

2010 Annual Report

New Jersey Builders Utilization Initiative for Labor Diversity Program

(NJBUILD)

Implementation of P.L. 2009, Chapter 313



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OVERVIEW

Public Law 2009, Chapter 313 is designed to provide training opportunities for minorities and women in the construction trades and construction related trades so that minorities and women can realize equal employment opportunity in public contracting. The Law requires that the New Jersey Department of Labor and Workforce Development (LWD) annually submit and publish a report on efforts to implement the law. It further requires that the Department of Treasury, Division of Public Contracts EEO Compliance (Treasury) cooperate with the LWD in preparing the report. This report summarizes the activities of both agencies including monitoring efforts, funding allocations and training program outcomes.

The legislation defines the distinct roles of Treasury and the LWD in carrying out the mandates of the law. For purposes of this report, the roles are summarized as follows. Treasury is responsible for ensuring that public agencies contribute training funds to NJ BUILD (The New Jersey Builders Utilization for Labor Diversity) and that contractors who have been awarded public contracts hire minorities and women in accordance with applicable targeted EEO/AA goals. The LWD is responsible for receipt of the training funds and the development and implementation of training programs.

The report primarily covers the period of September 1, 2009 through December 15, 2010. While the focus of the 2010 report is on annual data, any significant data affecting the results of the period are also discussed.

Legislation

The construction trades training program was originally established in the mid-1980's although it did not become fully implemented until 1994. The training program was designed to eliminate discrimination and disparity in the construction trades, particularly with respect to employment on public contracts, based on empirical evidence of minority and women underutilization. It was implemented pursuant to the Treasurer's statutory authority under the Law Against Discrimination at N.J.S.A. 10:5-31 et. seq. and the adoption of regulations at N.J.A.C. 17:27-7.5. Although over the years several amendments have been made to the regulations in order to ensure an effective training program, the annual Appropriations Act and enactment of P.L. 2009 Chapter 313 and Chapter 335 provided the statutory framework by ensuring that there is a continued pool of qualified minorities and women available for employment on public contracts.

Program Milestones and Outcomes

During the reporting period both agencies began implementation efforts. These included the following:

- Treasury began periodic comparative analysis of its training fund allocation data with data maintained by the LWD and the Office of Management and Budget on the current status of the NJ BUILD account in order to verify public agency compliance with training fund allocation requirements.

- During the year, funding allocations were increased and totaled approximately \$5.5 million as of December 15, 2010.
- Concerned about the effect that significant employment losses and high unemployment in the construction industry would have on program outcomes, the LWD implemented a number of pilot efforts to prepare women and minorities for construction employment.
- Over the three-year period since the beginning of national recession, December 2007 through December 2010, New Jersey's construction employment has fallen by 45,400 jobs. The loss accounts to one out of every four construction jobs (-26.6%) in the state, making the industry the biggest percentage job loser of the recession.
- During the past year, the LWD invested approximately \$1.6 million in three separate training efforts, Individual Training Grants for unemployed women and minorities, co-investment in an existing training program, and a recent pilot "Women BUILD" program. These programs provided training to 180 individuals and resulted in employment for 81 individuals.

Lastly, the report discusses planned future efforts including, inter-agency collaboration, improved employer engagement and additional industry driven training programs.

The statistics presented in this report aren't just numbers. They represent real people who need education and training in order to secure decent paying jobs in New Jersey's workforce; contractors and labor organizations that are being supported in an effort to assist them to comply with legislative mandates; and public agencies doing their part to ensure that women and minorities receive an equal opportunity for employment in the construction trades.

NEW JERSEY BUILDERS UTILIZATION INITIATIVE FOR LABOR DIVERSITY PROGRAM (NJ BUILD)

Regulatory and Legislative History

The first training program for minorities and women in the construction trades was established in 1994 under authority of the EEO/AA in public contracting regulations codified at N.J.A.C. 17:27. The Division of Public Contracts EEO Compliance (Treasury) is responsible for implementing the regulations pursuant to the State Treasurer's authority under N.J.S.A. 10:5-31 et seq. The regulation required that one-half of one percent of the total cost of a construction project be paid out by the public agency to: 1) an approved training agency, 2) an affected contractor or 3) a subcontractor for payment to an approved training agency where it has been determined that minorities and women are underutilized on the project. It applied to all state and local government contracts, specifically, state contracts equal or greater than \$1 million and local government contracts equal or greater than \$2.5 million.

Over the last 15 years, the training program has experienced many changes. The training program was eliminated following the expiration or “sunset” of N.J.A.C. 17:27 in 1999. In its place, Treasury established a one-year pilot program known as Training Opportunities Offer Lifelong Skills (TOOLS) in 2002 which allowed certain state agencies to voluntarily pool a sum of money to train women and minorities to work on specified public works projects. The TOOLS program proved unsuccessful since by the time minorities and women completed their training, the project on which they were to be employed was also completed.

The re-adoption of N.J.A.C. 17:27 with amendments in December 2004 enabled Treasury to revitalize its original training program. This was made possible due to amendments to the training rules that allowed Treasury to direct public agencies to release the training funds for the purpose of training minorities and women whether or not they were employed on the sanctioned project. With the revitalization of the original training program, two significant changes were made.

First, the public agencies were only directed to release the training funds when a contractor failed to make a good faith effort to hire minorities and women in accordance with targeted affirmative action goals. Second, Treasury directed that the training funds be released to the LWD which had assumed responsibility for implementing the training program through a Memorandum of Understanding executed between the State Treasurer and the Commissioner of the Department of Labor. The training funds were to be used for Labor’s construction trades training program for minorities and women known as the NJ BUILD.

The revitalization of the training program proved to be successful in increasing contractor compliance with affirmative action requirements. Contractors began to understand that their failure to make good faith efforts to hire minorities and women may result in the withholding or loss of payments for work performed on the project. Public agencies began working cooperatively with Treasury in releasing funds to the LWD as directed for the training of minorities and women in the construction trades and demanding compliance.

However, the training program could only be successful if Treasury was able to unequivocally issue sanctions against non-compliant contractors. Thus, the success of the training program was jeopardized when shortly after it was transferred to the LWD, Treasury’s sanctioning program was held in abeyance from September 2005 to October 2008. The abeyance of Treasury’s sanctioning authority was due to the need to address issues concerning the appropriateness of directing the release of training funds upon a finding of under-utilization of minorities and women. This resulted in decreased funding for the minorities and women construction trades training program and NJ BUILD virtually came to a standstill. However, the need for a training program to eliminate discrimination and disparity in the construction trades continued to be evidenced based on data as outlined in [Attachment E](#).

A New Law, A New Direction

In efforts to chart a new course to address the problem of funding for NJ BUILD, the training fund allocation requirement was included in the FY 2009 Appropriations Act and amendments were made to the Division's rules in October 2008. These measures provided an on-going pool of funding for NJ BUILD. Specifically, as a result of these measures, the release of the training funds is no longer based on the issuance of sanctions for non-compliance with EEO/AA requirements. Rather, all State agencies are now required to pay one half of one percent of the total cost of construction contracts that are equal to or greater than \$1 million to the LWD immediately upon award of the contract. This ensures a continued flow of funds for the development and implementation of construction trades training programs for minorities and women.

Although the FY 2009 and subsequent Appropriations Act did not subject independent authorities, colleges and universities to the training allocation requirements, the requirements were extended to them through Executive Order 151 (Corzine). This Executive Order enhanced inclusion efforts for minorities and women to benefit from the "New Jersey Economic Assistance and Recovery Plan" and the "American Recovery and Reinvestment Act of 2009" (ARRA) and was later codified into law with the enactment of P.L. 2009, Chapter 335. It is noted that the Appropriations Act, E.O. 151 and P.L. 2009, Chapter 335 did not extend the training allocation requirements to local governments due to local mandates restrictions. However, the exclusion of local governments has changed as a result of the enactment of P.L. 2009, Chapter 313.

It is important to note that P.L. 2009, Chapter 313 raises two issues: one, an unfunded mandate on local governments, and two, it constitutionally questions the use of the training fund allocation for construction "related" training as compared to construction "trades" training. Because of these issues, local government compliance with the training fund allocation requirements imposed by the law has been held in abeyance pending the outcome of Attorney General's advice. The Attorney General has also been asked to address the issue of using the training funds for construction related occupational training. Still, the LWD and Treasury have determined to move forward with issuing the required report on the law's implementation which is required annually beginning December 31, 2010.

TREASURY MONITORING EFFORTS

Treasury is required to report the public agencies compliance with training fund allocation requirements under P.L. 2009, Chapter 313. In addition, Treasury is required to provide information regarding minority and women participation on the contracts that were subject to these requirements.

To prepare this report, Treasury reviewed its construction database to ascertain all construction awards made in the State of New Jersey between September 1, 2009 to December 15, 2010 whose total cost was equal or greater than \$1 million. This information is entered into its database based on Initial Project Workforce Reports (AA-201 Forms) which contractors are required to submit after notification of contract award,

but prior to signing the contract. Treasury then searched its training records for training fund letters that matched these contracts. In accordance with the requirements set forth in the EEO/AA rules, all public agencies that award a construction contract equal or greater than \$1 million are required to submit a training fund allocation to Treasury verifying that they have allocated the one half of one percent training funds for the subject project and the date that the funds were released to the LWD for NJ BUILD. Thereafter Treasury reviewed its findings against records maintained by the LWD and the Office of Management and Budget.

Treasury also reviewed its database for public agencies that have been audited from September 1, 2009 to December 15, 2010. It is noted that Treasury endeavors to audit public agencies in accordance with the following frequency schedule as set forth in its standard operating procedures:

1. Municipalities with a population of 5,000 or less and their boards of education should be visited every three years.
2. Municipalities with a population of more than 5,000 but less than 10,000 and their boards of education should be visited every two years.
3. Municipalities with a population of over 10,000 and their boards of education should be visited each year.
4. Regional school districts should be visited once a year.
5. County and State agencies should be visited once a year.
6. Non-compliant public agencies may be rescheduled for review within three to six months after being found non-compliant.

However, due to staff reductions, all public agencies are generally audited once every three to five years. When conducting an audit, the investigator reviews the contracting award procedures of the public agency in order to determine if it is in compliance with the Law Against Discrimination, N.J.S.A. 10:5-31 et seq., P.L. 1975, Chapter 127 and the applicable rules of the New Jersey Administrative Code, N.J.A.C. 17:27.

Specifically, Treasury looks at the public agency's contract files to determine whether mandatory EEO language has been included in all contracts, whether the public agency has secured the required affirmative action evidence from the contractor (i.e., AA-201 Initial Project Workforce Report from construction contractors and AA-302 Employee Information Report or Certificate of Employee Information Report from vendors) and whether the public agency allocated and released one half of one percent for the total cost of construction contracts equal or greater than \$1 million to the LWD for NJ BUILD and submitted a training fund letter to Treasury verifying that the funds had been allocated and released as required.

For purposes of this report, Treasury also reviewed the public agency records to identify sanctions that were issued against public agencies for failure to submit training fund letters and/or to maintain them in their contracting files. The data compiled is found in Attachments A, B and C, respectively.

[Attachment A](#) identifies the public agencies that have complied with training fund requirements by allocating and sending one half of one percent to LWD and indicates if the agencies complied with the requirement of issuing a training fund letter to Treasury. The training fund letter should state the agency has allocated and released one half of one percent of the total cost of construction projects in excess of \$1 million including, the name of the project, date awarded, contract amount and one half of one percent allocation. The total amount received during the period of September 1, 2009 through December 15, 2010 is approximately \$5.5 million.

As mentioned previously in the report, local governments have not been reported since their compliance with the training fund allocation requirements has been held in abeyance pending review of the local mandates issues by the Attorney General's Office. However, local governments have allocated the training funds on paper and are holding the release of the funds in abeyance pending the outcome of the Attorney General's advice. The data indicates substantial compliance with training fund allocation requirements by state agencies.

Agencies that failed to comply with the requirements are delineated in [Attachment B](#). Treasury is in the process of notifying non-compliant public agencies to allocate and release the training funds to LWD within thirty (30) days. Public agency audits will be scheduled to confirm that the Training Fund Letter has been submitted to the Division and the training funds released to LWD. Failure to comply will result in the issuance of sanctions and possible referral to the Attorney General's Office for enforcement action, if necessary. When the non-compliant public agencies contribute their outstanding balances, approximately an additional \$2.1 million will be deposited into the NJ BUILD account when the public agencies delineated in Attachment B comply with the training fund requirements.

With respect to minority and women participation on the contracts subject to the training fund allocation requirements, Treasury's findings are delineated in [Attachment C](#). These numbers are extracted from the Treasury's database and are based on information submitted by contractors on the Monthly Project Workforce Reports (AA-202 forms). The data shows the minority and women participation by trade, classification, race and gender. It should be noted that Treasury tracks participation by the number of work hours and not number of employees. The data indicates a continued disparity on the amount of women and minorities working in the construction trades on public contracts.

[Attachment D](#) is based on the 2000 U.S. Census availability statistics. The data summarizes by county and trade the projected number of minorities and women needed to be hired to correct under-utilization in the construction trades.

Lastly, [Attachment E](#) summarizes the 2009 statewide construction trade workforce utilization summary. This information lists by trade the increase or decrease in minority and women utilization in the construction trades during 2009.

Improved Fiscal Contributions

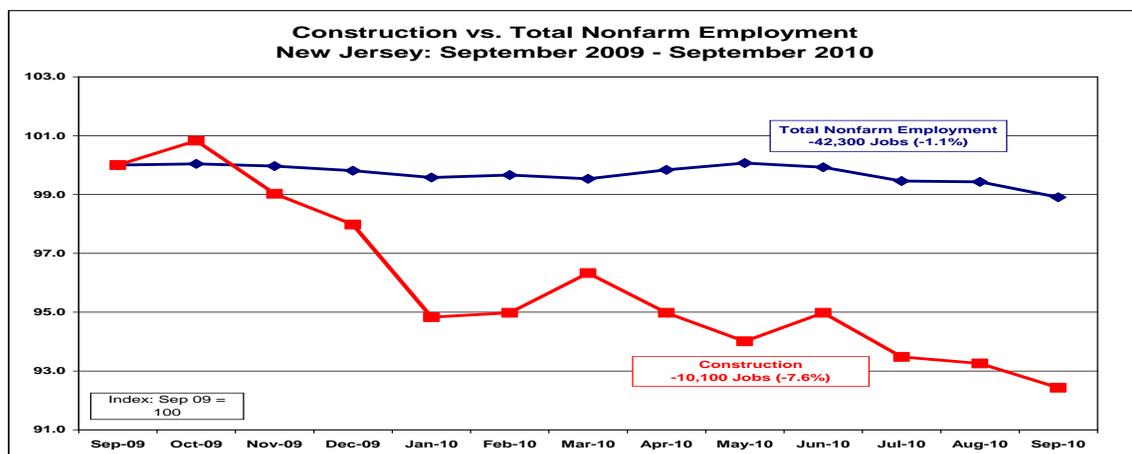
As noted above, Attachment A provides a list of the public agencies that have complied with the training fund allocation requirements during the period of September 1, 2009 through December 15, 2010.

In February 2010, \$1.5 million of NJ BUILD funds were transferred to the State’s General Fund to offset the budget deficit. Additional revenues totaling approximately \$5.5 million were received September 1, 2009 through December 15, 2010. After allocating funds for administrative costs and existing training programs, the total available balance for program implementation as of December 15, 2010 is approximately \$3.8 million. This funding will be utilized to implement future programs described later in the report.

FACING THE PRESENT LANDSCAPE

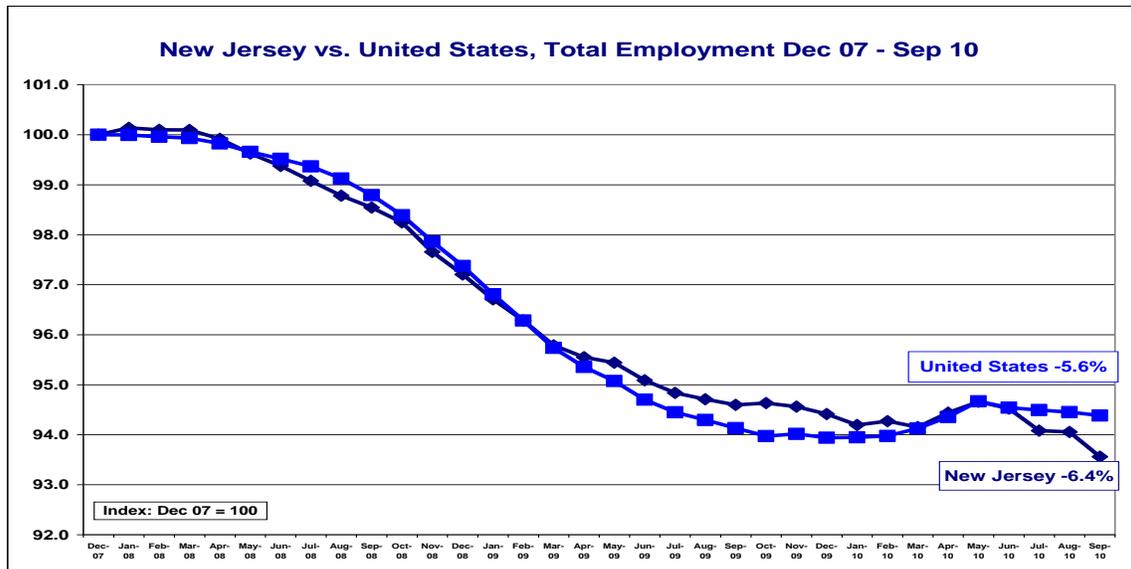
As a result of significant employment losses and high unemployment in the construction industry, the LWD has been conservative in its efforts to train new workers for employment in the industry.

The Construction industry was one of the hardest hit industries during this economic downturn, driven by problems in the housing, financial credit and mortgage markets. Over the course of the recession, New Jersey has seen construction employment fall by -47,300 jobs, a drop of -27.7 percent, considerably more than the overall employment drop of -6.4 percent. In fact, one in five jobs lost during the recession have been in the construction industry, a significant number considering that at the start of the recession the construction industry accounted for only 4.2 percent of all jobs in the New Jersey economy. From September 2009 – September 2010, New Jersey’s construction sector has continued to shed jobs while overall employment in the state has begun to stabilize. Over that period, construction employment fell by -10,100 jobs (-7.6%) while total employment was down by just -1.1 percent (-42,300 jobs).



The downturn of the construction industry has had an effect on many unions in New Jersey resulting in the suspension of recruiting activity which limits the number of available placement opportunities into the construction trades. For example, the Roofers Local #4, Ironworkers Local 373, Painter's unions and the Craft Laborers, and the Operating Engineers all suspended their recruitment activity through the fall of 2010 and some suspended their recruitment indefinitely during 2010.

Over the course of the current recession New Jersey - like most states in the nation - has experienced significant job loss. From the recession's beginning in December 2007 through August 2009 (latest data available), New Jersey has shed just over 260,000 jobs. The state's 6.4 percent decline is greater than the nation's 5.6 percent drop.



Looking at unadjusted data allows for more industry detail. In a September 2009 – September 2010 comparison, construction employment was down -6.8 percent. The majority of the loss occurred in the specialty trade contractor component (-9,600 jobs).

New Jersey Construction Employment				
Unadjusted Data	Sep-09	Sep-10	Change	Percent Change
Construction	140,300	130,700	-9,600	-6.8%
Construction of Buildings	30,900	30,800	-100	-0.3%
Residential Building Construction	19,800	19,900	100	0.5%
Heavy and Civil Engineering	18,100	17,100	-1,000	-5.5%
Specialty Trade Contractors	91,300	82,800	-8,500	-9.3%
Building Equipment Contractors	46,700	44,400	-2,300	-4.9%

CURRENT SOLUTIONS: Project performance and outcome measures

As a result of these harsh economic and industry realities, the LWD has balanced the need to increase employment opportunities for women and minorities in the construction trades with the concern that such efforts would not lead to positive employment outcomes.

In response to the economic downturn, the LWD implemented and administered various training programs through the NJ BUILD program funds. These programs were driven by industry trends and designed to ensure effective and responsible use of funding, specifically in the following three program areas:

1. Investment in Individual Training Accounts,
2. Support of the Construction Trades Training Program for Women and Minorities and;
3. Piloting the “Women Build” Training Program

Workforce training initiatives must develop performance measures and performance outcomes that are achievable and realistic based on the targeted participants, occupations, skill sets and industry demands. The following description of programs funded through NJ BUILD provides a summary of program goals and performance outcomes.

Direct Customer Choice:

Individual Training Accounts

Between June 2007 and September 2009, the NJ BUILD program provided construction training to 125 women and minorities through Individual Training Accounts (ITAs) issued and managed by the State’s One-Stop Career Centers. Approximately \$918,000 was invested in this effort. The New Jersey network of One-Stop Career Centers managed the training coordination with the individuals and the identified training providers. Program students received construction related training courses in industries such as: Heating, Ventilation and Air Conditioning (HVAC), Carpentry, Electrical Technician, Plumbing, Heavy Equipment Operations and Welding. A wage record analysis was conducted on 109 individuals. It was determined that 56% of the individuals obtained employment after completion of the training.

Co-Investing in Workers-Building Best Practices:

Construction Trades Training Program for Women and Minorities

In the reporting period of 2009, approximately \$33,000 of NJ BUILD funds were allocated to complete implementation of an existing training program known as the Construction Trades Training Program for Women and Minorities (CTTP-WM). The ultimate goal of the CTTP-WM was to provide participants with vocation specific training and help them to gain entrance into construction trades apprenticeship programs and employment in quality construction jobs. The program engaged in a holistic approach

which is required to help participants overcome multiple employment barriers. The services included:

- Outreach and recruitment
- Case management and wraparound services
- Workforce readiness
- Job Placement

During the year long program, participants receive 10 weeks of intensive and highly targeted academic preparation in math, reading, and critical thinking. Participants are introduced to the different building trades through hands-on work at County Vocational Schools and site visits to Apprenticeship Training Centers. In addition to academic preparation, participants receive workforce readiness skills training and other wraparound services to help them overcome multiple employment barriers. Such services included training in life skills and financial management, assistance for driver license restoration, transportation and purchase of safety gear or other materials.

At the end of the training program 55 individuals graduated with 14 placed into U.S. Department of Labor (USDOL) registered apprenticeship programs and 11 obtained quality construction jobs. This 45% placement rate is significant given the state of employment in the construction industry during the period. Those not placed into employment continue to receive services through the One-Stop Career Service Centers. Services include access to employment information, skill assessments, workforce readiness skill training, referral to education and skill training and other supportive services.

Community Collaborative Efforts:

Women Build Pilot Training Program for Women and Female Ex-Offenders

The LWD issued a Notice of Grant Opportunity for the “Women Build” Pilot Training Program for Women and Female Ex-Offenders (Women Build) in September 2010. The goal of the pilot training program, which is funded through NJ BUILD, is to provide construction trades training to women including female ex-offenders residing in Essex County and Camden County.

Data shows that Essex and Camden counties make up the highest number of women incarcerated and housed at the Edna Mahan Correctional Facility as of January 2010. The employment barriers faced by the female ex-offender population coupled with the non-traditional nature of women in the construction trades requires a unique approach to discover the most effective methods of service delivery.

Women Build will connect low-income women and women ex-offenders to higher-wage, non-traditional skilled trades work opportunities in New Jersey. Women Build will incorporate new thinking on outreach engaging role models and including mentoring by female trades-workers; esteem building and case management specifically anticipating the challenges faced by ex offenders; ensuring strong familiarity with skilled trades work

through both exposure and hands on training; and creating opportunities for participants to meet employers during the course of the program.

In October 2010, The Hispanic Family Center of Southern New Jersey (HFC) and New Jersey Institute of Social Justice (NJ ISJ) were each awarded a \$300,000 grant to train 60 women of whom 60% will be female ex-offenders. The 18-month contract period is from October 1, 2010 through March 31, 2012.

This pilot approach will be informed by the experiences of both agencies working together. This program will evolve as the most effective methods of serving female ex-offenders are discovered. In addition, the collaboration between HFC and NJ ISJ offers a new approach to service delivery that builds on the strengths of each organization and encourages sharing knowledge, resources and connections that create new capacities

This program is designed to train workers for advancement and provide job security to women and female ex-offenders reentering the community. Participants must be female; at least 20 years of age at the time of enrollment; demonstrate a valid interest in pursuing a career in construction; reside in Camden or Essex County (or be an ex-offender relocating to the county); possess a high school diploma or GED and a valid driver's license; remain drug free and submit to drug testing throughout the program and; score a minimum of 8th grade on the Test of Adult Basic Education (TABE).

Upon acceptance into the program, the grantee will conduct an assessment to determine the needs of the participant. Each participant will receive wraparound services such as life skills training, supportive services and referrals to appropriate community partners. Case Management will be closely linked to the application and interview process in order to identify needs that may prove to be a barrier to the successful completion of the training program.

200 hours of training over an eight (8) week period will be provided in the key areas of Life Skills and Job Readiness Skills Training, Literacy and Communication, Financial Literacy and Financial Management, Construction Basics, Construction-Based Math and Vocational Hard Skills Training (using hand and power tools, hands-on construction training, etc.)

In addition to providing training and wraparound services, the HFC and NJ ISJ will provide job placement services to the graduates. Ultimately, it is anticipated that the graduates of the training program will be placed in USDOL registered apprenticeships in the construction trades and/or quality construction jobs with employer partners.

FUTURE EFFORTS

As employment in the construction industry stabilizes, the LWD will substantially increase the use of NJ BUILD funds to provide training to women and minorities. The LWD will also work closely with Treasury to assist unemployed women and minorities in the construction industry to access employment opportunities.

During the first quarter of 2011, the LWD will issue a Notice of Grant Opportunity (NGO) for eligible training providers and non-profit organizations to apply for funding to train

women and minorities to obtain the skills needed for entrance into the building trades. The size and scope of the training program will be driven by current industry demands to ensure successful program outcomes.

The LWD will also work to develop a blended training model that provides direct customer choice through individual training grants where appropriate, and continues community collaborative efforts to provide the holistic approach needed to help individuals overcome multiple employment barriers.

In addition, the LWD and Treasury will improve collaborative efforts to ensure that all program outcomes are closely monitored and a higher standard of public agency and contractor compliance is implemented. The strategy will allow for utilization of demographic information to assist monitoring and job placement and training efforts. Specific action steps include:

- Notifying unemployment insurance (UI) claimants with a construction background of the opportunity to be voluntarily placed on Treasury's Qualified Tradespersons List which is distributed to construction contractors statewide.
- Invite graduates of current and prior training programs to be placed on Treasury's Qualified Tradesperson List;
- Monitor contractor compliance with requirement that they post job vacancies for construction projects that are funded with ARRA money with the State's job bank.
- Outreach and market to employers to ensure contractors are aware of and connected to a qualified workforce by posting vacancies with One Stop's and utilizing other state business incentives.
- Continue refinement and implementation of best practices in the areas of contractor monitoring and job training and placement.

CONCLUSION

We will continue our commitment to implement effective construction trades training programs for women and minorities and monitor the compliance efforts of public agencies and their contractors. Our actions will take into consideration the realities of the construction industry trends and will make best efforts to balance the needs of New Jersey's workforce and employers conducting public works projects.

This report illustrates real people receiving career education and training and it is also indicative of the number of New Jersey residents seeking available training opportunities to compete in our challenging workforce landscape. The report also highlights some of the actions taken by New Jersey to ensure equal employment opportunities in the construction trades for women and minorities on public contracts.

The information detailed in the report accurately reflects the makeup of the underutilization of minorities and women in the construction industry, which supports the

need for training programs to increase the number of women and minorities in the construction trades.

The NJ BUILD Program provides a promising alternative that can empower and revitalize the construction industry through utilization of a highly skilled and diverse workforce.

[ATTACHMENT A](#)

[ATTACHMENT B](#)

[ATTACHMENT C](#)

[ATTACHMENT D](#)

[ATTACHMENT E](#)

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