and/or off-the-job programs for outreach and training of minorities and women.

(D) The contractor and its subcontractors shall furnish such reports or other documents to the Division of Contract Compliance & EEO as may be requested by the Division from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Contract Compliance & EEO for conducting a compliance investigation pursuant to **Subchapter 10 of the Administrative Code (NJAC 17:27)**.

STANDARD BID DOCUMENT REFERENCE	
	REFERENCE: VII-I
Name of Form:	FORMS TO BE PROVIDED BY ELEC
Statutory Reference:	N.J.S.A. 19:44A-20.27 (P.L. 2005, c.271,S.3)
Instructions Reference:	Statutory and Other Requirements VII
Description:	Disclosure of Contributions to ELEC

Disclosure of Contributions to New Jersey Election Law Enforcement Commission (ELEC)

N.J.S.A. 19:44A-20.27 establishes a new disclosure requirement for business entities. It requires that, when a business entity has received in any calendar year \$50,000 or more in public contracts with public entities, it must file an annual report with the Election Law Enforcement Commission (ELEC). The report shall disclose any contribution of money or any other thing of value, including an in-kind contribution, or pledge to make a contribution of any kind:

- To a candidate for or the holder of any public office having ultimate responsibility for the awarding of public contracts, or,
- To a political party committee, legislative leadership committee, political committee or continuing political committee.

The report will include all reportable contributions made by the business entity during the 12 months prior to the reporting deadline. ELEC will be promulgating a form and procedures for filing commencing in January 2007. ELEC can also impose fines for failure to comply with this requirement.

While the local unit has no role in this process, it is recommended that all bid or proposal specifications and contracts should include language notifying business entities of their potential obligation under the law. Such language could read as follows:

Starting in January 2007, all business entities are advised of their responsibility to file an annual disclosure statement of political contributions with the New Jersey Election Law Enforcement Commission (ELEC) pursuant to N.J.S.A. 19:44A-20.27 if they receive contracts in excess of \$50,000 from public entities in a calendar year. Business entities are responsible for determining if filing is necessary. Additional information on this requirement is available from ELEC at 888-313-3532 or at www.elec.state.nj.us.