

# **EEO/AFFIRMATIVE ACTION REQUIREMENTS**

## **Goods, Professional Services and General Service Contracts**

Questions in reference to EEO/AA Requirements For Goods, Professional Services and General Service Contracts should be directed to:

Jeana F. Abuan  
Affirmative Action Officer, Public Agency Compliance Officer  
Department of Administration  
Office of Equal Opportunity/Affirmative action  
280 Grove Street Room-103  
Jersey City NJ 07302  
Tel. #201-547- 4533  
Fax# 201-547-5088  
E-mail Address: [abuanJ@jcnj.org](mailto:abuanJ@jcnj.org)

**CITY OF JERSEY CITY**

**PROJECT:** \_\_\_\_\_

**RESPONDENT:** \_\_\_\_\_

**RESPONDENT'S CHECKLIST**

<b>Item</b>	<b>Respondent Initials</b>	<b>Purchasing Review</b>
A. Non-Collusion Affidavit properly notarized		
B. Public Disclosure Statement		
C. Mandatory Affirmative Action Language		
D. Americans with Disabilities Act		
E. MWBE Questionnaire		
F. Affirmative Action Compliance Notice		
G. Employee Information Report		
H. Business Registration Certificate		
I. Original signature(s) on all required forms.		

**NON COLLUSION AFFIDAVIT**  
STATE OF NEW JERSEY  
CITY OF JERSEY CITY ss:

I certify that I am \_\_\_\_\_

of the firm of \_\_\_\_\_

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

I further warrant that no person or selling agency has been employed to solicit or secure such contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by (N.J.S.A.52: 34-25)

(Signature of respondent) \_\_\_\_\_

SUBSCRIBED AND SWORN TO  
BEFORE ME THIS DAY \_\_\_\_\_ OF 20 \_\_\_\_\_

(TYPE OR PRINT NAME OF AFFIANT UNDER SIGNATURE)

NOTARY PUBLIC OF  
MY COMMISSION EXPIRES: 20 .

**(NOTE: THIS FORM MUST BE COMPLETED, NOTARIZED AND RETURNED WITH THIS PROPOSAL).**

**PUBLIC DISCLOSURE INFORMATION**

Chapter 33 of the Public Laws of 1977 provides that no Corporation or Partnership shall be awarded any State, City, Municipal or Schools District contracts for the performance of any work or the furnishing of any materials or supplies, unless prior to the receipt of the bid or accompanying the bid of said corporation or partnership there is submitted a public disclosure information statement. The statement shall set forth the names and addresses of all stockholders in the corporation or partnership who own ten percent (10%) or more of its stock of any class, or of all individual partners in the partnership who own a ten percent (10%) or greater interest therein.

STOCKHOLDERS:

Name	Address	% owned

SIGNATURE : \_\_\_\_\_

TITLE: \_\_\_\_\_

SUBSCRIBED AND SWORN TO  
BEFORE ME THIS DAY \_\_\_\_\_ OF 20 \_\_\_\_\_

(TYPE OR PRINT NAME OF AFFIANT UNDER SIGNATURE)

NOTARY PUBLIC OF  
MY COMMISSION EXPIRES: 20 .

**(NOTE: THIS FORM MUST BE COMPLETED, NOTARIZED AND RETURNED WITH THIS PROPOSAL).**

**MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE**  
**N.J.S.A. 10:5-31 and N.J.A.C. 17:27**

**Goods, Professional Services and General Service Contracts**  
**(Mandatory Affirmative Action Language)**

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

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex. Except with respect to affectional or sexual orientation, the contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex.

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

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

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

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex, and that it will discontinue the

**MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE  
N.J.S.A. 10:5-31 and N.J.A.C. 17:27 (continued)**

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

In conforming with the applicable employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions. The contractor and its subcontractors shall furnish such reports or other documents to the Division of Contract Compliance & EEO as may be requested by the Division from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Contract Compliance & EEO for conducting a compliance investigation pursuant to **Subchapter 10 of the Administrative Code at N.J.A.C. 17:27** .

**The undersigned vendor certifies that he/she received, read, and is aware of the commitment to comply with:**

**N.J.S.A. 10:5-31 and N.J.A.C. 17:27**

**MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE  
Goods, Professional Services and General Service Contracts  
(Mandatory Affirmative Action Language)**

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

**Representative's Name/Title (Print):**\_\_\_\_\_

**Representative's Signature:**\_\_\_\_\_

**Name of Company:**\_\_\_\_\_

**Tel. No.:**\_\_\_\_\_ **Date:**\_\_\_\_\_

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

The contractor and the \_\_\_\_\_ of \_\_\_\_\_, (hereafter "owner") do hereby agree that the provisions of Title 11 of the Americans With Disabilities Act of 1990 (the "Act") (*42 U.S.C. S121 01 et seq.*), which prohibits discrimination on the basis of disability by public entities in all services, programs, and activities provided or made available by public entities, and the rules and regulations promulgated pursuant there unto, are made a part of this contract.

In providing any aid, benefit, or service on behalf of the owner pursuant to this contract, the contractor agrees that the performance shall be in strict compliance with the Act.

In the event that the contractor, its agents, servants, employees, or subcontractors violate or are alleged to have violated the Act during the performance of this contract, the contractor shall defend the owner in any action or administrative proceeding commenced pursuant to this Act.

The contractor shall indemnify, protect, and save harmless the owner, its agents, servants, and employees from and against any and all suits, claims, losses, demands, or damages, of whatever kind or nature arising out of or claimed to arise out of the alleged violation.

The contractor shall, at its own expense, appear, defend, and pay any and all charges for legal services and any and all costs and other expenses arising from such action or administrative proceeding or incurred in connection therewith. In any and all complaints brought pursuant to the owner's grievance procedure, the contractor agrees to abide by any decision of the owner which is rendered pursuant to said grievance procedure. If any action or administrative proceeding results in an award of damages against the owner, or if the owner incurs any expense to cure a violation of the ADA which has been brought pursuant to its grievance procedure, the contractor shall satisfy and discharge the same at its own expense.

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

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

It is further agreed and understood that the owner assumes no obligation to indemnify or save harmless the contractor, its agents, servants, employees and subcontractors for any claim which may arise out of their performance of this Agreement.

**AMERICANS WITH DISABILITIES ACT OF 1990**  
**Equal Opportunity for Individuals with Disability (continued)**

Furthermore, the contractor expressly understands and agrees that the provisions of this indemnification clause shall in no way limit the contractor's obligations assumed in this Agreement, nor shall they be construed to relieve the contractor from any liability, nor preclude the owner from taking any other actions available to it under any other provisions of the Agreement or otherwise at law.

**Representative's Name/Title Print):** \_\_\_\_\_

**Representative's Signature:** \_\_\_\_\_

**Name of Company:** \_\_\_\_\_

**Tel. No.:** \_\_\_\_\_ **Date:** \_\_\_\_\_.

**MINORITY/WOMAN BUSINESS ENTERPRISE (MWBE)  
Questionnaire for Bidders**

Jersey City Ordinance C-829 establishes a goal of awarding 20% of the dollar amount of total city procurement to minority and woman owned business enterprises.

To assist us in monitoring our achievement of this goal, please indicate below whether your company is or is not a minority owned and/or woman owned business, and return this form with your bid proposal.

Business Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone No.: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Please check applicable category :

\_\_\_\_\_ Minority Owned

\_\_\_\_\_ Minority & Woman Owned

\_\_\_\_\_ Woman Owned

\_\_\_\_\_ Neither

**Definition of Minority Business Enterprise**

Minority Business Enterprise means a business which is a sole proprietorship, partnership or corporation at least 51% of which is owned and controlled by persons who are African American, Hispanic, Asian American, American Indian or Alaskan native, defined as follows:

**African American:** a person having origins in any of the black racial groups of Africa

**Hispanic:** a person of Mexican, Puerto Rican, Central or South American or other non-European Spanish culture or origin regardless of race.

**Asian:** a person having origins in any of the original peoples of the Far East, South East Asia, Indian subcontinent, Hawaii or the Pacific Islands.

**American Indian or Alaskan Native:** a person having origins in any of the original peoples of North America and who maintains cultural identification through tribal affiliation or community recognition.

**Woman Business Enterprise**

Woman Business Enterprise means a business which is a sole proprietorship, partnership or corporation at least 51% of which is owned and controlled by a woman or women.

**AFFIRMATIVE ACTION COMPLIANCE NOTICE**

**N.J.S.A. 10:5-31 and N.J.A.C. 17:27**

**GOODS AND SERVICES CONTRACTS  
(INCLUDING PROFESSIONAL SERVICES)**

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

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

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

OR

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

OR

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

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

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

The undersigned vendor certifies that he/she is aware of the commitment to comply with the requirements of N.J.S.A. 10:5-31 and N.J.A.C. 17:27 and agrees to furnish the required forms of evidence.

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

COMPANY: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

PRINT

NAME: \_\_\_\_\_ TITLE: \_\_\_\_\_

**AFFIRMATIVE ACTION COMPLIANCE (SAMPLE DOCUMENTS)**

Vendor must submit one of the following 3 documents:

- Letter of Federal Affirmative Action Plan Approval
- Certificate of Employee Information Report
- Employee Information Report Form AA302 (submitted to NJ State Dept of Treasury)

U.S. Department of Labor

Employment Standards Administration  
Office of Federal Contract  
Compliance Program

Newark Area Office  
134 Evergreen Place, Fourth Floor  
East Orange, NJ 07018



February 27, 19\_\_

Reply to the attention of:

President

Dear

Our recent compliance review of your establishment's equal employment opportunity policies and practices was completed on February 27, 19\_\_.

We found no apparent deficiencies or violations of Executive Order 11246, as amended. Section 503 of the Rehabilitation Act of 1973 or of 38 USC 2012 (the Vietnam Era Veterans' Readjustment Assistance Act). Accordingly, your establishment is deemed to be in compliance with these laws based on the material reviewed.

The Office of Federal Contract Compliance Progress sincerely appreciated the cooperation and courtesies extended by you and your staff during the conduct of the compliance review.

Sincerely,

Area Office Director

Certification \_\_\_\_\_

**CERTIFICATE OF EMPLOYEE INFORMATION REPORT**

**VOID**

This is to certify that the contractor ~~\_\_\_\_\_~~ has submitted an Employee Information Report pursuant to N.J.A.C. 17-27-1.1 et seq. and the State Treasurer has approved said report. This approval will remain in effect for the period of \_\_\_\_\_.

**VOID**



State Treasurer

## **INSTRUCTIONS FOR COMPLETING THE EMPLOYEE INFORMATION REPORT (FORM AA302)**

### **IMPORTANT:**

Read the following instructions carefully before completing the form. Print or type all information. Failure to properly complete the entire form may delay issuance of your certificate.

**If you have a current certificate of employee information report, do not complete this form. Send copy of current certificate to the public agency. Do not complete this form for construction contract awards.**

**ITEM 1** - Enter the Federal Identification Number assigned by the Internal Revenue Service, or if a Federal Employer Identification Number has been applied for, or if your business is such that you have not or will not receive a Federal Employer Identification Number, enter the Social Security Number of the owner or of one partner, in the case of a partnership.

**ITEM 2** - Check the box appropriate to your TYPE OF BUSINESS. If you are engaged in more than one type of business check the predominate one. If you are a manufacturer deriving more than 50% of your receipts from your own retail outlets, check "Retail".

**ITEM 3** - Enter the total "number" of employees in the entire company, including part-time employees. This number shall include all facilities in the entire firm or corporation.

**ITEM 4** - Enter the name by which the company is identified. If there is more than one company name, enter the predominant one.

**ITEM 5** - Enter the physical location of the company. Include City, County, State and Zip Code.

**ITEM 6** - Enter the name of any parent or affiliated company including the City, County, State and Zip Code. If there is none, so indicate by entering "None" or N/A.

**ITEM 7** - Check the box appropriate to your type of company establishment. "Single-establishment Employer" shall include an employer whose business is conducted at only one physical location. "Multi-establishment Employer" shall include an employer whose business is conducted at more than one location.

**ITEM 8** - If "Multi-establishment" was entered in item 8, enter the number of establishments within the State of New Jersey.

**ITEM 9** - Enter the total number of employees at the establishment being awarded the contract.

**ITEM 10** - Enter the name of the Public Agency awarding the contract. Include City, County, State and Zip Code.

**ITEM 11** - Enter the appropriate figures on all lines and in all columns.

THIS SHALL ONLY INCLUDE EMPLOYMENT DATA FROM THE FACILITY THAT IS BEING AWARDED THE CONTRACT.

DO NOT list the same employee in more than one job category.

DO NOT attach an EEO-1 Report.

**Racial/Ethnic Groups will be defined:**

**Black:** Not of Hispanic origin. Persons having origin in any of the Black racial groups of Africa.

**Hispanic:** Persons of Mexican, Puerto Rican, Cuban, or Central or South American or other Spanish culture or origin, regardless of race.

**American Indian or Alaskan Native:** Persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.

**Asian or Pacific Islander:** Persons having origin in any of the original peoples of the Far East, Southeast Asia, the Indian Sub-continent or the Pacific Islands. This area includes for example, China, Japan, Korea, the Phillipine Islands and Samoa.

**Non-Minority:** Any Persons not identified in any of the aforementioned Racial/Ethnic Groups.

**ITEM 12** - Check the appropriate box. If the race or ethnic group information was not obtained by 1 or 2, specify by what other means this was done in 3.

**ITEM 13** - Enter the dates of the payroll period used to prepare the employment data presented in Item 12.

**ITEM 14** - If this is the first time an Employee Information Report has been submitted for this company, check block "Yes".

**ITEM 15** - If the answer to Item 15 is "No", enter the date when the last Employee Information Report was submitted by this company.

**ITEM 16** - Print or type the name of the person completing the form. Include the signature, title and date.

**ITEM 17** - Enter the physical location where the form is being completed. Include City, State, Zip Code and Phone Number.

**TYPE OR PRINT IN SHARP BALL POINT PEN**

The vendor is to complete the employee information report form (AA302) and retain copy for the vendor's own files. The vendor is to submit a copy to the public agency awarding the contract and forward a copy to:

**NJ Department of the Treasury  
Division of Contract Compliance & Equal Employment Opportunity  
P.O. Box 209  
Trenton, New Jersey 08625-0209 Telephone No. (609) 292-5475**

Form: [http://nj.gov/treasury/contract\\_compliance/pdf/aa302.pdf](http://nj.gov/treasury/contract_compliance/pdf/aa302.pdf)

Instructions: [http://nj.gov/treasury/contract\\_compliance/pdf/aa302ins.pdf](http://nj.gov/treasury/contract_compliance/pdf/aa302ins.pdf)

Note that the sample form shown on the following page is for illustrative purposes only and should not be submitted. Use the state website links above to obtain the actual form.

If you have any questions on EEO/AA forms and/or requirements, please contact:

Jeana F. Abuan, Affirmative Action Officer, Public Agency Compliance Officer  
Department of Administration, Office of Equal Opportunity/Affirmative Action  
280 Grove Street Room-103  
Jersey City NJ 07302

Tel. #201-547- 4533

Fax# 201-547-5088

E-mail Address: [abuanJ@jcnj.org](mailto:abuanJ@jcnj.org)



## BUSINESS REGISTRATION LANGUAGE AND SAMPLE BRC

Refer to <http://www.state.nj.us/treasury/revenue/busregcert.htm>)

**P.L. 2004, c. 57 (N.J.S.A. 52:32-44)**

### MANDATORY BUSINESS REGISTRATION LANGUAGE

#### Non Construction Contracts

P.L. 2004, c. 57 (Chapter 57) amends and supplements the business registration provisions of N.J.S.A. 52:32-44 which impose certain requirements upon a business competing for, or entering into a contract with a local contracting agency whose contracting activities are subject to the requirements of the Local Public Contracts Law (N.J.S.A. 40A:11-2).

#### “New Jersey Business Registration Requirements”

The contractor shall provide written notice to its subcontractors of the responsibility to submit proof of business registration to the contractor.

Before final payment on the contract is made by the contracting agency, the contractor shall submit an accurate list and the proof of business registration of each subcontractor or supplier used in the fulfillment of the contract, or shall attest that no subcontractors were used.

**For the term of the contract, the contractor and each of its affiliates and a subcontractor and each of its affiliates [N.J.S.A. 52:32-44(g)(3)] shall collect and remit to the Director, New Jersey Division of Taxation, the use tax due pursuant to the Sales and Use Tax Act on all sales of tangible personal property delivered into this State, regardless of whether the tangible personal property is intended for a contract with a contracting agency.**

A business organization that fails to provide a copy of a business registration as required pursuant to section of P.L.2001, c.134 (C.52:32-44 et al.) or subsection e. or f. of section 92 of P.L.1977, c.110 (C.5:12-92), or that provides false business registration information under the requirements of either of those sections, shall be liable for a penalty of \$25 for each day of violation, not to exceed \$50,000 for each business registration copy not properly provided under a contract with a contracting agency.”

STATE OF NEW JERSEY  
BUSINESS REGISTRATION CERTIFICATE  
FOR STATE AGENCY AND CASINO SERVICE CONTRACTOR

DEPARTMENT OF TREASURY  
DIVISION OF REVENUE  
PO BOX 325  
TRENTON, NJ 08646-0325

TAXPAYER NAME:  
TAX REGISTRATION TEST ACCOUNT

TAXPAYER IDENTIFICATION#:  
970-097-382/500

ADDRESS:  
847 ROEBLING AVE  
TRENTON NJ 08611

EFFECTIVE DATE:  
01/01/01

FORM-BRC(08-01)

TRADE NAME:  
CLIENT REGISTRATION

SEQUENCE NUMBER:  
0107530

ISSUANCE DATE:  
07/14/04

This Certificate is NOT assignable or transferrable. It must be conspicuously displayed at above address.

STATE OF NEW JERSEY  
BUSINESS REGISTRATION CERTIFICATE

Taxpayer Name: TAX REG TEST ACCOUNT

Trade Name:

Address: 847 ROEBLING AVE  
TRENTON, NJ 08611

Certificate Number: 1095907

Date of Issuance: October 14, 2004

For Office Use Only:  
20041014112823533

**CERTIFICATION OF COMPLIANCE WITH THE CITY OF JERSEY CITY  
CONTRACTOR PAY-TO-PLAY REFORM ORDINANCE 08-128 ADOPTED  
ON SEPTEMBER 3, 2008**

**PART I - Vendor Affirmation**

The undersigned, being authorized and knowledgeable of the circumstances, does hereby certify that \_\_\_\_\_ (name of business entity) has not made any reportable contributions in the \*\*one-year period preceding \_\_\_\_\_ (date City Council awards contract) that would be deemed to be violations of Section One of the City of Jersey City's Contractor Pay-to-Play Reform Ordinance 08-128 (attached hereto) and that would bar the award of this contract. I further certify that during the term of the contract \_\_\_\_\_ (name of business entity) will not make any reportable contributions in violation of Ordinance 08-128.

**PART II - Signature and Attestation:**

The undersigned is fully aware that if I have misrepresented in whole or part this affirmation and certification, I and/or the business entity, will be liable for any penalty permitted under law.

Name of Business Entity: \_\_\_\_\_

Signed \_\_\_\_\_ Title: \_\_\_\_\_

Print Name \_\_\_\_\_ Date: \_\_\_\_\_

Subscribed and sworn before me  
this \_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_. \_\_\_\_\_ (Affiant)

My Commission expires: \_\_\_\_\_  
(Print name & title of affiant) (Corporate Seal)

\*\*Pursuant to Section 2 of Ordinance 08-128, no contributions or solicitation of contributions made prior to the effective date Ordinance 08-128 (September 23, 2008) shall be deemed to be a violation of the Ordinance.

City Clerk File No. Ord. 08-128

Agenda No. INITIATIVE PETITION 1st Reading

Agenda No. 4.A. 2nd Reading & Final Passage



## ORDINANCE OF JERSEY CITY, N.J.

COUNCIL AS A WHOLE  
offered and moved adoption of the following ordinance:

CITY ORDINANCE **08-128**

**TITLE:**

**An ordinance establishing that a Business Entity which makes political contributions to municipal candidates and municipal and county political parties in excess of certain thresholds shall be limited in its ability to receive public contracts from the City of Jersey City (CONTRACTOR PAY-TO-PLAY REFORM ORDINANCE)**

**The Municipal Council of the City of Jersey City does hereby ordain:**

**WHEREAS**, large political contributions from those seeking or performing contracts with a municipality raise reasonable concerns on the part of taxpayers and residents as to their trust in government and its business practices; and

**WHEREAS**, pursuant to N.J.S.A. 40:48-2, a municipality is authorized to adopt such ordinances, regulations, rules and by-laws as necessary and proper for good government, as well as the public health, safety and welfare; and

**WHEREAS**, pursuant to P.L.2005, c.271 (codified at N.J.S.A. 40A:11-51) a municipality is authorized to adopt by ordinance, measures limiting the awarding of public contracts to business entities that have made political contributions, and limiting the contributions that the recipient of such a contract can make during the term of a contract; and

**WHEREAS**, in the interest of good government, the people and the government of the City of Jersey City desire to establish a policy that will avoid the perception of improper influence in public contracting and local elections;

**NOW, THEREFORE, BE IT RESOLVED**, it shall be the policy of the City of Jersey City to create such a regulation which states that a Business Entity which makes political contributions to municipal candidates and municipal and county political parties in excess of certain thresholds shall be limited in its ability to receive public contracts from the City of Jersey City; and

**BE IT ORDAINED** by the City of Jersey City, in the County of Hudson, and State of New Jersey, as follows:

**DEFINITIONS**

As used in this ordinance:

- (a) "Campaign Committee" means (i) every candidate for City of Jersey City elective municipal office; (ii) every candidate committee established by or for the benefit of a candidate for City of Jersey City elective municipal office; (iii) every joint candidate committee established in whole or in part by or for the benefit of a candidate for City of Jersey City elective municipal office; (iv) every political party committee of the City of Jersey City; (v) every political party committee of the County of Hudson; and (vi) every political committee, continuing political committee, or other form of association or organization that regularly engages in the support of candidates for the City of Jersey City municipal or Hudson county elective offices or City of Jersey City municipal or Hudson county political parties or political party committees. The terms in the foregoing paragraph have the meaning prescribed in N.J.A.C. 19:25-1.7,

An ordinance establishing that a Business Entity which makes political contributions to municipal candidates and municipal and county political parties in excess of certain thresholds shall be limited in its ability to receive public contracts from the City of Jersey City (CONTRACTOR PAY-TO-PLAY REFORM ORDINANCE)

- (b) "Contribution" has the meaning prescribed in N.J.A.C. 19:25-1.7. By way of illustration, and not limitation, this definition includes pledges, loans, and in-kind contributions.
- (c) A "contract for professional or extraordinary services" means all contracts for "professional services" and "extraordinary unspecifiable services" as such term is used in N.J.S.A. 40A:11-5
- (d) For purposes of this Ordinance, a "Business Entity" whose contributions are regulated by this ordinance means: (i) an individual including the individual's spouse, and any child/children; (ii) a firm; corporation; professional corporation; partnership; limited liability company; organization; association; and any other manner and kind of business entity; (iii) any person who owns 10% or more of the equity or ownership or income interests in a person or entity as defined in sections (i) and (ii) above and their spouses and child/children; (iv) all partners or officers of such an entity, in the aggregate, and their spouses and child/children; (v) any person, subcontractor, subsidiary, corporation, firm, partnership, limited liability company, organization or association who has received or indefeasibly acquired the right to receive, from a person described in subparagraph (i) above, more than \$100,000.00 in compensation or income of any kind (including, by way of illustration, and not limitation: wages, salaries, sums paid to independent contractors, benefits, dividends, profit-sharing, pension contributions, deferred contributions, stock, stock options or gifts), in any twelve (12) month period prior to the award of, or during the term of, a contract subject to this ordinance; and (vi) all persons who are an "affiliate" of a Business Entity as defined in sections (i), (ii) and (v) above, as such term is used in 11 U.S.C. 101(2).

#### SECTION 1 - PROHIBITION ON AWARDING PUBLIC CONTRACTS TO CERTAIN CONTRIBUTORS

- (e) To the extent that it is not inconsistent with state or federal law, the City of Jersey City and any of its departments, instrumentalities or purchasing agents shall not enter into any agreement or otherwise contract to procure "professional services" as such term is defined at N.J.S.A. 40A:11-2(6) and used at N.J.S.A. 40A:11-5(1)(a)(i) and/or banking, insurance or other consulting service (hereinafter "Professional Services"), nor "extraordinary unspecified services" as such term is defined at N.J.S.A. 40A:11-2(7) and used at N.J.S.A. 40A:11-5(1)(a)(ii) and/or media, public relations, lobbying, parking garage management or other consulting and/or management service (hereinafter "Extraordinary Unspecified Services") from any Business Entity if such Business Entity has solicited or made any Contribution to (i) a candidate, candidate committee or joint candidates committee of any candidate for elective municipal office in Jersey City or a holder of public office having ultimate responsibility for the award of a contract, or (ii) to any Jersey City or Hudson County political committee or political party committee, or (iii) to any continuing political committee or political action committee that regularly engages in the support of Jersey City municipal or Hudson County elections and/or Jersey City municipal or Hudson County candidates, candidate committees, joint candidate committees, political committees, political parties, political party committees, (hereinafter "PAC"), in excess of the thresholds specified in subsection (c) within one calendar year immediately preceding the date of the contract or agreement.
- (f) No Business Entity who submits a proposal for, enters into negotiations for, or agrees to any contract or agreement with the City of Jersey City or any of its departments or instrumentalities, for the rendition of Professional Services or Extraordinary Unspecified Services shall knowingly solicit or make any Contribution, to (i) a candidate, candidate committee or joint candidates committee of any candidate for elective municipal office in Jersey City, or a holder of public office having ultimate responsibility for the award of a contract, or (ii) to any Jersey City or Hudson County political committee or political party committee, or (iii) any PAC between the time of first communication between that Business Entity and the municipality regarding a specific agreement for Professional Services or Extraordinary Unspecified Services, and the later of the termination of negotiations or rejection of any proposal, or the completion of the performance or specified time period of that contract or agreement.
- (g) The monetary thresholds of this Ordinance are: (i) a maximum of \$300 per calendar year each for any purpose to any candidate or candidate committee for mayor or governing body, or \$500 per calendar year to any joint candidates committee for mayor or governing body, or \$300 per calendar year to a political committee or political party committee of the City of Jersey City; (ii) \$500 maximum per calendar year to a Hudson County political committee or political party committee; and (iii) \$500 maximum per calendar year to any PAC. However, for each Business Entity party to a contract for Professional or Extraordinary Unspecified Services as defined in subparagraph (a), or engaged in negotiations for a contract defined in subparagraph (a), when such Business Entity's Contribution is aggregated with all "persons" defined in subparagraph (d)

An ordinance establishing that a Business Entity which makes political contributions to municipal candidates and municipal and county political parties in excess of certain thresholds shall be limited in its ability to receive public contracts from the City of Jersey City (CONTRACTOR PAY-TO-PLAY REFORM ORDINANCE)

of "Definitions" above, by virtue of their affiliation to that Business Entity party, a maximum of \$2,500 to all City of Jersey City candidates, candidate committees, joint candidate committees, and holders of public office having ultimate responsibility for the award of a contract, all City of Jersey City or Hudson County political committees and political party committees as described herein combined, without violating subsection (a) of this section.

- (h) For purposes of this section, the office that is considered to have ultimate responsibility for the award of the contract shall be (i) the City of Jersey City Mayor or Governing body, if the contract requires approval or appropriation from the Mayor or Governing body, or (ii) the Mayor of the City of Jersey City, if the contract requires approval of the Mayor, or if a public officer who is responsible for the award of a contract is appointed by the Mayor.
- (i) Rules regarding subcontractors. No person may be awarded a subcontract to perform under a contract subject to this Ordinance, if the subcontractor would be disqualified by paragraph (a) from receiving the contract at the time that the subcontract is awarded. Nor may any person who would be disqualified by paragraph (a) from receiving the contract perform substantially all of obligations described in a contract for professional or extraordinary services that is subject to this ordinance.

#### SECTION 2 - CONTRIBUTIONS MADE PRIOR TO THE EFFECTIVE DATE

No Contribution or solicitation of contributions made prior to the effective date of this Ordinance shall be deemed to give rise to a violation of this Ordinance.

#### SECTION 3 - CONTRACT RENEWAL

No contract subject to this ordinance may be renewed, extended, or materially modified unless the resulting renewal, extension, or modification would be allowable under the provisions of this ordinance if it were an initial contract.

#### SECTION 4 - CONTRIBUTION STATEMENT BY BUSINESS ENTITY

- (j) Prior to awarding any contract or agreement to procure Professional Services" or Extraordinary Unspecified Services" from any Business Entity, the City of Jersey City or its purchasing agents and departments, as the case may be, shall receive a sworn statement from said Business Entity which is the intended recipient of said contract that he/she/it has not made a Contribution in violation of Section 1 of this Ordinance. The City of Jersey City, its purchasing agents and departments shall be responsible for informing the City Council that the aforementioned sworn statement has been received and that the Business Entity is not in violation of this ordinance, prior to awarding the contract or agreement.
- (k) A Business Entity shall have a continuing duty to report to the City of Jersey City any Contributions that constitute a violation of this act that are made during the negotiation, proposal process or the duration of a contract. The City of Jersey City, its purchasing agents and departments shall be responsible for informing the governing body within ten (10) business days after receipt of said report from the Business Entity, or at the next City Council meeting following receipt of said report from the Business Entity, or whichever comes first.
- (l) The certification required under this subsection shall be made prior to entry into the contract or agreement with the City of Jersey City, or prior to the provision of services or goods, as the case may be, and shall be in addition to any other certifications that may be required by any other provision of law.

#### SECTION 5 - RETURN OF EXCESS CONTRIBUTIONS

A Business Entity that is a party to a contract for Professional Services or Extraordinary Unspecified Services may cure a violation of Section 1 of this Ordinance, if, within 30 days after the date on which the applicable ELEC report is published, said Business Entity notifies the municipality in writing and seeks and receives reimbursement of the Contribution from the recipient of such Contribution.

#### SECTION 6 - EXEMPTIONS

The contribution limitations prior to entering into a contract in Section 1(a) do not apply to contracts which (i) are awarded to the lowest responsible bidder after public advertising for bids and bidding therefor within the meaning of N.J.S.A. 40A:11-4, or (ii) are awarded in the case of emergency under N.J.S.A. 40A:11-6. There is no exemption for contracts awarded pursuant to a "Fair and Open Process" under N.J.S.A. 19:44A-20 *et seq.*

An ordinance establishing that a Business Entity which makes political contributions to municipal candidates and municipal and county political parties in excess of certain thresholds shall be limited in its ability to receive public contracts from the City of Jersey City (CONTRACTOR PAY-TO-PLAY REFORM ORDINANCE)

#### SECTION 7 - PENALTY

- (m) It shall be a material breach of the terms of a City of Jersey City agreement or contract for Professional Services or Extraordinary Unspecified Services when a Business Entity that is a party to such agreement or contract has: (i) made or solicited a Contribution in violation of this Ordinance; (ii) knowingly concealed or misrepresented a Contribution given or received; (iii) made or solicited Contributions through intermediaries for the purpose of concealing or misrepresenting the source of the Contribution; (iv) made or solicited any Contribution on the condition or with the agreement that it will be re-contributed to a candidate, candidate committee or joint candidates committee of any candidate for elective municipal office in Jersey City, or a holder of public office having ultimate responsibility for the award of a contract, or any Jersey City or Hudson County political committee or political party committee, or any PAC; (v) engaged or employed a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any Contribution, which if made or solicited by the professional Business Entity itself, would subject that entity to the restrictions of this Ordinance; (vi) funded contributions made by third parties, including consultants, attorneys, family members, and employees; (vii) engaged in any exchange of Contributions to circumvent the intent of this Ordinance; or (viii) directly or indirectly, through or by any other person or means, done any act which if done directly would subject that entity to the restrictions of this Ordinance.
- (n) Furthermore, any Business Entity that violates Section 7 (a) (i-viii) shall be disqualified from eligibility for future City of Jersey City contracts for a period of four (4) calendar years from the date of the violation.
- (o) Any person who knowingly, purposely, or recklessly violates any provision of this ordinance, or who conspires with another person to violate any provision of this ordinance, or who, with the purpose of promoting or facilitating a violation of this ordinance, solicits another person to commit it, or aids or agrees, or attempts to aid another person in planning or committing it, shall be subject to punishment including fines and/or imprisonment as fixed by law for violations of the ordinances of the City of Jersey City.

#### SECTION 8 - CITIZENS PRIVATE RIGHT OF ACTION

In addition to any rights that were heretofore available, or which may hereafter be available, to citizens, taxpayers, or associations, to challenge violations of this ordinance, every person aggrieved by a violation of the ordinance, or any taxpayer or resident of the City of Jersey City has the right, consistent with the Rules of Court, to file charges in a court of competent jurisdiction, and/or to pursue a civil action for a violation of this ordinance in a court of competent jurisdiction, and to seek and obtain declaratory, injunctive, or other legal or equitable relief, including but not limited to, attorneys fees and costs, arising from or related to a violation of this ordinance.

#### SECTION 9 - SEVERABILITY

If any provision of this Ordinance, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this Ordinance to the extent it can be given effect, or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby, and to this extent the provisions of this Ordinance are severable. The drafters of this Ordinance, the persons signing the petition in support of this Ordinance, and the persons who cast votes in favor of the Ordinance, declare that they would have supported the Ordinance and each section, subsection, sentence, clause, phrase, or provision or application thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses, phrases, or provisions or applications thereof may be held invalid.

COMMITTEE OF PETITIONERS pursuant to N.J.S.A. 40:69A-186

James Carroll, 44 Terrace, Jersey City, New Jersey 07307  
Steven Fulop, 76 Essex Street, Jersey City, N.J. 07302  
Daniel Levin, 228 ½ Third Street, Jersey City, NJ 07302  
Aaron Morrill, 209 Washington Street, Jersey City, N.J. 07302  
Shelly Skinner, 286 Pavonia, Jersey City, N.J. 07302

#### SECTION 10 - REPEALER

All ordinances or parts of ordinances which are inconsistent with any provisions of this Ordinance are hereby repealed as to the extent of such inconsistencies.

An ordinance establishing that a Business Entity which makes political contributions to municipal candidates and municipal and county political parties in excess of certain thresholds shall be limited in its ability to receive public contracts from the City of Jersey City (CONTRACTOR PAY-TO-PLAY REFORM ORDINANCE)

**SECTION 11 - INDEXING**

The monetary thresholds of "Definitions" Section (d) and Section 1(c) of this ordinance shall be increased effective March 1 of each calendar year by the percentage increase, in the prior calendar year, of the consumer price index for all urban consumers (CPI-U) for the New York-Northern New Jersey-Long Island region, rounded to the nearest \$10.00. The Clerk of the City of Jersey City shall, by no later than April 1 of each calendar year, prepare and publish the revised thresholds on the official municipal website and in an official municipal newspaper.

**SECTION 12 - EFFECTIVE DATE**

This Ordinance shall become effective twenty (20) days following the final adoption thereof by the Municipal Council of the City of Jersey City and shall be published as required by law.

APPROVED AS TO LEGAL FORM

APPROVED: \_\_\_\_\_

\_\_\_\_\_  
Corporation Counsel

APPROVED: \_\_\_\_\_  
Business Administrator

Certification Required

Not Required

# Ordinance of the City of Jersey City, N.J.

ORDINANCE NO. Ord. 08-128

TITLE: 4.A. An ordinance establishing a Business Entity which makes political contributions to municipal candidates and municipal and county political parties in excess of certain thresholds shall be limited to its ability to receive public contracts from the City of Jersey City (Contractor Pay-to-Play Reform Ordinance)



INITIATED BY PETITION CERTIFIED AUGUST 20, 2008

RECORD OF COUNCIL VOTE ON INTRODUCTION											
											N/A
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO				GAUGHAN				BRENNAN			
SPINELLO				FULOP				FLOOD			
LIPSKI				RICHARDSON				VEGA, PRES.			

✓ Indicates Vote

JAMES F. WADDLETON BRET SCHUNDLER STEVE DAVIDSON TOM WILEN	AARON MORRILL RAYLIE VUNKEL TOM GIBBONS SHELLEY SKINNER	JAMES CARROLL SEBASTIAN BERNHEIM HEATHER TAYLOR DANIEL LEVIN
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N.V.-Not Voting (Abstain)

RECORD OF COUNCIL VOTE TO CLOSE PUBLIC HEARING											
											SEP 03 2008 9-0
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO	✓			GAUGHAN	✓			BRENNAN	✓		
SPINELLO	✓			FULOP	✓			FLOOD	✓		
LIPSKI	✓			RICHARDSON	✓			VEGA, PRES.	✓		

✓ Indicates Vote

DAN FALCON ANTHONY MORELLI ANDREW HUBSCH MAHALEY BOWLES	YVONNE BALCER	
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N.V.-Not Voting (Abstain)

RECORD OF COUNCIL VOTE ON AMENDMENTS, IF ANY											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO				GAUGHAN				BRENNAN			
SPINELLO				FULOP				FLOOD			
LIPSKI				RICHARDSON				VEGA, PRES.			

✓ Indicates Vote N.V.-Not Voting (Abstain)

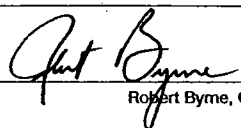
RECORD OF FINAL COUNCIL VOTE											
											SEP 03 2008 9-0
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO	✓			GAUGHAN	✓			BRENNAN	✓		
SPINELLO	✓			FULOP	✓			FLOOD	✓		
LIPSKI	✓			RICHARDSON	✓			VEGA, PRES.	✓		


✓ Indicates Vote N.V.-Not Voting (Abstain)


Initiated by Petition Certified August 20, 2008

Adopted on second and final reading after hearing on SEP 03 2008

This is to certify that the foregoing Ordinance was adopted by the Municipal Council at its meeting on SEP 03 2008

  
 Robert Byrne, City Clerk

APPROVED:   
 Mariano Vega, Jr., Council President  
 Date: SEP 03 2008

APPROVED:   
 Jerramiah T. Healy, Mayor  
 Date: SEP 05 2008  
 Date to Mayor SEP 04 2008

\*Amendment(s):