

## **APPENDIX A – AFFIRMATIVE ACTION MANDATORY LANGUAGE**

*Revised: March, 2007*

### **EXHIBIT B**

#### **MANADATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE N.J.S.A 10:5-31 et seq., 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 or sex. Except with respect to affectional or sexual orientation, 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 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 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 so 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 **Subchapter10 of the Administrative Code at N.J.A.C. 17:27.**

**Bidders shall submit a valid copy of their Certificate of Registration for the "Public Works Contractor Registration Act" to the Authority's Engineering Department with their Proposal.**

**Bidders shall submit a valid copy of their Business Registration Certificate for the "Business Registration Act Amendment" to the Authority's Engineering Department with their Proposal.**

In accordance with Executive Order No. 84 signed by Governor Jim Florio on March 5, 1993 and Executive Order No. 71 signed by Governor James E. McGreevey on October 2, 2003, it is the policy of the New Jersey Turnpike Authority (the "Authority" or "NJTA") that Small Business Enterprises ("SBE"), as determined and defined by the New Jersey Commerce and Economic Growth Commission ("Commerce Commission") and the Department of the Treasury ("Treasury") in N.J.A.C. 12A:10-1 et seq and N.J.A.C. 12A:10A-1 et seq., respectively, have the opportunity to compete for and participate in the performance of contracts for the purchase of goods and services and for construction services required by the Authority. The Authority further requires that its contractors shall agree to take all necessary and responsible steps, in accordance with the aforementioned regulations, to ensure that SBEs have these opportunities.

**The Contractor agrees to make a good faith effort to award at least 25% of this contract to subcontractors registered by the Commerce Commission as a SBE. Subcontracting goals are not applicable if the prime contractor is a registered Small Business Enterprise (SBE) firm.**

All bidders must comply with the following law relating to affirmative action rules prohibiting discrimination in employment and requiring affirmative action in performance of contracts awarded to the successful bidder.

*"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."*

Proposals will be received at the New Jersey Turnpike Authority's Administration Building, 581 Main Street, Woodbridge, NJ 07095, (732) 750-5300 until **[insert time]\*** o'clock Prevailing Time on the morning of **[insert date]\*** at which time and place said proposals will be publicly opened and read. The Scheduled Items of Work for this Contract may be submitted electronically through the Electronic Bidding portal on the Authority's website ([www.state.nj.us/turnpike/buss.htm](http://www.state.nj.us/turnpike/buss.htm)) under the location entitled "Business Center". Bid results may be obtained through the Electronic Bidding portal on the Authority's website ([www.state.nj.us/turnpike/buss.htm](http://www.state.nj.us/turnpike/buss.htm)) under the location entitled "Business Center," the afternoon of the bid.

The bidders are advised that the Proposal Bond form or the Letter of Surety form provided in the contract documents must be executed by the bidder when this type of proposal guaranty is selected by the bidder. Bidders are also advised that the Public Law 2005, Chapter 51 (Executive Order 134) Certification and Disclosure form provided in the contract documents must be executed by the bidder. Failure to use these New Jersey Turnpike Authority forms may result in rejection of the proposal.

**Contract documents may be examined or purchased online starting **[insert date]\***, through the electronic bidding link found on the Authority's Web Site ([www.state.nj.us/turnpike/buss.htm](http://www.state.nj.us/turnpike/buss.htm)) under the location entitled "Business Center".** Contract documents may be ordered via phone, by calling 1-866-PLAN ROOM. The 2004 Standard Specifications, which form an integral part of the Contract, are available from the Authority at an additional cost of Thirty Five Dollars (\$35.00) per copy.

NEW JERSEY TURNPIKE AUTHORITY

**(Insert Name)** Chief Engineer or  
Director of Maintenance

