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[First Reprint]

ASSEMBLY, No. 4323

STATE OF NEW JERSEY
213th LEGISLATURE

INTRODUCED DECEMBER 3, 2009

Sponsored by:

Assemblywoman BONNIE WATSON COLEMAN

District 15 (Mercer)

Assemblywoman ELEASE EVANS

District 35 (Bergen and Passaic)

Co-Sponsored by:

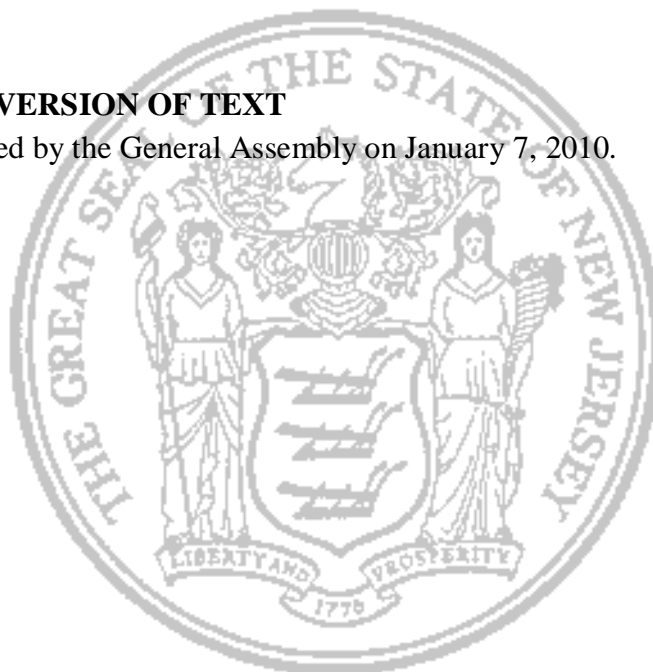
Senators Rice, Codey, Cunningham, Gill, Ruiz and Turner

SYNOPSIS

Establishes standards and requirements set forth in Executive Order No. 151 (2009) for use of funds from American Recovery and Reinvestment Act of 2009.

CURRENT VERSION OF TEXT

As amended by the General Assembly on January 7, 2010.



(Sponsorship Updated As Of: 1/12/2010)

1 AN ACT establishing certain standards and requirements for the use
2 of funds from the federal American Recovery and Reinvestment
3 Act of 2009 and supplementing Title 52 of the Revised Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. The Legislature finds and declares that all members of the
9 public should be afforded the opportunity to benefit from the
10 federal economic recovery funds provided through the American
11 Recovery and Reinvestment Act of 2009 and associated State
12 spending, and every public contract, whether for construction
13 services, goods, or other services, should provide equal employment
14 opportunities for women and minorities.

15
16 2. For the purposes of the act, P.L. , c. (C.)(pending
17 before the Legislature as this bill):

18 “ARRA” means the federal American Recovery and
19 Reinvestment Act of 2009; and

20 “Reporting agencies” means the State entities whose
21 performance is monitored by the¹**【Contract Compliance and Audit
22 Unit within the Division of Purchase and Property】 Division of
23 Public Contracts Equal Employment Opportunity Compliance**¹ in
24 the Department of the Treasury.

25
26 3. The Commissioners of the Departments of Community
27 Affairs, Education, Environmental Protection, and Transportation,
28 or their designees; the President of the Board of Public Utilities, or
29 a designee; and the Chief Executive Officers of the Schools
30 Development Authority and the Economic Development Authority,
31 or their designees, shall meet with representatives of the Governor’s
32 office, the Department of the Treasury, and the United States
33 Department of Labor’s Office of Federal Contract Compliance
34 Programs to ensure that those departments receiving the bulk of
35 federal economic recovery funds provide the United States
36 Department of Labor’s Office of Federal Contract Compliance
37 Programs their complete cooperation in complying with its
38 mandates.

39
40 4. The ¹**【Contract Compliance and Audit Unit within the
41 Division of Purchase and Property】 Division of Public Contracts
42 Equal Employment Opportunity Compliance**¹ in the Department of
43 the Treasury shall be the entity within the Executive Branch
44 responsible for determining whether minorities and women have

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly floor amendments adopted January 7, 2010.

1 been offered a fair opportunity for employment on State contracts.
2 Executive Branch departments and agencies, independent
3 authorities, and State colleges and universities are directed to
4 cooperate fully with the **'[Contract Compliance and Audit Unit's]**
5 Division of Public Contracts Equal Employment Opportunity
6 Compliance's¹ enforcement efforts, consistent with law, and to
7 award public contracts only to those businesses that agree to
8 comply with equal employment opportunity and affirmative action
9 requirements.

10

11 5. The **'[Contract Compliance and Audit Unit]** Division of
12 Public Contracts Equal Employment Opportunity Compliance¹ shall
13 work cooperatively with the United States Department of Labor's
14 Office of Federal Contract Compliance Programs, including sharing
15 its workforce data to the maximum extent permitted by law, to
16 assist the United States Department of Labor's Office of Federal
17 Contract Compliance Programs in its enforcement efforts.

18

19 6. When not restricted by any other State or federal law, the
20 **'[Contract Compliance and Audit Unit]** Division of Public
21 Contracts Equal Employment Opportunity Compliance¹ shall
22 determine whether each of the State entities whose performance it
23 monitors have properly allocated and released to the Department of
24 Labor and Workforce Development, as authorized by law, one-half
25 of one percent of the total cost of a construction contract of
26 \$1,000,000 or more, to be used by the department for the New
27 Jersey Builders Utilization Initiative for Labor Diversity program to
28 train minorities and women for employment in construction trades.
29 This provision shall apply to those construction contracts when the
30 funding for the contract consists entirely of appropriated funds or a
31 combination of funds from appropriated funds and other sources.

32

33 7. All construction contracts entered into and funded, in whole
34 or in part, by the State shall include mandatory equal employment
35 opportunity and affirmative action contract language that requires
36 contractors to make a good faith effort to recruit and employ
37 minorities and women as required by the provisions of the
38 regulations promulgated in the New Jersey Administrative Code,
39 including but not limited to N.J.A.C.17:27-3.6 to 3.8, and 17:27-7.3
40 and 7.4. As to the portion of each contract that is State funded, the
41 language of the contract shall provide that payment may be
42 withheld for failure of the contractor to demonstrate to the
43 satisfaction of the reporting agency that the required good faith
44 effort was made. Failure of a contractor to satisfy the good faith
45 effort requirement of its contract may also subject it to assessments
46 imposed pursuant to findings of the **'[Contract Compliance and**
47 Audit Unit] Division of Public Contracts Equal Employment

1 Opportunity Compliance¹, in accordance with administrative
2 regulation N.J.A.C. 17:27-10.

3
4 8. Except as described in subsections a. and b. of this section,
5 each Executive Branch agency that is a recipient of federal
6 economic recovery funds pursuant to the American Recovery and
7 Reinvestment Act of 2009 shall include in any contract, grant, or
8 agreement funded in whole or in part with funds from the American
9 Recovery and Reinvestment Act of 2009 a clause requiring
10 subrecipients, contractors, subcontractors, local education agencies,
11 and vendors to post all job openings created pursuant to the
12 contract, grant, or agreement on the State's Job Bank at least 14
13 days before hiring is to commence. The clause shall state: "Since
14 the funds supporting this contract, grant, or agreement are provided
15 through the American Recovery and Reinvestment Act of 2009
16 (ARRA), the subrecipient, contractor, subcontractor, local
17 education agency, or vendor will post any jobs that it creates or
18 seeks to fill as a result of this contract, grant, or agreement. The
19 subrecipient, contractor, subcontractor, local education agency, or
20 vendor shall post jobs to the New Jersey State Job Bank by
21 submitting a job order using the form available on the Internet,
22 notwithstanding any other posting the subrecipient, contractor,
23 subcontractor, local education agency, or vendor might make. Any
24 advertisements posted by the subrecipient, contractor,
25 subcontractor, local education agency, or vendor for positions
26 pursuant to this contract, grant, or agreement must indicate that the
27 position is funded with ARRA funds."

28 a. Posting shall not be required when the employer intends to
29 fill the job opening with a present employee, a laid-off former
30 employee, or a job candidate from a previous recruitment, when
31 pre-existing, legally binding collective bargaining agreements
32 provide otherwise, or when an exception has been granted to the
33 reporting agency by the Department of Labor and Workforce
34 Development.

35 b. Nothing in this act, P.L. , c. (C.)(pending before the
36 Legislature as this bill), shall be interpreted to require the
37 employment of apprentices if such employment may result in the
38 displacement of journey workers employed by any employer,
39 contractor or subcontractor.

40
41 9. All local government entities and local education agencies
42 that have received or will receive directly from a federal agency
43 federal economic recovery funds are encouraged but not mandated
44 to require their contractors and subcontractors to post job openings
45 on the State's Job Bank at least 14 days before hiring is to
46 commence.

47 All New Jersey employers that enter into contracts funded with
48 funds from the American Recovery and Reinvestment Act of 2009
49 received by a local government entity or a local education agency

1 directly from a federal agency are encouraged but not mandated to
2 post job openings created pursuant to the American Recovery and
3 Reinvestment Act of 2009.

4
5 10. The Division of Minority and Women Business
6 Development shall send to the reporting agencies required
7 contractual language. The Division of Minority and Women
8 Business Development shall work with each reporting agency to
9 ensure the reporting of and compliance with contract-specific
10 contracting and subcontracting goals for the reporting agency that
11 are consistent with the availability percentages set forth.

12
13 11. Each reporting agency shall:

14 a. Inform the Division of Minority and Women Business
15 Development of contracting opportunities at the same time that it
16 advertises or otherwise posts public notices of such opportunities,
17 via consistent and timely upload of all-inclusive information to the
18 bid opportunities database services managed by the Division of
19 Minority and Women Business Development. All pre-bid
20 requirements shall be prominently advertised at the time of
21 uploading to the Division of Minority and Women Business
22 Development databases;

23 b. Actively and regularly use the databases and other on-line
24 services managed and operated by the Division of Minority and
25 Women Business Development to identify additional potential
26 bidders. The ongoing use of these resources by buyers,
27 procurement agents, and other purchasing staff shall be closely
28 monitored by the reporting agency's senior management;

29 c. Contact the businesses identified in the Division of Minority
30 and Women Business Development's databases and on-line services
31 to provide them with notice of the contracting opportunities
32 available through the reporting agency; and

33 d. Report to the Division of Minority and Women Business
34 Development all payments and awards prime contractors have
35 issued to subcontractors, identifying payments and awards to
36 minority and women-owned businesses on at least a quarterly basis.

37
38 12. To the maximum extent practicable, and when not restricted
39 by any other State or federal law, each reporting agency shall
40 incorporate the substance of required contractual language
41 regarding small businesses into its contracts, while continuing to
42 follow the State and federal laws and regulations governing its
43 contracting and procurement practices.

44
45 13. Each reporting agency shall, when substitution of
46 subcontractors or sub-consultants is permitted, promulgate policies
47 governing the circumstances under which contractors or consultants
48 may substitute subcontractors or sub-consultants named in bid
49 proposals or otherwise identified as small or women or minority-

1 owned business subcontractors, sub-consultants, or vendors. The
2 substitution policies shall provide that:

3 a. The contractor or consultant shall notify and obtain approval
4 from a small or women or minority-owned business subcontractor,
5 sub-consultant, or vendor before including that contractor in a bid
6 proposal or similar contract-related submission;

7 b. The contractor or consultant shall notify and obtain
8 authorization from the reporting agency before it substitutes a small
9 or women or minority-owned business subcontractor¹, sub-
10 consultant, or vendor¹ named in a bid proposal or other contract-
11 related submission; and

12 c. If the substitution is approved, the contractor or consultant
13 shall make a good faith effort to utilize another small or women or
14 minority-owned business **'[contractor] subcontractor, sub-**
15 **consultant, or vendor**¹ in place of the previous small or women or
16 minority-owned business **'[contractor] subcontractor, sub-**
17 **consultant, or vendor**¹.
18

19 14. Each reporting agency shall report to the Division of
20 Minority and Women Business Development when it incorporates
21 required language in its contracts. It shall also report to the
22 Division of Minority and Women Business Development when it
23 has adopted a substitution policy, when such policy is permitted.
24 The Division of Minority and Women Business Development shall
25 report on the number of reporting agencies that have modified their
26 contracts and adopted a substitution policy at three-month intervals
27 until all of the reporting agencies have completed incorporation of
28 contractual language as may be required and promulgated and,
29 when legally permitted, adoption of the substitution policy.
30

31 15. The Department of Labor and Workforce Development shall
32 work together with all other reporting agencies that will receive
33 funding from the American Recovery and Reinvestment Act of
34 2009 and with the representatives of the United States
35 Environmental Protection Agency, the Federal Departments of
36 Labor, Energy, Transportation, and Housing and Urban
37 Development, and any other federal agencies distributing funds
38 from the American Recovery and Reinvestment Act of 2009 to:

39 a. Coordinate with labor unions that will aggressively recruit
40 minorities and women for apprenticeships and training
41 opportunities;

42 b. Increase outreach to and enrollment of minorities and
43 women in apprenticeship, training, and related programs; and

44 c. Ensure that, to the greatest extent possible under the law,
45 minorities and women apprentices and trainees are working on State
46 and ARRA-funded work sites.

1 16. The New Jersey Department of the Treasury and other
2 departments, agencies, and independent authorities shall, consistent
3 with law, take steps to increase their engagement of small, minority,
4 or women-owned or controlled banks and credit unions to meet
5 their financial services needs.
6

7 17. Nothing in P.L. , c. (C.) (pending before the Legislature
8 as this bill) shall modify existing law, State or federal, or authorize
9 a reporting agency to amend, modify, or otherwise alter pre-existing
10 legal obligations. P.L. , c. (C.) (pending before the Legislature
11 as this bill) shall be interpreted consistently with the American
12 Recovery and Reinvestment Act of 2009, and the federal
13 regulations and guidelines governing its implementation, and in the
14 event of a conflict between P.L. , c. (C.) (pending before the
15 Legislature as this bill) and federal law governing American
16 Recovery and Reinvestment Act of 2009, P.L. , c. (C.) (pending
17 before the Legislature as this bill) shall be interpreted to comply
18 with federal law.
19

20 18. The **'[Contract Compliance and Audit Unit]** Division of
21 Public Contracts Equal Employment Opportunity Compliance¹ shall
22 promulgate rules and regulations to effectuate the purposes of this
23 act, P.L. , c. (C.)(pending before the legislature as this bill),
24 that are consistent with Executive Order No. 151 (2009) and its
25 appendices.
26

27 19. Within 90 days of the effective date of this act,
28 P.L. , c. (C.)(pending before the Legislature as this bill), the
29 Division of Minority and Women Business Development shall
30 prepare a contracting guide identifying the management practices
31 that have the greatest success in: increasing the number of small
32 and minority and women-owned businesses made aware of
33 contracting opportunities with the State; and increasing the number
34 of such businesses competing for contracts with the State or
35 subcontracts with entities contracting with the State. As soon as
36 practicable thereafter, the Division of Minority and Women
37 Business Development shall distribute the contracting guide to the
38 reporting agencies.
39

40 20. As soon as practicable after its receipt of the contracting
41 guide, each reporting agency shall implement those provisions that
42 it views as most likely to have the greatest impact in increasing
43 contracting opportunities for small and minority and women-owned
44 businesses.
45

46 21. Within 15 months of the effective date of this act, P.L. , c.
47 (C.)(pending before the Legislature as this bill), the Division of
48 Minority and Women Business Development and the **'[Contract**

1 ~~Compliance and Audit Unit~~ Division of Public Contracts Equal
2 Employment Opportunity Compliance¹ shall each prepare a report
3 describing the reporting agencies' implementation of this act. The
4 Division of Minority and Women Business Development and the
5 ~~Contract Compliance and Audit Unit~~ Division of Public
6 Contracts Equal Employment Opportunity Compliance¹ each shall
7 prepare a second report within 12 months of issuing its first report.

8

9 22. This act shall take effect immediately.

ASSEMBLY, No. 4323

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED DECEMBER 3, 2009

Sponsored by:

Assemblywoman BONNIE WATSON COLEMAN

District 15 (Mercer)

SYNOPSIS

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2 of funds from the federal American Recovery and Reinvestment
3 Act of 2009 and supplementing Title 52 of the Revised Statutes.

4
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6 *of New Jersey:*

7
8 1. The Legislature finds and declares that all members of the
9 public should be afforded the opportunity to benefit from the
10 federal economic recovery funds provided through the American
11 Recovery and Reinvestment Act of 2009 and associated State
12 spending, and every public contract, whether for construction
13 services, goods, or other services, should provide equal employment
14 opportunities for women and minorities.

15
16 2. For the purposes of the act, P.L. , c. (C.)(pending
17 before the Legislature as this bill):

18 “ARRA” means the federal American Recovery and
19 Reinvestment Act of 2009; and

20 “Reporting agencies” means the State entities whose
21 performance is monitored by the Contract Compliance and Audit
22 Unit within the Division of Purchase and Property in the
23 Department of the Treasury.

24
25 3. The Commissioners of the Departments of Community
26 Affairs, Education, Environmental Protection, and Transportation,
27 or their designees; the President of the Board of Public Utilities, or
28 a designee; and the Chief Executive Officers of the Schools
29 Development Authority and the Economic Development Authority,
30 or their designees, shall meet with representatives of the Governor’s
31 office, the Department of the Treasury, and the United States
32 Department of Labor’s Office of Federal Contract Compliance
33 Programs to ensure that those departments receiving the bulk of
34 federal economic recovery funds provide the United States
35 Department of Labor’s Office of Federal Contract Compliance
36 Programs their complete cooperation in complying with its
37 mandates.

38
39 4. The Contract Compliance and Audit Unit within the
40 Division of Purchase and Property in the Department of the
41 Treasury shall be the entity within the Executive Branch responsible
42 for determining whether minorities and women have been offered a
43 fair opportunity for employment on State contracts. Executive
44 Branch departments and agencies, independent authorities, and
45 State colleges and universities are directed to cooperate fully with
46 the Contract Compliance and Audit Unit’s enforcement efforts,
47 consistent with law, and to award public contracts only to those
48 businesses that agree to comply with equal employment opportunity
49 and affirmative action requirements.

1 5. The Contract Compliance and Audit Unit shall work
2 cooperatively with the United States Department of Labor's Office
3 of Federal Contract Compliance Programs, including sharing its
4 workforce data to the maximum extent permitted by law, to assist
5 the United States Department of Labor's Office of Federal Contract
6 Compliance Programs in its enforcement efforts.

7
8 6. When not restricted by any other State or federal law, the
9 Contract Compliance and Audit Unit shall determine whether each
10 of the State entities whose performance it monitors have properly
11 allocated and released to the Department of Labor and Workforce
12 Development, as authorized by law, one-half of one percent of the
13 total cost of a construction contract of \$1,000,000 or more, to be
14 used by the department for the New Jersey Builders Utilization
15 Initiative for Labor Diversity program to train minorities and
16 women for employment in construction trades. This provision shall
17 apply to those construction contracts when the funding for the
18 contract consists entirely of appropriated funds or a combination of
19 funds from appropriated funds and other sources.

20
21 7. All construction contracts entered into and funded, in whole
22 or in part, by the State shall include mandatory equal employment
23 opportunity and affirmative action contract language that requires
24 contractors to make a good faith effort to recruit and employ
25 minorities and women as required by the provisions of the
26 regulations promulgated in the New Jersey Administrative Code,
27 including but not limited to N.J.A.C.17:27-3.6 to 3.8, and 17:27-7.3
28 and 7.4. As to the portion of each contract that is State funded, the
29 language of the contract shall provide that payment may be
30 withheld for failure of the contractor to demonstrate to the
31 satisfaction of the reporting agency that the required good faith
32 effort was made. Failure of a contractor to satisfy the good faith
33 effort requirement of its contract may also subject it to assessments
34 imposed pursuant to findings of the Contract Compliance and Audit
35 Unit, in accordance with administrative regulation N.J.A.C. 17:27-
36 10.

37
38 8. Except as described in subsections a. and b. of this section,
39 each Executive Branch agency that is a recipient of federal
40 economic recovery funds pursuant to the American Recovery and
41 Reinvestment Act of 2009 shall include in any contract, grant, or
42 agreement funded in whole or in part with funds from the American
43 Recovery and Reinvestment Act of 2009 a clause requiring
44 subrecipients, contractors, subcontractors, local education agencies,
45 and vendors to post all job openings created pursuant to the
46 contract, grant, or agreement on the State's Job Bank at least 14
47 days before hiring is to commence. The clause shall state: "Since
48 the funds supporting this contract, grant, or agreement are provided
49 through the American Recovery and Reinvestment Act of 2009

1 (ARRA), the subrecipient, contractor, subcontractor, local
2 education agency, or vendor will post any jobs that it creates or
3 seeks to fill as a result of this contract, grant, or agreement. The
4 subrecipient, contractor, subcontractor, local education agency, or
5 vendor shall post jobs to the New Jersey State Job Bank by
6 submitting a job order using the form available on the Internet,
7 notwithstanding any other posting the subrecipient, contractor,
8 subcontractor, local education agency, or vendor might make. Any
9 advertisements posted by the subrecipient, contractor,
10 subcontractor, local education agency, or vendor for positions
11 pursuant to this contract, grant, or agreement must indicate that the
12 position is funded with ARRA funds."

13 a. Posting shall not be required when the employer intends to
14 fill the job opening with a present employee, a laid-off former
15 employee, or a job candidate from a previous recruitment, when
16 pre-existing, legally binding collective bargaining agreements
17 provide otherwise, or when an exception has been granted to the
18 reporting agency by the Department of Labor and Workforce
19 Development.

20 b. Nothing in this act, P.L. , c. (C.)(pending before the
21 Legislature as this bill), shall be interpreted to require the
22 employment of apprentices if such employment may result in the
23 displacement of journey workers employed by any employer,
24 contractor or subcontractor.

25
26 9. All local government entities and local education agencies
27 that have received or will receive directly from a federal agency
28 federal economic recovery funds are encouraged but not mandated
29 to require their contractors and subcontractors to post job openings
30 on the State's Job Bank at least 14 days before hiring is to
31 commence.

32 All New Jersey employers that enter into contracts funded with
33 funds from the American Recovery and Reinvestment Act of 2009
34 received by a local government entity or a local education agency
35 directly from a federal agency are encouraged but not mandated to
36 post job openings created pursuant to the American Recovery and
37 Reinvestment Act of 2009.

38
39 10. The Division of Minority and Women Business
40 Development shall send to the reporting agencies required
41 contractual language. The Division of Minority and Women
42 Business Development shall work with each reporting agency to
43 ensure the reporting of and compliance with contract-specific
44 contracting and subcontracting goals for the reporting agency that
45 are consistent with the availability percentages set forth.

46
47 11. Each reporting agency shall:
48 a. Inform the Division of Minority and Women Business
49 Development of contracting opportunities at the same time that it

1 advertises or otherwise posts public notices of such opportunities,
2 via consistent and timely upload of all-inclusive information to the
3 bid opportunities database services managed by the Division of
4 Minority and Women Business Development. All pre-bid
5 requirements shall be prominently advertised at the time of
6 uploading to the Division of Minority and Women Business
7 Development databases;

8 b. Actively and regularly use the databases and other on-line
9 services managed and operated by the Division of Minority and
10 Women Business Development to identify additional potential
11 bidders. The ongoing use of these resources by buyers,
12 procurement agents, and other purchasing staff shall be closely
13 monitored by the reporting agency's senior management;

14 c. Contact the businesses identified in the Division of Minority
15 and Women Business Development's databases and on-line services
16 to provide them with notice of the contracting opportunities
17 available through the reporting agency; and

18 d. Report to the Division of Minority and Women Business
19 Development all payments and awards prime contractors have
20 issued to subcontractors, identifying payments and awards to
21 minority and women-owned businesses on at least a quarterly basis.

22
23 12. To the maximum extent practicable, and when not restricted
24 by any other State or federal law, each reporting agency shall
25 incorporate the substance of required contractual language
26 regarding small businesses into its contracts, while continuing to
27 follow the State and federal laws and regulations governing its
28 contracting and procurement practices.

29
30 13. Each reporting agency shall, when substitution of
31 subcontractors or sub-consultants is permitted, promulgate policies
32 governing the circumstances under which contractors or consultants
33 may substitute subcontractors or sub-consultants named in bid
34 proposals or otherwise identified as small or women or minority-
35 owned business subcontractors, sub-consultants, or vendors. The
36 substitution policies shall provide that:

37 a. The contractor or consultant shall notify and obtain approval
38 from a small or women or minority-owned business subcontractor,
39 sub-consultant, or vendor before including that contractor in a bid
40 proposal or similar contract-related submission;

41 b. The contractor or consultant shall notify and obtain
42 authorization from the reporting agency before it substitutes a small
43 or women or minority-owned business subcontractor named in a bid
44 proposal or other contract-related submission; and

45 c. If the substitution is approved, the contractor or consultant
46 shall make a good faith effort to utilize another small or women or
47 minority-owned business contractor in place of the previous small
48 or women or minority-owned business contractor.

1 14. Each reporting agency shall report to the Division of
2 Minority and Women Business Development when it incorporates
3 required language in its contracts. It shall also report to the
4 Division of Minority and Women Business Development when it
5 has adopted a substitution policy, when such policy is permitted.
6 The Division of Minority and Women Business Development shall
7 report on the number of reporting agencies that have modified their
8 contracts and adopted a substitution policy at three-month intervals
9 until all of the reporting agencies have completed incorporation of
10 contractual language as may be required and promulgated and,
11 when legally permitted, adoption of the substitution policy.

12

13 15. The Department of Labor and Workforce Development shall
14 work together with all other reporting agencies that will receive
15 funding from the American Recovery and Reinvestment Act of
16 2009 and with the representatives of the United States
17 Environmental Protection Agency, the Federal Departments of
18 Labor, Energy, Transportation, and Housing and Urban
19 Development, and any other federal agencies distributing funds
20 from the American Recovery and Reinvestment Act of 2009 to:

21 a. Coordinate with labor unions that will aggressively recruit
22 minorities and women for apprenticeships and training
23 opportunities;

24 b. Increase outreach to and enrollment of minorities and
25 women in apprenticeship, training, and related programs; and

26 c. Ensure that, to the greatest extent possible under the law,
27 minorities and women apprentices and trainees are working on State
28 and ARRA-funded work sites.

29

30 16. The New Jersey Department of the Treasury and other
31 departments, agencies, and independent authorities shall, consistent
32 with law, take steps to increase their engagement of small, minority,
33 or women-owned or controlled banks and credit unions to meet
34 their financial services needs.

35

36 17. Nothing in P.L. , c. (C.) (pending before the Legislature
37 as this bill) shall modify existing law, State or federal, or authorize
38 a reporting agency to amend, modify, or otherwise alter pre-existing
39 legal obligations. P.L. , c. (C.) (pending before the Legislature
40 as this bill) shall be interpreted consistently with the American
41 Recovery and Reinvestment Act of 2009, and the federal
42 regulations and guidelines governing its implementation, and in the
43 event of a conflict between P.L. , c. (C.) (pending before the
44 Legislature as this bill) and federal law governing American
45 Recovery and Reinvestment Act of 2009, P.L. , c. (C.) (pending
46 before the Legislature as this bill) shall be interpreted to comply
47 with federal law.

1 18. The Contract Compliance and Audit Unit shall promulgate
2 rules and regulations to effectuate the purposes of this act,
3 P.L. , c. (C.)(pending before the legislature as this bill), that
4 are consistent with Executive Order No. 151 (2009) and its
5 appendices.

6
7 19. Within 90 days of the effective date of this act,
8 P.L. , c. (C.)(pending before the Legislature as this bill), the
9 Division of Minority and Women Business Development shall
10 prepare a contracting guide identifying the management practices
11 that have the greatest success in: increasing the number of small
12 and minority and women-owned businesses made aware of
13 contracting opportunities with the State; and increasing the number
14 of such businesses competing for contracts with the State or
15 subcontracts with entities contracting with the State. As soon as
16 practicable thereafter, the Division of Minority and Women
17 Business Development shall distribute the contracting guide to the
18 reporting agencies.

19
20 20. As soon as practicable after its receipt of the contracting
21 guide, each reporting agency shall implement those provisions that
22 it views as most likely to have the greatest impact in increasing
23 contracting opportunities for small and minority and women-owned
24 businesses.

25
26 21. Within 15 months of the effective date of this act,
27 P.L. , c. (C.)(pending before the Legislature as this bill), the
28 Division of Minority and Women Business Development and the
29 Contract Compliance and Audit Unit shall each prepare a report
30 describing the reporting agencies' implementation of this act. The
31 Division of Minority and Women Business Development and the
32 Contract Compliance and Audit Unit each shall prepare a second
33 report within 12 months of issuing its first report.

34
35 22. This act shall take effect immediately.

36
37
38 STATEMENT

39
40 This bill codifies Executive Order No. 151 (2009), issued by
41 Governor Jon S. Corzine on August 28, 2009.

42 The bill requires the Contract Compliance and Audit Unit within
43 the Division of Purchase and Property in the Department of the
44 Treasury to determine whether each of the State entities whose
45 performance it monitors have properly allocated and released to the
46 Department of Labor and Workforce Development, as authorized by
47 law, one-half of one percent of the total cost of a construction
48 contract of \$1,000,000 or more, to be used by the department for the
49 New Jersey Builders Utilization Initiative for Labor Diversity

1 program to train minorities and women for employment in
2 construction trades.

3 All construction contracts entered into and funded, in whole or in
4 part, by the State must include mandatory equal employment
5 opportunity and affirmative action contract language that requires
6 contractors to make a good faith effort to recruit and employ
7 minorities and women. Failure of a contractor to satisfy the good
8 faith effort requirement of its contract may subject it to assessments
9 imposed pursuant to findings of the Contract Compliance and Audit
10 Unit.

11 Each Executive Branch agency that is a recipient of federal
12 economic recovery funds pursuant to American Recovery and
13 Reinvestment Act of 2009 (ARRA) must include in any contract,
14 grant, or agreement funded in whole or in part with ARRA funds a
15 clause requiring subrecipients, contractors, subcontractors, local
16 education agencies, and vendors to post all job openings created
17 pursuant to the contract, grant, or agreement on the State's Job
18 Bank at least 14 days before hiring, with limited exceptions.

19 All local government entities and local education agencies that
20 have received or will receive directly from a federal agency federal
21 economic recovery funds may require their contractors and
22 subcontractors to post job openings on the State's Job Bank at least
23 14 days before hiring is to commence. All New Jersey employers
24 that enter into contracts funded with ARRA funds received by a
25 local government entity or a local education agency directly from a
26 federal agency may also require the posting of job openings created
27 pursuant to the ARRA.

28 The bill requires the Contract Compliance and Audit Unit to be
29 responsible for determining whether minorities and women have
30 been offered a fair opportunity for employment on State contracts
31 with regard to funds from the ARRA.

32 Each reporting agency, defined as a State entity whose
33 performance is monitored by the Contract Compliance and Audit
34 Unit, will:

35 inform the Division of Minority and Women Business
36 Development of contracting opportunities at the same time that it
37 advertises or otherwise posts public notices of such opportunities;

38 actively and regularly use the databases and other on-line
39 services managed and operated by the division to identify additional
40 potential bidders;

41 contact the businesses identified in the division's databases and
42 on-line services to provide them with notice of the contracting
43 opportunities available through the reporting agency; and

44 report to the division all payments and awards prime contractors
45 have issued to subcontractors, identifying payments and awards to
46 minority and women-owned businesses on at least a quarterly basis.

47 Each reporting agency must promulgate, under certain
48 conditions, substitution policies governing the circumstances under
49 which contractors or consultants may substitute subcontractors or

1 sub-consultants named in bid proposals or otherwise identified as
2 small or women or minority-owned business subcontractors, sub-
3 consultants, or vendors.

4 The division will report on the number of reporting agencies that
5 have modified their contracts and adopted a substitution policy at
6 three-month intervals until all of the reporting agencies have
7 completed incorporation of required contractual language and, when
8 legally permitted, adoption of the substitution policy.

9 This bill is to be interpreted consistently with the ARRA, and the
10 federal regulations and guidelines governing its implementation,
11 and in the event of a conflict between this bill and federal law
12 governing ARRA, the bill will be interpreted to comply with federal
13 law.

14 Within 90 days of the effective date, the division will prepare a
15 contracting guide identifying the management practices that have
16 the greatest success in: increasing the number of small and minority
17 and women-owned businesses made aware of contracting
18 opportunities with the State; and increasing the number of such
19 businesses competing for contracts with the state or subcontracts
20 with entities contracting with the state. The division will distribute
21 the contracting guide to the reporting agencies and each reporting
22 agency will implement those provisions that it views as most likely
23 to have the greatest impact in increasing contracting opportunities
24 for small and minority and women-owned businesses.

25 Within 15 months of the effective date, the division and the
26 Contract Compliance and Audit Unit will each prepare a report
27 describing the reporting agencies' implementation of this bill.

28 The New Jersey Department of Labor and Workforce
29 Development will work together with all other reporting agencies
30 that will receive ARRA funding and with the representatives of the
31 United States Environmental Protection Agency, the Federal
32 Departments of Labor, Energy, Transportation, and Housing and
33 Urban Development, and any other federal agencies distributing
34 ARRA funds to:

35 coordinate with labor unions to aggressively recruit minorities
36 and women for apprenticeships and training opportunities;

37 increase outreach to and enrollment of minorities and women in
38 apprenticeship, training, and related programs; and

39 ensure that, to the greatest extent possible under the law,
40 minorities and women apprentices and trainees are working on State
41 and ARRA-funded work sites.

42 The Department of the Treasury and other departments, agencies,
43 and independent authorities are to take, consistent with law, steps to
44 increase their engagement of small, minority, or women-owned or
45 controlled banks and credit unions to meet their financial services
46 needs.

ASSEMBLY STATE GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4323

STATE OF NEW JERSEY

DATED: JANUARY 4, 2010

The Assembly State Government Committee reports favorably Assembly Bill No. 4323.

This bill codifies Executive Order No. 151 (2009), issued by Governor Jon S. Corzine on August 28, 2009.

The bill requires the Contract Compliance and Audit Unit within the Division of Purchase and Property in the Department of the Treasury to determine whether each of the State entities whose performance it monitors have properly allocated and released to the Department of Labor and Workforce Development, as authorized by law, one-half of one percent of the total cost of a construction contract of \$1,000,000 or more, to be used by the department for the New Jersey Builders Utilization Initiative for Labor Diversity program to train minorities and women for employment in construction trades.

All construction contracts entered into and funded, in whole or in part, by the State must include mandatory equal employment opportunity and affirmative action contract language that requires contractors to make a good faith effort to recruit and employ minorities and women. Failure of a contractor to satisfy the good faith effort requirement of its contract may subject it to assessments imposed pursuant to findings of the Contract Compliance and Audit Unit.

Each Executive Branch agency that is a recipient of federal economic recovery funds pursuant to American Recovery and Reinvestment Act of 2009 (ARRA) must include in any contract, grant, or agreement funded in whole or in part with ARRA funds a clause requiring subrecipients, contractors, subcontractors, local education agencies, and vendors to post all job openings created pursuant to the contract, grant, or agreement on the State's Job Bank at least 14 days before hiring, with limited exceptions.

All local government entities and local education agencies that have received or will receive directly from a federal agency federal economic recovery funds may require their contractors and subcontractors to post job openings on the State's Job Bank at least 14 days before hiring is to commence. All New Jersey employers that enter into contracts funded with ARRA funds received by a local government entity or a local education agency directly from a federal

agency may also require the posting of job openings created pursuant to the ARRA.

The bill requires the Contract Compliance and Audit Unit to be responsible for determining whether minorities and women have been offered a fair opportunity for employment on State contracts with regard to funds from the ARRA.

Each reporting agency, defined as a State entity whose performance is monitored by the Contract Compliance and Audit Unit, will:

inform the Division of Minority and Women Business Development of contracting opportunities at the same time that it advertises or otherwise posts public notices of such opportunities;

actively and regularly use the databases and other on-line services managed and operated by the division to identify additional potential bidders;

contact the businesses identified in the division's databases and on-line services to provide them with notice of the contracting opportunities available through the reporting agency; and

report to the division all payments and awards prime contractors have issued to subcontractors, identifying payments and awards to minority and women-owned businesses on at least a quarterly basis.

Each reporting agency must promulgate, under certain conditions, substitution policies governing the circumstances under which contractors or consultants may substitute subcontractors or sub-consultants named in bid proposals or otherwise identified as small or women or minority-owned business subcontractors, sub-consultants, or vendors.

The division will report on the number of reporting agencies that have modified their contracts and adopted a substitution policy at three-month intervals until all of the reporting agencies have completed incorporation of required contractual language and, when legally permitted, adoption of the substitution policy.

This bill is to be interpreted consistently with the ARRA, and the federal regulations and guidelines governing its implementation, and in the event of a conflict between this bill and federal law governing ARRA, the bill will be interpreted to comply with federal law.

Within 90 days of the effective date, the division will prepare a contracting guide identifying the management practices that have the greatest success in increasing the number of (1) small and minority and women-owned businesses made aware of contracting opportunities with the State and (2) such businesses competing for contracts with the State or subcontracts with entities contracting with the State. The division will distribute the contracting guide to the reporting agencies and each reporting agency will implement those provisions that it views as most likely to have the greatest impact in increasing contracting opportunities for small and minority and women-owned businesses.

Within 15 months of the effective date, the division and the Contract Compliance and Audit Unit will each prepare a report describing the reporting agencies' implementation of this bill.

The New Jersey Department of Labor and Workforce Development will work together with all other reporting agencies that will receive ARRA funding and with the representatives of the United States Environmental Protection Agency, the Federal Departments of Labor, Energy, Transportation, and Housing and Urban Development, and any other federal agencies distributing ARRA funds to:

- coordinate with labor unions to aggressively recruit minorities and women for apprenticeships and training opportunities;

- increase outreach to and enrollment of minorities and women in apprenticeship, training, and related programs; and

- ensure that, to the greatest extent possible under the law, minorities and women apprentices and trainees are working on State and ARRA-funded work sites.

The Department of the Treasury and other departments, agencies, and independent authorities are to take, consistent with law, steps to increase their engagement of small, minority, or women-owned or controlled banks and credit unions to meet their financial services needs.

Assembly Bill No. 4323 is identical to Senate Bill No. 3107 of 2009.

STATEMENT TO
ASSEMBLY, No. 4323

with Assembly Floor Amendments
(Proposed by Assemblywoman WATSON COLEMAN)

ADOPTED: JANUARY 7, 2010

This floor amendment corrects the name of the agency responsible for monitoring the reporting agencies from the “Contract Compliance and Audit Unit” to the “Division of Public Contracts Equal Employment Opportunity Compliance”. It also clarifies who is to be included when there is a substitution of a subcontractor, sub-consultant or vendor in a bid proposal or similar contract-related submission.

SENATE, No. 3107

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED DECEMBER 3, 2009

Sponsored by:

Senator RONALD L. RICE

District 28 (Essex)

Senator RICHARD J. CODEY

District 27 (Essex)

SYNOPSIS

Establishes standards and requirements set forth in Executive Order No. 151 (2009) for use of funds from American Recovery and Reinvestment Act of 2009.

CURRENT VERSION OF TEXT

As introduced.



S3107 RICE, CODEY

2

1 AN ACT establishing certain standards and requirements for the use
2 of funds from the federal American Recovery and Reinvestment
3 Act of 2009 and supplementing Title 52 of the Revised Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. The Legislature finds and declares that all members of the
9 public should be afforded the opportunity to benefit from the
10 federal economic recovery funds provided through the American
11 Recovery and Reinvestment Act of 2009 and associated State
12 spending, and every public contract, whether for construction
13 services, goods, or other services, should provide equal employment
14 opportunities for women and minorities.

15
16 2. For the purposes of the act, P.L. , c. (C.)(pending
17 before the Legislature as this bill):

18 “ARRA” means the federal American Recovery and
19 Reinvestment Act of 2009; and

20 “Reporting agencies” means the State entities whose
21 performance is monitored by the Contract Compliance and Audit
22 Unit within the Division of Purchase and Property in the
23 Department of the Treasury.

24
25 3. The Commissioners of the Departments of Community
26 Affairs, Education, Environmental Protection, and Transportation,
27 or their designees; the President of the Board of Public Utilities, or
28 a designee; and the Chief Executive Officers of the Schools
29 Development Authority and the Economic Development Authority,
30 or their designees, shall meet with representatives of the Governor’s
31 office, the Department of the Treasury, and the United States
32 Department of Labor’s Office of Federal Contract Compliance
33 Programs to ensure that those departments receiving the bulk of
34 federal economic recovery funds provide the United States
35 Department of Labor’s Office of Federal Contract Compliance
36 Programs their complete cooperation in complying with its
37 mandates.

38
39 4. The Contract Compliance and Audit Unit within the
40 Division of Purchase and Property in the Department of the
41 Treasury shall be the entity within the Executive Branch responsible
42 for determining whether minorities and women have been offered a
43 fair opportunity for employment on State contracts. Executive
44 Branch departments and agencies, independent authorities, and
45 State colleges and universities are directed to cooperate fully with
46 the Contract Compliance and Audit Unit’s enforcement efforts,
47 consistent with law, and to award public contracts only to those
48 businesses that agree to comply with equal employment opportunity
49 and affirmative action requirements.

S3107 RICE, CODEY

3

1 5. The Contract Compliance and Audit Unit shall work
2 cooperatively with the United States Department of Labor's Office
3 of Federal Contract Compliance Programs, including sharing its
4 workforce data to the maximum extent permitted by law, to assist
5 the United States Department of Labor's Office of Federal Contract
6 Compliance Programs in its enforcement efforts.

7
8 6. When not restricted by any other State or federal law, the
9 Contract Compliance and Audit Unit shall determine whether each
10 of the State entities whose performance it monitors have properly
11 allocated and released to the Department of Labor and Workforce
12 Development, as authorized by law, one-half of one percent of the
13 total cost of a construction contract of \$1,000,000 or more, to be
14 used by the department for the New Jersey Builders Utilization
15 Initiative for Labor Diversity program to train minorities and
16 women for employment in construction trades. This provision shall
17 apply to those construction contracts when the funding for the
18 contract consists entirely of appropriated funds or a combination of
19 funds from appropriated funds and other sources.

20
21 7. All construction contracts entered into and funded, in whole
22 or in part, by the State shall include mandatory equal employment
23 opportunity and affirmative action contract language that requires
24 contractors to make a good faith effort to recruit and employ
25 minorities and women as required by the provisions of the
26 regulations promulgated in the New Jersey Administrative Code,
27 including but not limited to N.J.A.C.17:27-3.6 to 3.8, and 17:27-7.3
28 and 7.4. As to the portion of each contract that is State funded, the
29 language of the contract shall provide that payment may be
30 withheld for failure of the contractor to demonstrate to the
31 satisfaction of the reporting agency that the required good faith
32 effort was made. Failure of a contractor to satisfy the good faith
33 effort requirement of its contract may also subject it to assessments
34 imposed pursuant to findings of the Contract Compliance and Audit
35 Unit, in accordance with administrative regulation N.J.A.C. 17:27-
36 10.

37
38 8. Except as described in subsections a. and b. of this section,
39 each Executive Branch agency that is a recipient of federal
40 economic recovery funds pursuant to the American Recovery and
41 Reinvestment Act of 2009 shall include in any contract, grant, or
42 agreement funded in whole or in part with funds from the American
43 Recovery and Reinvestment Act of 2009 a clause requiring
44 subrecipients, contractors, subcontractors, local education agencies,
45 and vendors to post all job openings created pursuant to the
46 contract, grant, or agreement on the State's Job Bank at least 14
47 days before hiring is to commence. The clause shall state: "Since
48 the funds supporting this contract, grant, or agreement are provided
49 through the American Recovery and Reinvestment Act of 2009

1 (ARRA), the subrecipient, contractor, subcontractor, local
2 education agency, or vendor will post any jobs that it creates or
3 seeks to fill as a result of this contract, grant, or agreement. The
4 subrecipient, contractor, subcontractor, local education agency, or
5 vendor shall post jobs to the New Jersey State Job Bank by
6 submitting a job order using the form available on the Internet,
7 notwithstanding any other posting the subrecipient, contractor,
8 subcontractor, local education agency, or vendor might make. Any
9 advertisements posted by the subrecipient, contractor,
10 subcontractor, local education agency, or vendor for positions
11 pursuant to this contract, grant, or agreement must indicate that the
12 position is funded with ARRA funds."

13 a. Posting shall not be required when the employer intends to
14 fill the job opening with a present employee, a laid-off former
15 employee, or a job candidate from a previous recruitment, when
16 pre-existing, legally binding collective bargaining agreements
17 provide otherwise, or when an exception has been granted to the
18 reporting agency by the Department of Labor and Workforce
19 Development.

20 b. Nothing in this act, P.L. , c. (C.)(pending before the
21 Legislature as this bill), shall be interpreted to require the
22 employment of apprentices if such employment may result in the
23 displacement of journey workers employed by any employer,
24 contractor or subcontractor.

25
26 9. All local government entities and local education agencies
27 that have received or will receive directly from a federal agency
28 federal economic recovery funds are encouraged but not mandated
29 to require their contractors and subcontractors to post job openings
30 on the State's Job Bank at least 14 days before hiring is to
31 commence.

32 All New Jersey employers that enter into contracts funded with
33 funds from the American Recovery and Reinvestment Act of 2009
34 received by a local government entity or a local education agency
35 directly from a federal agency are encouraged but not mandated to
36 post job openings created pursuant to the American Recovery and
37 Reinvestment Act of 2009.

38
39 10. The Division of Minority and Women Business
40 Development shall send to the reporting agencies required
41 contractual language. The Division of Minority and Women
42 Business Development shall work with each reporting agency to
43 ensure the reporting of and compliance with contract-specific
44 contracting and subcontracting goals for the reporting agency that
45 are consistent with the availability percentages set forth.

46
47 11. Each reporting agency shall:

48 a. Inform the Division of Minority and Women Business
49 Development of contracting opportunities at the same time that it

1 advertises or otherwise posts public notices of such opportunities,
2 via consistent and timely upload of all-inclusive information to the
3 bid opportunities database services managed by the Division of
4 Minority and Women Business Development. All pre-bid
5 requirements shall be prominently advertised at the time of
6 uploading to the Division of Minority and Women Business
7 Development databases;

8 b. Actively and regularly use the databases and other on-line
9 services managed and operated by the Division of Minority and
10 Women Business Development to identify additional potential
11 bidders. The ongoing use of these resources by buyers,
12 procurement agents, and other purchasing staff shall be closely
13 monitored by the reporting agency's senior management;

14 c. Contact the businesses identified in the Division of Minority
15 and Women Business Development's databases and on-line services
16 to provide them with notice of the contracting opportunities
17 available through the reporting agency; and

18 d. Report to the Division of Minority and Women Business
19 Development all payments and awards prime contractors have
20 issued to subcontractors, identifying payments and awards to
21 minority and women-owned businesses on at least a quarterly basis.

22
23 12. To the maximum extent practicable, and when not restricted
24 by any other State or federal law, each reporting agency shall
25 incorporate the substance of required contractual language
26 regarding small businesses into its contracts, while continuing to
27 follow the State and federal laws and regulations governing its
28 contracting and procurement practices.

29
30 13. Each reporting agency shall, when substitution of
31 subcontractors or sub-consultants is permitted, promulgate policies
32 governing the circumstances under which contractors or consultants
33 may substitute subcontractors or sub-consultants named in bid
34 proposals or otherwise identified as small or women or minority-
35 owned business subcontractors, sub-consultants, or vendors. The
36 substitution policies shall provide that:

37 a. The contractor or consultant shall notify and obtain approval
38 from a small or women or minority-owned business subcontractor,
39 sub-consultant, or vendor before including that contractor in a bid
40 proposal or similar contract-related submission;

41 b. The contractor or consultant shall notify and obtain
42 authorization from the reporting agency before it substitutes a small
43 or women or minority-owned business subcontractor named in a bid
44 proposal or other contract-related submission; and

45 c. If the substitution is approved, the contractor or consultant
46 shall make a good faith effort to utilize another small or women or
47 minority-owned business contractor in place of the previous small
48 or women or minority-owned business contractor.

1 14. Each reporting agency shall report to the Division of
2 Minority and Women Business Development when it incorporates
3 required language in its contracts. It shall also report to the
4 Division of Minority and Women Business Development when it
5 has adopted a substitution policy, when such policy is permitted.
6 The Division of Minority and Women Business Development shall
7 report on the number of reporting agencies that have modified their
8 contracts and adopted a substitution policy at three-month intervals
9 until all of the reporting agencies have completed incorporation of
10 contractual language as may be required and promulgated and,
11 when legally permitted, adoption of the substitution policy.

12
13 15. The Department of Labor and Workforce Development shall
14 work together with all other reporting agencies that will receive
15 funding from the American Recovery and Reinvestment Act of
16 2009 and with the representatives of the United States
17 Environmental Protection Agency, the Federal Departments of
18 Labor, Energy, Transportation, and Housing and Urban
19 Development, and any other federal agencies distributing funds
20 from the American Recovery and Reinvestment Act of 2009 to:

- 21 a. Coordinate with labor unions that will aggressively recruit
22 minorities and women for apprenticeships and training
23 opportunities;
24 b. Increase outreach to and enrollment of minorities and
25 women in apprenticeship, training, and related programs; and
26 c. Ensure that, to the greatest extent possible under the law,
27 minorities and women apprentices and trainees are working on State
28 and ARRA-funded work sites.

29
30 16. The New Jersey Department of the Treasury and other
31 departments, agencies, and independent authorities shall, consistent
32 with law, take steps to increase their engagement of small, minority,
33 or women-owned or controlled banks and credit unions to meet
34 their financial services needs.

35
36 17. Nothing in P.L. , c. (C.) (pending before the Legislature
37 as this bill) shall modify existing law, State or federal, or authorize
38 a reporting agency to amend, modify, or otherwise alter pre-existing
39 legal obligations. P.L. , c. (C.) (pending before the Legislature
40 as this bill) shall be interpreted consistently with the American
41 Recovery and Reinvestment Act of 2009, and the federal
42 regulations and guidelines governing its implementation, and in the
43 event of a conflict between P.L. , c. (C.) (pending before the
44 Legislature as this bill) and federal law governing American
45 Recovery and Reinvestment Act of 2009, P.L. , c. (C.) (pending
46 before the Legislature as this bill) shall be interpreted to comply
47 with federal law.

1 18. The Contract Compliance and Audit Unit shall promulgate
2 rules and regulations to effectuate the purposes of this act, P.L. ,
3 c. (C.)(pending before the legislature as this bill), that are
4 consistent with Executive Order No. 151 (2009) and its appendices.
5

6 19. Within 90 days of the effective date of this act, P.L. ,
7 c. (C.)(pending before the Legislature as this bill), the Division
8 of Minority and Women Business Development shall prepare a
9 contracting guide identifying the management practices that have
10 the greatest success in: increasing the number of small and minority
11 and women-owned businesses made aware of contracting
12 opportunities with the State; and increasing the number of such
13 businesses competing for contracts with the State or subcontracts
14 with entities contracting with the State. As soon as practicable
15 thereafter, the Division of Minority and Women Business
16 Development shall distribute the contracting guide to the reporting
17 agencies.
18

19 20. As soon as practicable after its receipt of the contracting
20 guide, each reporting agency shall implement those provisions that
21 it views as most likely to have the greatest impact in increasing
22 contracting opportunities for small and minority and women-owned
23 businesses.
24

25 21. Within 15 months of the effective date of this act, P.L. ,
26 c. (C.)(pending before the Legislature as this bill), the Division
27 of Minority and Women Business Development and the Contract
28 Compliance and Audit Unit shall each prepare a report describing
29 the reporting agencies' implementation of this act. The Division of
30 Minority and Women Business Development and the Contract
31 Compliance and Audit Unit each shall prepare a second report
32 within 12 months of issuing its first report.
33

34 22. This act shall take effect immediately.
35
36

37 STATEMENT
38

39 This bill codifies Executive Order No. 151 (2009), issued by
40 Governor Jon S. Corzine on August 28, 2009.

41 The bill requires the Contract Compliance and Audit Unit within
42 the Division of Purchase and Property in the Department of the
43 Treasury to determine whether each of the State entities whose
44 performance it monitors have properly allocated and released to the
45 Department of Labor and Workforce Development, as authorized by
46 law, one-half of one percent of the total cost of a construction
47 contract of \$1,000,000 or more, to be used by the department for the
48 New Jersey Builders Utilization Initiative for Labor Diversity

1 program to train minorities and women for employment in
2 construction trades.

3 All construction contracts entered into and funded, in whole or in
4 part, by the State must include mandatory equal employment
5 opportunity and affirmative action contract language that requires
6 contractors to make a good faith effort to recruit and employ
7 minorities and women. Failure of a contractor to satisfy the good
8 faith effort requirement of its contract may subject it to assessments
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10 Unit.

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16 education agencies, and vendors to post all job openings created
17 pursuant to the contract, grant, or agreement on the State's Job
18 Bank at least 14 days before hiring, with limited exceptions.

19 All local government entities and local education agencies that
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21 economic recovery funds may require their contractors and
22 subcontractors to post job openings on the State's Job Bank at least
23 14 days before hiring is to commence. All New Jersey employers
24 that enter into contracts funded with ARRA funds received by a
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34 Unit, will:

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37 advertises or otherwise posts public notices of such opportunities;

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40 potential bidders;

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42 on-line services to provide them with notice of the contracting
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9 This bill is to be interpreted consistently with the ARRA, and the
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12 governing ARRA, the bill will be interpreted to comply with federal
13 law.

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20 with entities contracting with the state. The division will distribute
21 the contracting guide to the reporting agencies and each reporting
22 agency will implement those provisions that it views as most likely
23 to have the greatest impact in increasing contracting opportunities
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27 describing the reporting agencies' implementation of this bill.

28 The New Jersey Department of Labor and Workforce
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31 United States Environmental Protection Agency, the Federal
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33 Urban Development, and any other federal agencies distributing
34 ARRA funds to:

35 coordinate with labor unions to aggressively recruit minorities
36 and women for apprenticeships and training opportunities;

37 increase outreach to and enrollment of minorities and women in
38 apprenticeship, training, and related programs; and

39 ensure that, to the greatest extent possible under the law,
40 minorities and women apprentices and trainees are working on State
41 and ARRA-funded work sites.

42 The Department of the Treasury and other departments, agencies,
43 and independent authorities are to take, consistent with law, steps to
44 increase their engagement of small, minority, or women-owned or
45 controlled banks and credit unions to meet their financial services
46 needs.

SENATE STATE GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 3107

STATE OF NEW JERSEY

DATED: JANUARY 4, 2010

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This bill codifies Executive Order No. 151 (2009), issued by Governor Jon S. Corzine on August 28, 2009.

The bill requires the Contract Compliance and Audit Unit within the Division of Purchase and Property in the Department of the Treasury to determine whether each of the State entities whose performance it monitors have properly allocated and released to the Department of Labor and Workforce Development, as authorized by law, one-half of one percent of the total cost of a construction contract of \$1,000,000 or more, to be used by the department for the New Jersey Builders Utilization Initiative for Labor Diversity program to train minorities and women for employment in construction trades.

All construction contracts entered into and funded, in whole or in part, by the State must include mandatory equal employment opportunity and affirmative action contract language that requires contractors to make a good faith effort to recruit and employ minorities and women. Failure of a contractor to satisfy the good faith effort requirement of its contract may subject it to assessments imposed pursuant to findings of the Contract Compliance and Audit Unit.

Each Executive Branch agency that is a recipient of federal economic recovery funds pursuant to American Recovery and Reinvestment Act of 2009 (ARRA) must include in any contract, grant, or agreement funded in whole or in part with ARRA funds a clause requiring subrecipients, contractors, subcontractors, local education agencies, and vendors to post all job openings created pursuant to the contract, grant, or agreement on the State's Job Bank at least 14 days before hiring, with limited exceptions.

All local government entities and local education agencies that have received or will receive directly from a federal agency federal economic recovery funds may require their contractors and subcontractors to post job openings on the State's Job Bank at least 14 days before hiring is to commence. All New Jersey employers that enter into contracts funded with ARRA funds received by a local government entity or a local education agency directly from a federal

agency may also require the posting of job openings created pursuant to the ARRA.

The bill requires the Contract Compliance and Audit Unit to be responsible for determining whether minorities and women have been offered a fair opportunity for employment on State contracts with regard to funds from the ARRA.

Each reporting agency, defined as a State entity whose performance is monitored by the Contract Compliance and Audit Unit, will:

inform the Division of Minority and Women Business Development of contracting opportunities at the same time that it advertises or otherwise posts public notices of such opportunities;

actively and regularly use the databases and other on-line services managed and operated by the division to identify additional potential bidders;

contact the businesses identified in the division's databases and on-line services to provide them with notice of the contracting opportunities available through the reporting agency; and

report to the division all payments and awards prime contractors have issued to subcontractors, identifying payments and awards to minority and women-owned businesses on at least a quarterly basis.

Each reporting agency must promulgate, under certain conditions, substitution policies governing the circumstances under which contractors or consultants may substitute subcontractors or sub-consultants named in bid proposals or otherwise identified as small or women or minority-owned business subcontractors, sub-consultants, or vendors.

The division will report on the number of reporting agencies that have modified their contracts and adopted a substitution policy at three-month intervals until all of the reporting agencies have completed incorporation of required contractual language and, when legally permitted, adoption of the substitution policy.

This bill is to be interpreted consistently with the ARRA, and the federal regulations and guidelines governing its implementation, and in the event of a conflict between this bill and federal law governing ARRA, the bill will be interpreted to comply with federal law.

Within 90 days of the effective date, the division will prepare a contracting guide identifying the management practices that have the greatest success in: increasing the number of small and minority and women-owned businesses made aware of contracting opportunities with the State; and increasing the number of such businesses competing for contracts with the state or subcontracts with entities contracting with the state. The division will distribute the contracting guide to the reporting agencies and each reporting agency will implement those provisions that it views as most likely to have the greatest impact in increasing contracting opportunities for small and minority and women-owned businesses.

Within 15 months of the effective date, the division and the Contract Compliance and Audit Unit will each prepare a report describing the reporting agencies' implementation of this bill.

The New Jersey Department of Labor and Workforce Development will work together with all other reporting agencies that will receive ARRA funding and with the representatives of the United States Environmental Protection Agency, the Federal Departments of Labor, Energy, Transportation, and Housing and Urban Development, and any other federal agencies distributing ARRA funds to:

- coordinate with labor unions to aggressively recruit minorities and women for apprenticeships and training opportunities;

- increase outreach to and enrollment of minorities and women in apprenticeship, training, and related programs; and

- ensure that, to the greatest extent possible under the law, minorities and women apprentices and trainees are working on State and ARRA-funded work sites.

The Department of the Treasury and other departments, agencies, and independent authorities are to take, consistent with law, steps to increase their engagement of small, minority, or women-owned or controlled banks and credit unions to meet their financial services needs.

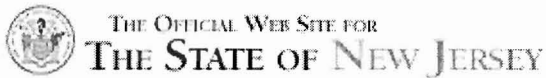
This bill is identical to Assembly Bill No.4323.

STATEMENT TO
SENATE, No. 3107

with Senate Floor Amendments
(Proposed by Senator RICE)

ADOPTED: JANUARY 7, 2010

This floor amendment corrects the name of the agency responsible for monitoring the reporting agencies from the “Contract Compliance and Audit Unit” to the “Division of Public Contracts Equal Employment Opportunity Compliance”. It also clarifies who is to be included when there is a substitution of a subcontractor, sub-consultant or vendor in a bid proposal or similar contract-related submission.



**State of New Jersey
Executive Order #151
Governor Jon S. Corzine**

[Return to EO Index](#)

WHEREAS, New Jersey is one of the most racially, culturally, and ethnically diverse states in the United States, and this diversity is reflected in the leaders and owners of its businesses, in the leaders and members of the labor movement, and in the employees in every segment of the workforce; and

WHEREAS, the State's business community includes multi-national enterprises, industrial, commercial, and small business sectors; and

WHEREAS, the State's thousands of small businesses, each with fewer than 100 employees, together generate almost 40% of the jobs in the State; and

WHEREAS, small, minority, and women-owned business enterprises have historically been underrepresented in the receipt of State contract awards; and

WHEREAS, the State's workforce provides New Jersey's multinational enterprises, its industrial, commercial, and small business sectors, and its public and not-for-profit sectors with highly educated, highly skilled, and highly motivated employees, who contribute to the prosperity of the State while supporting their families; and

WHEREAS, in response to the current national recession, the United States Congress enacted the American Recovery and Reinvestment Act of 2009 (ARRA), which will increase federal spending at the State and local levels by approximately \$10 billion, and will fully fund certain work in the State, and partially fund other State projects; and

WHEREAS, given the recession and unemployment levels in New Jersey, it is imperative that every sector of the economy be offered the opportunity to benefit from the federal economic recovery funds and the State's own spending; and

WHEREAS, many of the State's businesses have significant public construction contracts and other contracts to provide goods or services to government and many others would like the opportunity to compete for these contracts to expand their businesses while serving the public; and

WHEREAS, residents of the State of New Jersey deserve a government that provides equal opportunity for all contractors to compete to submit winning bids on public contracts; and

WHEREAS, residents of the State of New Jersey, especially during these difficult economic times, deserve a government that does everything it can to expand job opportunities, particularly for men and women who are entering the workforce, who have experienced difficulties entering the workforce, or who have recently become unemployed or underemployed; and

WHEREAS, the State created an internet site, <http://www.recovery.nj.gov>, which outlines the allocation of New Jersey's share of economic recovery funds under the ARRA; and

WHEREAS, to spend ARRA funds transparently and ensure that those seeking work have a fair chance to obtain ARRA-funded employment, State agencies and entities should be required to post all State and ARRA-funded jobs on the State Job Bank internet site, <http://NJ.gov/JobCentralNJ>, to allow New Jersey residents to identify these employment opportunities; and

WHEREAS, the State must procure its construction services, goods, and other services as efficiently as possible, with transparency in the processing, selection, and awarding of public contracts; and

WHEREAS, robust competition for public contracts ensures that the government of the State of New Jersey obtains the construction services, goods, and other services it needs to perform its vital functions with maximum cost effectiveness; and

WHEREAS, broad and sustained efforts to notify all potential bidders of opportunities to contract with government should be encouraged to promote competition for public contracts, thus benefiting the public fisc; and

WHEREAS, the State of New Jersey commissioned the State of New Jersey Construction Services Disparity Study 2000 – 2002 (October 2005) and the State of New Jersey Disparity Study of Procurement in Professional Services, Other Services, and Goods and Commodities (June 2005), and both studies documented significant disparities between the firms ready, willing, and able to do business with the State, and those firms actually awarded contracts by State departments, agencies, authorities, colleges, and universities, as a result of which this Administration created through Executive Order No. 34 (2006) the Division of Minority and Women Business Development (“Division of M/W Business Development”); and

WHEREAS, Executive Order No. 34 charged the Director of the Division of M/W Business Development with monitoring programs to increase the participation of minority and women-owned businesses in the State’s purchasing and procurement processes; and

WHEREAS, since its inception, the Division of M/W Business Development, working with the Department of the Treasury’s Office of Supplier Diversity (“OSD”), has identified strategies to increase the number of small and minority and women-owned businesses interested in and eligible to benefit from state procurement activity; and

WHEREAS, the Division of M/W Business Development and OSD have increased outreach to and expanded the ability of these businesses to fulfill bid requirements for state contracts; and

WHEREAS, the Division of Public Contracts Equal Employment Opportunity Compliance in the Department of the Treasury (Division of Contract Compliance) monitors the employment of women and minorities with businesses that contract with government in an effort to ensure that contractors and vendors make good faith efforts to hire minorities and women in accordance with targeted goals based on the United States Census’ workforce availability statistics;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. All members of the public should be afforded the opportunity to benefit from the federal economic recovery funds and associated state spending, and in particular, this Administration re-affirms the State’s commitment, expressed in statute and regulation, that every public contract, whether for construction services, goods, or other services, shall provide equal employment opportunity for women and minorities.
2. The Commissioners of the Departments of Community Affairs, Education, Environmental Protection, and Transportation; the President of the Board of Public Utilities; and the executive directors of the Schools

Development Authority and the Economic Development Authority are directed to meet with members of the Governor's office, the Department of the Treasury, and representatives of the United States Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) to ensure that those departments receiving the bulk of federal economic recovery funds will provide the OFCCP their complete cooperation in complying with its mandates.

3. The Division of Contract Compliance shall be the entity within the Executive Branch responsible for determining whether minorities and women have been offered a fair opportunity for employment on State contracts. Executive branch departments and agencies, independent authorities, and State colleges and universities are directed to cooperate fully with the Division of Contract Compliance's enforcement efforts, consistent with law, and to award public contracts only to those businesses that agree to comply with equal employment opportunity and affirmative action requirements.

4. The Division of Contract Compliance shall work cooperatively with the OFCCP, including sharing its workforce data to the maximum extent permitted by law, to assist the OFCCP in its enforcement efforts.

5. When not restricted by any other State or federal law, the Division of Contract Compliance shall determine whether each of the State entities whose performance it monitors (the "Reporting Agencies" listed in Appendix A to this Order) properly allocated and released to the Department of Labor and Workforce Development, as authorized by law, one-half of one percent of the total cost of a construction contract of \$1,000,000 or more, to be used by the department for the New Jersey Builders Utilization Initiative for Labor Diversity program to train minorities and women for employment in construction trades. This provision shall apply to those construction contracts where the funding for the contract consists entirely of appropriated funds or a combination of funds from appropriated funds and other sources.

6. As a result of the aforementioned significant disparities in employment of minorities and women on construction sites and within the construction trades, all construction contracts entered into and funded, in whole or in part, by the State shall include mandatory EEO/AA contract language (in the form of Appendix B to this Order) that requires contractors to make a good faith effort to recruit and employ minorities and women as required by provisions of the Administrative Code, including but not limited to N.J.A.C. 17:27-3.6 to 3.8, and 17:27-7.3 and 7.4. In addition to the language set forth in Appendix B, such construction contracts shall contain the contractual language as required by N.J.A.C. 17-27-3.6, 3.7, and 3.8. As to the portion of each contract that is State funded, the language of the contract shall provide, consistent with Appendix B, that payment may be withheld for failure of the contractor to demonstrate to the satisfaction of the Reporting Agency that the required good faith effort was made. Failure of a contractor to satisfy the good faith effort requirement of its contract may also subject it to assessments imposed pursuant to findings of the Division of Contract Compliance in the Department of the Treasury, in accordance with N.J.A.C. 17:27-10.

7. Except as described in subparagraphs (a) and (b) of this paragraph, each Executive Branch agency that is a recipient of federal economic recovery funds pursuant to ARRA shall include in any contract, grant, or agreement funded in whole or in part with ARRA funds a clause requiring subrecipients, contractors, subcontractors, local education agencies, and vendors to post all job openings created pursuant to the contract, grant, or agreement on the State's Job Bank at least 14 days before hiring is to commence. The clause shall state: "Since the funds supporting this contract, grant, or agreement are provided through the American Recovery and Reinvestment Act of 2009 (ARRA), the subrecipient, contractor, subcontractor, local education agency, or vendor will post any jobs that it creates or seeks to fill as a result of this contract, grant, or agreement. The subrecipient, contractor, subcontractor, local education agency, or vendor will post jobs to the New Jersey State Job Bank by submitting a job order using the form available at <http://NJ.gov/JobCentralNJ>, notwithstanding any other posting the subrecipient, contractor, subcontractor, local education agency, or vendor might make. Any advertisements posted by the subrecipient, contractor, subcontractor, local education agency, or vendor for positions pursuant to this contract, grant, or agreement must indicate that the position is funded with ARRA funds."

a. Posting shall not be required where the employer intends to fill the job opening with a present employee, a laid-off former employee, or a job candidate from a previous recruitment, where pre-existing, legally binding collective bargaining agreements provide otherwise, or where an exception has been granted to the Reporting Agency by the Department of Labor and Workforce Development.

b. Nothing in this Order shall be interpreted to require the employment of apprentices if such employment may result in the displacement of journey workers employed by any employer, contractor or subcontractor.

8. All local government entities and local education agencies that have received or will receive directly from a federal agency federal economic recovery funds are strongly encouraged to require their contractors and subcontractors to post job openings on the State's Job Bank at least 14 days before hiring is to commence. Moreover, all New Jersey employers that enter into contracts funded with ARRA funds received by a local government entity or a local education agency directly from a federal agency are likewise strongly encouraged to post job openings created pursuant to the ARRA.

9. The Division of M/W Business Development shall send to the Reporting Agencies the contractual language set forth in Appendix C of this Order. Provisions of this contractual language have been shown to have a significant impact on (a) increasing the number of small and minority and women-owned businesses aware of contracting opportunities with the State and (b) increasing the number of such businesses competing for contracts with the State or subcontracts with entities contracting with the State. The Division of M/W Business Development shall work with each Reporting Agency to ensure the reporting of and ensure compliance with contract-specific contracting and subcontracting goals for the Reporting Agency that are consistent with the availability percentages set forth in Appendix D. These goals should incorporate good faith effort requirements and should be adjusted annually, consistent with the availability of minority and women-owned businesses for which significant disparities in utilization have been demonstrated in each business category.

10. Each Reporting Agency shall:

a. Inform the Division of M/W Business Development of contracting opportunities at the same time that it advertises or otherwise posts public notices of such opportunities, via consistent and timely upload of all-inclusive information to the bid opportunities database services managed by the Division of M/W Business Development. All pre-bid requirements shall be prominently advertised at the time of uploading to the Division of M/W Business Development databases;

b. Actively and regularly use the databases and other on-line services managed and operated by the Division of M/W Business Development to identify additional potential bidders. Because these databases and on-line services identify minority and women-owned businesses known to and registered or certified with the Division of M/W Business Development, the ongoing use of these resources by buyers, procurement agents, and other purchasing staff shall be closely monitored by the Reporting Agency's senior management;

c. Contact the businesses identified in the Division of M/W Business Development's databases and on-line services to provide them with notice of the contracting opportunities available through the Reporting Agency; and

d. Report to the Division of M/W Business Development all payments and awards prime contractors have issued to subcontractors, identifying payments and awards to minority and women-owned businesses on at least a quarterly basis.

11. To the maximum extent practicable, and when not restricted by any other State or federal law, each Reporting Agency shall incorporate the substance of the contractual language set forth in Appendix C into its contracts, while continuing to follow the particular State and federal laws and regulations governing its

contracting and procurement practices.

12. Each Reporting Agency shall, where substitution of subcontractors or sub-consultants is permitted, promulgate policies governing the circumstances under which contractors or consultants may substitute subcontractors or sub-consultants named in bid proposals or otherwise identified as small or women or minority-owned business subcontractors, sub-consultants, or vendors ("Substitution Policies"). The Substitution Policies shall provide that:

- a. The contractor or consultant must notify and obtain approval from a small or women or minority-owned business subcontractor, sub-consultant, or vendor ("SMWBE contractor") before including that contractor in a bid proposal or similar contract-related submission;
- b. The contractor or consultant must notify and obtain authorization from the Reporting Agency before it substitutes a SMWBE contractor named in a bid proposal or other contract-related submission; and
- c. If the substitution is approved, the contractor or consultant shall make a good faith effort to utilize another SMWBE contractor in place of the previous SMWBE contractor.

13. Each Reporting Agency shall report to the Division of M/W Business Development when it has incorporated the language set forth in Appendix C in its contracts. It shall also report to the Division of M/W Business Development when it has adopted its Substitution Policy, where such policy is permitted. The Division of M/W Business Development shall report on the number of Reporting Agencies that have modified their contracts and adopted a Substitution Policy at three month intervals until all of the Reporting Agencies have completed incorporation of the contractual language set forth in Appendix C and, where legally permitted, adoption of the Substitution Policy.

14. Nothing in this Order shall modify existing law, state or federal, or authorize a Reporting Agency to amend, modify, or otherwise alter pre-existing legal obligations. Further, this Order shall be interpreted consistently with the ARRA, and the federal regulations and guidelines governing its implementation, and in the event of a conflict between this Order and federal law governing ARRA, the Order shall be interpreted to comply with federal law.

15. Within 90 days of the date of this Order, the Division of M/W Business Development shall prepare a Contracting Guide identifying the management practices that have the greatest success in: (a) increasing the number of small and minority and women-owned businesses made aware of contracting opportunities with the State; and (b) increasing the number of such businesses competing for contracts with the state or subcontracts with entities contracting with the state. As soon as practicable thereafter, the Division of M/W Business Development shall distribute the Contracting Guide to the Reporting Agencies.

16. As soon as practicable after its receipt of the Contracting Guide, each Reporting Agency shall implement those provisions that it views as most likely to have the greatest impact in increasing contracting opportunities for small and minority and women-owned businesses.

17. Within one year and ninety days of the effective date of this Order, the Division of M/W Business Development and the Division of Contract Compliance shall each prepare a report describing the Reporting Agencies' implementation of this Order. The Division of M/W Business Development and the Division of Contract Compliance each shall prepare a second report within one year of issuing its first report.

18. The Department of Labor and Workforce Development shall work together with all other Reporting Agencies that will receive ARRA funding and with the representatives of the United States Environmental Protection Agency, the Federal Departments of Labor, Energy, Transportation, and Housing and Urban Development, and any other federal agencies distributing ARRA funds to:

- a. Coordinate with labor unions that will aggressively recruit minorities and women for apprenticeships and training opportunities;
- b. Increase outreach to and enrollment of minorities and women in apprenticeship, training, and related programs; and
- c. Ensure that, to the greatest extent possible under the law, minorities and women apprentices and trainees are working on State and ARRA-funded work sites.

19. The Department of the Treasury and other departments, agencies, and independent authorities shall, consistent with law, take steps to increase their engagement of small, minority, or women-owned or controlled banks and credit unions to meet their financial services needs.

20. This Order shall take effect immediately.

GIVEN, under my hand and seal this 28th day of August
Two Thousand and Nine, and of the Independence of
the United States, the Two Hundred and Thirty-Fourth.

/s/ Jon S. Corzine

Governor

[seal]

Attest:

/s/ Kay Walcott-Henderson

First Assistant Chief Counsel

APPENDIX A

LIST OF REPORTING AGENCIES

- Board of Public Utility Commissioners
- Casino Control Commission
- Casino Reinvestment Development Authority
- Commission on Higher Education
- Commission on Science & Technology
- Council on Affordable Housing
- Department of Agriculture
- Department of Military & Veterans' Affairs
- Department of Banking & Insurance
- Department of Children & Families
- Department of Community Affairs
- Department of Corrections
- Department of Education
- Department of Environmental Protection
- Department of Health and Senior Services

Department of Human Services
Department of Labor and Workforce Development
Department of Law & Public Safety
Department of Public Advocate
Department of State
Department of Transportation
Department of the Treasury
Division of Property Management and Construction
Election Law Enforcement Commission
Fort Monmouth Economic Revitalization Planning Authority
Garden State Preservation Trust
Higher Education Student Assistance Authority
Kean University
Legalized Games of Chance Control Commission
Montclair State University
Motion Picture Commission
Motor Vehicle Commission
New Jersey City University
New Jersey Cultural Trust
New Jersey Institute of Technology
New Jersey Transit
NJ Building Authority
NJ Economic Development Authority
NJ Educational Facilities Authority
NJ Environmental Infrastructure Trust
NJ Health Care Facilities Financing Authority
NJ Highlands Council
NJ Housing & Mortgage Finance Agency
NJ Maritime Pilot and Docking Pilot Commission
NJ Meadowlands Commission
NJ Pinelands Commission
NJ Public Television & Radio (NJN) NJ Racing Commission NJ Redevelopment Authority
NJ Schools Development Authority
NJ Sports & Exposition Authority
NJ State Museum
NJ Turnpike Authority
NJ Water Supply Authority
North Jersey Transportation Planning Authority
North Jersey District Water Supply Commission
Office of Homeland Security
Office of Information Technology
Office of the Child Advocate
Office of the Inspector General
Office of the Public Defender
Ramapo College
Rowan University
Rutgers University
South Jersey Port Corporation
South Jersey Transportation Authority
South Jersey Transportation Planning Organization
State Agriculture Development Committee
State Economic Recovery Board For Camden
State Ethics Commission

State Employment & Training Commission
State Lottery Commission
Stockton College
The College of New Jersey
Thomas Edison State College
Transportation Trust Fund Authority
University of Medicine & Dentistry of New Jersey
William Paterson University

APPENDIX B

It is the policy of the [Reporting Agency] that its contracts should create a workforce that reflects the diversity of the State of New Jersey. Therefore, contractors engaged by the [Reporting Agency] to perform under a construction contract shall put forth a good faith effort to engage in recruitment and employment practices that further the goal of fostering equal opportunities to minorities and women.

The contractor must demonstrate to the [Reporting Agency]'s satisfaction that a good faith effort was made to ensure that minorities and women have been afforded equal opportunity to gain employment under the [Reporting Agency]'s contract with the contractor. Payment may be withheld from a contractor's contract for failure to comply with these provisions.

Evidence of a "good faith effort" includes, but is not limited to:

1. The Contractor shall recruit prospective employees through the State Job bank website, managed by the Department of Labor and Workforce Development, available online at <http://NJ.gov/JobCentralNJ>.
2. The Contractor shall keep specific records of its efforts, including records of all individuals interviewed and hired, including the specific numbers of minorities and women.
3. The Contractor shall actively solicit and shall provide the [Reporting Agency] with proof of solicitations for employment, including but not limited to advertisements in general circulation media, professional service publications and electronic media.
4. The Contractor shall provide evidence of efforts described at 2 above to the [Reporting Agency] no less frequently than once every 12 months.
5. The Contractor shall comply with the requirements set forth at N.J.A.C. 17:27.

APPENDIX C

It is the policy of the [Reporting Agency] that small businesses (each a "small business enterprise" or "SBE"), as determined and defined by the State of New Jersey, Division of Minority and Women Business Development ("Division") and the New Jersey Department of the Treasury ("Treasury") in N.J.A.C. 17:14 et seq. or other application regulation, should have the opportunity to participate in [Reporting Agency] Contracts.

To the extent the Firm engages subcontractors or sub-consultants to perform Services for the [Reporting Agency] pursuant to this Contract, the Firm must demonstrate to the [Reporting Agency]'s satisfaction that a good faith effort was made to utilize subcontractors and sub-consultants who are registered with the Division as SBEs. Furthermore, the Reporting Agency shall be evaluated quarterly by the Division, based on its attainment of the Participation Goals set forth in the State of New Jersey Construction Services Disparity Study (October 2005) and the State of New Jersey Disparity Study of Procurement in Professional

Services, Other Services, and Goods and Commodities (June, 2005). (These participation goals are set forth below.)

Evidence of a "good faith effort" includes, but is not limited to:

1. The Firm shall request listings of SBEs from the Division (609) 292-2146 and/or the [Reporting Agency] and attempt to contact same.
2. The Firm shall keep specific records of its efforts, including records of all requests made to the Division, the names of SBEs contacted, and the means and results of such contacts, including without limitation receipts from certified mail and telephone records.
3. The Firm shall actively solicit and shall provide the [Reporting Agency] with proof of solicitations of SBEs for the provision of Services, including advertisements in general circulation media, professional service publications and small business, minority-owned business or women-owned business focus media.
4. The Firm shall provide evidence of efforts made to identify categories of Services capable of being performed by SBEs.
5. The Firm shall provide all potential subcontractors and sub-consultants that the Firm has contacted pursuant to 2 or 3 above with detailed information regarding the scope of work of the subject contract.
6. The Firm shall provide evidence of efforts made to use the goods and/or services of available community organizations, consultant groups, and local, State, and federal agencies that provide assistance in the recruitment and placement of SBEs.

Furthermore, the Firm shall submit proof of its subcontractors' and/or sub-consultants' SBE registrations on the form attached as Exhibit __, and shall complete such other forms as may be required by the [Reporting Agency] for State reporting as to participation.

Participation Goals

1. Construction Services Contracts/Subcontracts (including new construction and renovations, except routine building maintenance; residential and non-residential building construction; heavy construction, such as streets, roads and bridges; and special trade construction, such as fencing, HVAC, paving and electrical).

(a) State Agencies/Authorities/Commissions

African Americans -- 6.3%
Asian Americans -- 4.34%

(b) State Colleges and Universities

African Americans -- 6.3%
Asian Americans -- 4.34%
Caucasian Females -- 12.67%

2. Construction-Related Services Contracts/Subcontracts (including design services, such as architectural, engineering and construction management services, that are performed as part of a construction project).

State Colleges and Universities

African Americans -- 4.51%
 Asian Americans -- 7.11%
 Hispanics -- 4.09%

3. Professional Services (with the exception of those professional services deemed to be construction-related, all services that are of a professional nature and requiring special licensing, education degrees and/or very highly specialized expertise, including accounting and financial services, advertising services, laboratory testing services; legal services; management consulting services; technical services and training).

State Agencies/Authorities/Commissions/Colleges and Universities

African Americans -- 2.47%
 Asian Americans -- 1.47%
 Hispanics -- 1.1%
 Native Americans -- 0.07%
 Caucasian Females -- 3.74%

4. Other Services (any service that is labor-intensive and neither professional nor construction-related, including, but not limited to equipment rental; janitorial and maintenance services; landfill services; laundry and dry cleaning; maintenance and repairs; printing; real property services; security services; special department supplies; subsidy, care and support; telecommunications; and temporary help).

State Agencies/Authorities/Commissions/Colleges and Universities

African Americans -- 1.22%
 Asian Americans -- 0.85%
 Hispanics -- 0.67%
 Native Americans -- 0.05%
 Caucasian Females -- 1.96%

5. Goods and Commodities (equipment and consumable items purchased in bulk, or a deliverable product including, but not limited to automobiles and equipment; chemicals and laboratory supplies, construction materials and supplies; equipment parts and supplies; fuels and lubricants; janitorial and cleaning supplies; office equipment; office supplies; radio equipment; special department supplies; technical supplies; tires and tubes; traffic signals; and uniforms).

State Agencies/Authorities/Commissions/Colleges and Universities

African Americans -- 2.71%
 Asian Americans -- 1.74%
 Hispanics -- 1.32%
 Native Americans -- 0.10%
 Caucasian Females -- 4.45%

Appendix D

Consistent with the findings of the State of New Jersey Construction Services Disparity Study (October 2005) and the State of New Jersey Disparity Study of Procurement in Professional Services, Other Services, and Goods and Commodities (June 13, 2005), each Reporting Agency should aspire to allocate a portion of its total contracting dollars in accordance with the following goals.

1. Construction Services Contracts/Subcontracts (including new construction and renovations, except

routine building maintenance; residential and non-residential building construction; heavy construction, such as streets, roads and bridges; and special trade construction, such as fencing, HVAC, paving and electrical).

(c) State Agencies/Authorities/Commissions

African Americans -- 6.3%
Asian Americans -- 4.34%

(d) State Colleges and Universities

African Americans -- 6.3%
Asian Americans -- 4.34%
Caucasian Females -- 12.67%

2. Construction-Related Services Contracts/Subcontracts (including design services, such as architectural, engineering and construction management services, that are performed as part of a construction project).

State Colleges and Universities

African Americans -- 4.51%
Asian Americans -- 7.11%
Hispanics -- 4.09%

2. Professional Services (with the exception of those professional services deemed to be construction-related, all services that are of a professional nature and requiring special licensing, education degrees and/or very highly specialized expertise, including accounting and financial services, advertising services, laboratory testing services; legal services; management consulting services; technical services and training).

State Agencies/Authorities/Commissions/Colleges and Universities

African Americans -- 2.47%
Asian Americans -- 1.47%
Hispanics -- 1.1%
Native Americans -- 0.07%
Caucasian Females -- 3.74%

3. Other Services (any service that is labor-intensive and neither professional nor construction-related, including, but not limited to equipment rental; janitorial and maintenance services; landfill services; laundry and dry cleaning; maintenance and repairs; printing; real property services; security services; special department supplies; subsidy, care and support; telecommunications; and temporary help).

State Agencies/Authorities/Commissions/Colleges and Universities

African Americans -- 1.22%
Asian Americans -- 0.85%
Hispanics -- 0.67%
Native Americans -- 0.05%
Caucasian Females -- 1.96%

4. Goods and Commodities (equipment and consumable items purchased in bulk, or a deliverable product including, but not limited to automobiles and equipment; chemicals and laboratory supplies, construction

materials and supplies; equipment parts and supplies; fuels and lubricants; janitorial and cleaning supplies; office equipment; office supplies; radio equipment; special department supplies; technical supplies; tires and tubes; traffic signals; and uniforms).

State Agencies/Authorities/Commissions/Colleges and Universities

- African Americans -- 2.71%
- Asian Americans -- 1.74%
- Hispanics -- 1.32%
- Native Americans -- 0.10%
- Caucasian Females -- 4.45%

GIVEN, under my hand and seal this 28th day of August Two Thousand and Nine, and of the Independence of the United States, the Two Hundred and Thirty-Fourth.

/s/ Jon S. Corzine


Governor

[seal]

Attest:

/s/ Kay Walcott-Henderson

First Assistant Chief Counsel

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