

# Local Public Agency Equal Opportunity Manual



External EO and OJT  
Office of Civil Rights Programs  
South Carolina Department of Transportation  
PO Box 191  
Columbia, SC 29201  
Updated 03/20/24



Dear Contractor:

Thank you for working with the South Carolina Department of Transportation to improve the roadways of South Carolina. As you are aware, all federal-aid construction contracts require contractors to comply with federal equal opportunity requirements. The External Equal Opportunity (EEO) Contractor's Compliance Program ensures that federal highway construction funds are not used in a manner which encourages, supports or results in discrimination in employment or contracting practices based on race, color, religion, sex, national origin, age or disability.

In an effort to assist you with ensuring EEO compliance, we have developed an Equal Opportunity Manual for Local Public Agencies (LPAs). Contractors awarded projects within the state of South Carolina should follow the guidelines of this manual while working on federal-aid construction projects.

I hope that you find this manual very useful and welcome your cooperation in complying with federal EEO requirements. If you have any questions, please contact me at 803-737- 6361 or by email at [BeaglesBD@scdot.org](mailto:BeaglesBD@scdot.org).

Again, thank you for working with our agency as we continue to improve the roadways of South Carolina.

Sincerely,

*Barbara D. Beagles*

Barbara D. Beagles  
Director of Civil Rights Programs  
Office of Civil Rights Programs



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### Introduction

This manual has been developed and is intended to be used as a resource to assist contractors in complying with all federal requirements as set forth by Federal Highway Administration's Required Contract Provisions Federal-Aid Construction Contracts (FHWA 1273).

As a contractor performing work on federal-aid projects, you are responsible for complying with nondiscrimination and equal opportunity requirements. To assist in this effort, various examples and forms have been included in this manual.

From time to time, this manual may be revised to reflect changes associated with EEO compliance. In the event changes occur, information will be distributed accordingly. Questions concerning information provided in this manual should be directed to the Office of Civil Rights Programs.

**Please Note: Some of the forms included in this manual were developed by local contractors and we have received permission to reproduce them for your use.**

**FEDERAL HIGHWAY ADMINISTRATION (FHWA) FORM 1273  
SUPPLEMENTAL SPECIFICATIONS  
Required Contract Provisions Federal-Aid Construction Contracts**

The FHWA Form 1273 includes specific guidelines concerning federal EO requirements. This document also contains guidance on many other items related to project construction and is monitored and enforced by FHWA and SCDOT. Contractors should become familiar with this document in order to ensure compliance with all federal guidelines while working on federal-aid projects.

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## 1. REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

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### I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under title 23, United States Code, as required in 23 CFR 633.102(b) (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services). 23 CFR 633.102(e).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider. 23 CFR 633.102(e).

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services) in accordance with 23 CFR 633.102. The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in solicitation-for-bids or request-for-proposals documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract). 23 CFR 633.102(b).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work

performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract. 23 CFR 633.102(d).

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.
4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. 23 U.S.C. 114(b). The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors. 23 U.S.C. 101(a).

### II. NONDISCRIMINATION (23 CFR 230.107(a); 23 CFR Part 230, Subpart A, Appendix A; EO 11246)

The provisions of this section related to 23 CFR Part 230, Subpart A, Appendix A are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR Part 60, 29 CFR Parts 1625-1627, 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR Part 60, and 29 CFR Parts 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR Part 230, Subpart A, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. **Equal Employment Opportunity:** Equal Employment Opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (see 28 CFR Part 35, 29 CFR Part 1630, 29 CFR Parts 1625-1627, 41 CFR Part 60 and 49 CFR Part 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140, shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR Part 35 and 29 CFR Part 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:
  - a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract. 23 CFR 230.409 (g)(4) & (5).
  - b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, sexual orientation, gender identity, color, national origin, age or disability. Such action shall include: 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, pre-apprenticeship, and/or on-the-job training."
2. **EEO Officer:** The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.
3. **Dissemination of Policy:** All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action or are substantially involved in such action, will be made fully cognizant of and will implement the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:
  - a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.
  - b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.
  - c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.
    - d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.
    - e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.
4. **Recruitment:** When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.
  - a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.
    - b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.
    - c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.
5. **Personnel Actions:** Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age or disability. The following procedures shall be followed:
  - a. The contractor will conduct periodic inspections of project sites to ensure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.
  - b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.
  - c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.
  - d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action



within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

## 6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs (i.e., apprenticeship and on-the-job training programs for the geographical area of contract performance). In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

**7. Unions:** If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. 23 CFR 230.409. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide

sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

**8. Reasonable Accommodation for Applicants / Employees with Disabilities:** The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established thereunder. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

**9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:** The contractor shall not discriminate on the grounds of race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors, suppliers, and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

## 10. Assurances Required:

a. The requirements of 49 CFR Part 26 and the State DOT's FHWA-approved Disadvantaged Business Enterprise (DBE) program are incorporated by reference.

b. The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible.

c. The Title VI and nondiscrimination provisions of U.S. DOT Order 1050.2A at Appendixes A and E are incorporated by reference. 49 CFR Part 21.

**11. Records and Reports:** The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women.

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

### III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of more than \$10,000. 41 CFR 60-1.5.

As prescribed by 41 CFR 60-1.8, the contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location under the contractor's control where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

### IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size), in accordance with 29 CFR 5.5. The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. 23 U.S.C. 113. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. 23 U.S.C. 101. Where applicable law requires that projects be treated as a project on a Federal-aid highway, the provisions of this subpart will apply regardless of the location of the project. Examples include: Surface Transportation Block Grant Program projects funded under 23 U.S.C. 133 [excluding recreational trails projects], the Nationally Significant Freight and Highway

Projects funded under 23 U.S.C. 117, and National Highway Freight Program projects funded under 23 U.S.C. 167.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA- 1273 format and FHWA program requirements.

#### 1. Minimum wages (29 CFR 5.5)

a. *Wage rates and fringe benefits.* All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act ([29 CFR part 3](#))), the full amount of basic hourly wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. As provided in paragraphs (d) and (e) of 29 CFR 5.5, the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act ([40 U.S.C. 3141\(2\)\(B\)](#)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.e. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics must be paid the appropriate wage rate and fringe benefits on the wage determination for the classification(s) of work actually performed, without regard to skill, except as provided in paragraph 4. of this section. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph 1.c. of this section) and the Davis-Bacon poster (WH-1321) must be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. *Frequently recurring classifications.* (1) In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in [29 CFR part 1](#), a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to paragraph 1.c. of this section, provided that:

(i) The work performed by the classification is not performed by a classification in the wage determination for which a prevailing wage rate has been determined;

(ii) The classification is used in the area by the construction industry; and

(iii) The wage rate for the classification bears a reasonable relationship to the prevailing wage rates contained in the wage determination.

(2) The Administrator will establish wage rates for such classifications in accordance with paragraph 1.c.(1)(iii) of this section. Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

c. *Conformance.* (1) The contracting officer must require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract be classified in conformance with the wage determination. Conformance of an additional classification and wage rate and fringe benefits is appropriate only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is used in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.

(3) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken will be sent by the contracting officer by email to [DBAconformance@dol.gov](mailto:DBAconformance@dol.gov). The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer will, by email to [DBAconformance@dol.gov](mailto:DBAconformance@dol.gov), refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(5) The contracting officer must promptly notify the contractor of the action taken by the Wage and Hour Division

under paragraphs 1.c.(3) and (4) of this section. The contractor must furnish a written copy of such determination to each affected worker or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 1.c.(3) or (4) of this section must be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

d. *Fringe benefits not expressed as an hourly rate.*

Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor may either pay the benefit as stated in the wage determination or may pay another bona fide fringe benefit or an hourly cash equivalent thereof.

e. *Unfunded plans.* If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the contractor, in accordance with the criteria set forth in § 5.28, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

f. *Interest.* In the event of a failure to pay all or part of the wages required by the contract, the contractor will be required to pay interest on any underpayment of wages.

## 2. Withholding (29 CFR 5.5)

a. *Withholding requirements.* The contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in this section for violations of this contract, or to satisfy any such liabilities required by any other Federal contract, or federally assisted contract subject to Davis-Bacon labor standards, that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld. In the event of a contractor's failure to pay any laborer or mechanic, including any apprentice or helper working on the site of the work all or part of the wages required by the contract, or upon the contractor's failure to submit the required records as discussed in paragraph 3.d. of this section, the contracting agency may on its own initiative and after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with paragraph

2.a. of this section or Section V, paragraph 3.a., or both, over claims to those funds by:

- (1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- (2) A contracting agency for its procurement costs;
- (3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- (4) A contractor's assignee(s);
- (5) A contractor's successor(s); or
- (6) A claim asserted under the Prompt Payment Act, [31 U.S.C. 3901–3907](#).

### 3. Records and certified payrolls (29 CFR 5.5)

*a. Basic record requirements (1) Length of record retention.* All regular payrolls and other basic records must be maintained by the contractor and any subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in construction or development of the project under a development statute) for a period of at least 3 years after all the work on the prime contract is completed.

*(2) Information required.* Such records must contain the name; Social Security number; last known address, telephone number, and email address of each such worker; each worker's correct classification(s) of work actually performed; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in [40 U.S.C. 3141\(2\)\(B\)](#) of the Davis-Bacon Act); daily and weekly number of hours actually worked in total and on each covered contract; deductions made; and actual wages paid.

*(3) Additional records relating to fringe benefits.* Whenever the Secretary of Labor has found under paragraph 1.e. of this section that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in [40 U.S.C. 3141\(2\)\(B\)](#) of the Davis-Bacon Act, the contractor must maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

*(4) Additional records relating to apprenticeship.* Contractors with apprentices working under approved programs must maintain written evidence of the registration of apprenticeship programs, the registration of the apprentices, and the ratios and wage rates prescribed in the applicable programs.

*b. Certified payroll requirements (1) Frequency and method of submission.* The contractor or subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, certified payrolls to the contracting

agency. The prime contractor is responsible for the submission of all certified payrolls by all subcontractors. A contracting agency or prime contractor may permit or require contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the contractor, the contracting agency, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the contractor is unable or limited in its ability to use or access the electronic system.

*(2) Information required.* The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under paragraph 3.a.(2) of this section, except that full Social Security numbers and last known addresses, telephone numbers, and email addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker ( e.g., the last four digits of the worker's Social Security number). The required weekly certified payroll information may be submitted using Optional Form WH-347 or in any other format desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division website at <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/wh347.pdf> or its successor website. It is not a violation of this section for a prime contractor to require a subcontractor to provide full Social Security numbers and last known addresses, telephone numbers, and email addresses to the prime contractor for its own records, without weekly submission by the subcontractor to the contracting agency.

*(3) Statement of Compliance.* Each certified payroll submitted must be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor, or the contractor's or subcontractor's agent who pays or supervises the payment of the persons working on the contract, and must certify the following:

(i) That the certified payroll for the payroll period contains the information required to be provided under paragraph 3.b. of this section, the appropriate information and basic records are being maintained under paragraph 3.a. of this section, and such information and records are correct and complete;

(ii) That each laborer or mechanic (including each helper and apprentice) working on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in [29 CFR part 3](#); and

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification(s) of work actually performed, as specified in the applicable wage determination incorporated into the contract.

*(4) Use of Optional Form WH-347.* The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 will satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(3) of this section.

(5) *Signature.* The signature by the contractor, subcontractor, or the contractor's or subcontractor's agent must be an original handwritten signature or a legally valid electronic signature.

(6) *Falsification.* The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under [18 U.S.C. 1001](#) and [31 U.S.C. 3729](#).

(7) *Length of certified payroll retention.* The contractor or subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

c. *Contracts, subcontracts, and related documents.* The contractor or subcontractor must maintain this contract or subcontract and related documents including, without limitation, bids, proposals, amendments, modifications, and extensions. The contractor or subcontractor must preserve these contracts, subcontracts, and related documents during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

d. *Required disclosures and access (1) Required record disclosures and access to workers.* The contractor or subcontractor must make the records required under paragraphs 3.a. through 3.c. of this section, and any other documents that the contracting agency, the State DOT, the FHWA, or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statutes referenced by § 5.1, available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.

(2) *Sanctions for non-compliance with records and worker access requirements.* If the contractor or subcontractor fails to submit the required records or to make them available, or refuses to permit worker interviews during working hours on the job, the Federal agency may, after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to § 5.12. In addition, any contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under [29 CFR part 6](#) any of the required records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the contractor or person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location of the records and the volume of production.

(3) *Required information disclosures.* Contractors and subcontractors must maintain the full Social Security number and last known address, telephone number, and email address

of each covered worker, and must provide them upon request to the contracting agency, the State DOT, the FHWA, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

#### 4. **Apprentices and equal employment opportunity** (29 CFR 5.5)

a. *Apprentices (1) Rate of pay.* Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship (OA), or with a State Apprenticeship Agency recognized by the OA. A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program. In the event the OA or a State Apprenticeship Agency recognized by the OA withdraws approval of an apprenticeship program, the contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(2) *Fringe benefits.* Apprentices must be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringe benefits must be paid in accordance with that determination.

(3) *Apprenticeship ratio.* The allowable ratio of apprentices to journeyworkers on the job site in any craft classification must not be greater than the ratio permitted to the contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to paragraph 4.a.(4) of this section. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph 4.a.(1) of this section, must be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under this section must be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(4) *Reciprocity of ratios and wage rates.* Where a contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyworker's hourly rate) applicable within the locality in which the construction is being performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ratio and wage rate specified in the contractor's registered program must be observed.

b. *Equal employment opportunity.* The use of apprentices and journeyworkers under this part must be in conformity with

the equal employment opportunity requirements of Executive Order 11246, as amended, and [29 CFR part 30](#).

c. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. 23 CFR 230.111(e)(2). The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeyworkers shall not be greater than permitted by the terms of the particular program.

5. **Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract as provided in 29 CFR 5.5.
6. **Subcontracts.** The contractor or subcontractor must insert FHWA-1273 in any subcontracts, along with the applicable wage determination(s) and such other clauses or contract modifications as the contracting agency may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses and wage determination(s) in any lower tier subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and may be subject to debarment, as appropriate. 29 CFR 5.5.
7. **Contract termination: debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.
8. **Compliance with Davis-Bacon and Related Act requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract as provided in 29 CFR 5.5.
9. **Disputes concerning labor standards.** As provided in 29 CFR 5.5, disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.
10. **Certification of eligibility.** a. By entering into this contract, the contractor certifies that neither it nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of [40 U.S.C. 3144\(b\)](#) or § 5.12(a).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of [40 U.S.C. 3144\(b\)](#) or § 5.12(a).

c. The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, [18 U.S.C. 1001](#).

11. **Anti-retaliation.** It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#);

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#);

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#); or

d. Informing any other person about their rights under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#).

## V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Pursuant to 29 CFR 5.5(b), the following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchpersons and guards.

1. **Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek. 29 CFR 5.5.
2. **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph 1. of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages and interest from the date of the underpayment. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or

mechanic, including watchpersons and guards, employed in violation of the clause set forth in paragraph 1. of this section, in the sum currently provided in 29 CFR 5.5(b)(2)\* for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1. of this section.

\* \$31 as of January 15, 2023 (See 88 FR 88 FR 2210) as may be adjusted annually by the Department of Labor, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990.

### 3. Withholding for unpaid wages and liquidated damages

a. *Withholding process.* The FHWA or the contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in this section on this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with Section IV paragraph 2.a. or paragraph 3.a. of this section, or both, over claims to those funds by:

- (1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- (2) A contracting agency for its procurement costs;
- (3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- (4) A contractor's assignee(s);
- (5) A contractor's successor(s); or
- (6) A claim asserted under the Prompt Payment Act, [31 U.S.C. 3901](#)–3907.

4. **Subcontracts.** The contractor or subcontractor must insert in any subcontracts the clauses set forth in paragraphs 1. through 5. of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1. through 5. In the

event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower- tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

5. **Anti-retaliation.** It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in this part;

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or this part;

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or this part; or

d. Informing any other person about their rights under CWHSSA or this part.

### VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System pursuant to 23 CFR 635.116.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" in paragraph 1 of Section VI refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions: (based on longstanding interpretation)

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;

- (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
- (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract. 23 CFR 635.102.

2. Pursuant to 23 CFR 635.116(a), the contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.
3. Pursuant to 23 CFR 635.116(c), the contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.
4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract. (based on long-standing interpretation of 23 CFR 635.116).
5. The 30-percent self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements. 23 CFR 635.116(d).

## VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR Part 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract. 23 CFR 635.108.
2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and

health standards (29 CFR Part 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704). 29 CFR 1926.10.

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

## VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR Part 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 11, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."



## IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT (42 U.S.C. 7606; 2 CFR 200.88; EO 11738)

This provision is applicable to all Federal-aid construction contracts in excess of \$150,000 and to all related subcontracts. 48 CFR 2.101; 2 CFR 200.327.

By submission of this bid/proposal or the execution of this contract or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, subcontractor, supplier, or vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Highway Administration and the Regional Office of the Environmental Protection Agency. 2 CFR Part 200, Appendix II.

The contractor agrees to include or cause to be included the requirements of this Section in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements. 2 CFR 200.327.

## X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200. 2 CFR 180.220 and 1200.220.

### 2. Instructions for Certification – First Tier Participants:

- a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.
- b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction. 2 CFR 180.320.
- c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default. 2 CFR 180.325.
- d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. 2 CFR 180.345 and 180.350.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900-180.1020, and 1200. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction. 2 CFR 180.330.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 180.300.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. 2 CFR 180.300; 180.320, and 180.325. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. 2 CFR 180.335. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>). 2 CFR 180.300, 180.320, and 180.325.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default. 2 CFR 180.325.

\* \* \* \* \*

### 3. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.335;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property, 2 CFR 180.800;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification, 2 CFR 180.700 and 180.800; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default. 2 CFR 180.335(d).

(5) Are not a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(6) Are not a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability (USDOT Order 4200.6 implementing appropriations act requirements).

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal. 2 CFR 180.335 and 180.340.

\* \* \* \* \*

### 4. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders, and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200). 2 CFR 180.220 and 1200.220.

a. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which

this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances. 2 CFR 180.365.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900 – 180.1020, and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated. 2 CFR 1200.220 and 1200.332.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 1200.220.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov>), which is compiled by the General Services Administration. 2 CFR 180.300, 180.320, 180.330, and 180.335.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily

excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment. 2 CFR 180.325.

\* \* \* \* \*

## 5. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals:

(1) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.355;

(2) is a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(3) is a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. (USDOT Order 4200.6 implementing appropriations act requirements)

b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal.

\* \* \* \* \*

## XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000. 49 CFR Part 20, App. A.

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or

cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

## XII. USE OF UNITED STATES-FLAG VESSELS:

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, or any other covered transaction. 46 CFR Part 381.

This requirement applies to material or equipment that is acquired for a specific Federal-aid highway project. 46 CFR 381.7. It is not applicable to goods or materials that come into inventories independent of an FHWA funded-contract.

When oceanic shipments (or shipments across the Great Lakes) are necessary for materials or equipment acquired for a specific Federal-aid construction project, the bidder, proposer, contractor, subcontractor, or vendor agrees:

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels. 46 CFR 381.7.
2. To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b)(1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Office of Cargo and Commercial Sealift (MAR-620), Maritime Administration, Washington, DC 20590. (MARAD requires copies of the ocean carrier's (master) bills of lading, certified onboard, dated, with rates and charges. These bills of lading may contain business sensitive information and therefore may be submitted directly to MARAD by the Ocean Transportation Intermediary on behalf of the contractor). 46 CFR 381.7.

## **ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS**

**ROAD CONTRACTS** (23 CFR 633, Subpart B, Appendix B) This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

## Contractor Responsibilities

### External Equal Opportunity (EEO) Procedures for Contractors Working on Federal-Aid Highway Construction Projects

*These requirements apply only to contractors awarded a contract or subcontract with a dollar value of \$10,000 or more AND who work on the construction site.  
(Note: Truckers who only haul materials to or from the construction site, material suppliers/testers, and surveyors do NOT meet these criteria).*

#### Definition of Terms

- ❖ Relevant contractor – a contractor awarded a contract or subcontract with a dollar value of \$10,000 or more and also responsible for performing work on the construction site. **Please Note:** *Truckers who only haul materials to or from the construction site and surveyors do not meet these criteria.*
- ❖ Discrimination – an act or failure to act, whether intentional or unintentional, through which a person in the United States, solely because of race, color, religion, sex, national origin, age, or disability, has been subjected to unequal treatment under any program or activity of a recipient, sub-recipient or contractor receiving financial assistance from FHWA under Title 23 U.S.C.
- ❖ Affirmative Action – efforts exerted toward achieving equal opportunity through positive, aggressive and continuous result-oriented measures to correct past and present discriminatory practices and the effects on the conditions and privileges of employment and contracting.
- ❖ Equal Employment Opportunity (EEO) – practice of not discriminating and taking affirmative action in employment practices.
- ❖ Equal Opportunity (EO) – the absence of partiality or distinction in employment treatment and contractor selection, so that the right of all persons to compete and perform work, and be employed and advanced on the basis of merit, ability and capability is maintained.
- ❖ South Carolina Department of Transportation (SCDOT) – state agency responsible for monitoring Equal Opportunity Compliance on federal-aid projects in South Carolina.
- ❖ Federal Highway Administration (FHWA) – the division of the U. S. Department of Transportation responsible for monitoring compliance of the state departments of transportation.
- ❖ Department of Labor (DOL) – Office of Federal Contract Compliance Programs (OFCCP) – the division of DOL responsible for monitoring compliance of contractors working on federal-aid projects.
- ❖ RCE – SCDOT Resident Construction Engineer or person filling the role of RCE, or any person carrying out these responsibilities under the direction of the RCE.
- ❖ On-Site Project Officer – the contractor's highest ranking employee responsible for overseeing daily work on a construction project.
- ❖ EEO Officer – the contractor's employee who is familiar with the federal EEO requirements and also equipped to evaluate the company's compliance with EEO requirements.
- ❖ LPA (Local Public Agency) – the local agency responsible for the administration and management of federal-aid projects on LPA projects.

## 1) Authorities for Equal Employment Opportunity (EEO) Requirements

Several authorities are applied to ensure non-discrimination and equal employment opportunity on Federal-aid highway projects. These authorities include the following laws, regulations and policies:

Laws:	Title VI and VII of the Civil Rights Act of 1964 Federal – Aid Highway Act of 1968 (23 USC 140, 324) Age Discrimination Act of 1975 Civil Rights Restoration Act of 1987
Regulations:	23 CFR 200, 230, 635.117(d) and (e) 23 CFR 200 49 CFR 21 and 26
Contract Provisions:	FHWA 1273 (including Appalachian contract provisions)
Policies:	FHWA Order 4710.8 FHWA Notice N4720.7

## 2) General Principles and Procedures for Contractors Working on Federal-Aid Construction Projects

### a) Principles

- i) The prime contractor is responsible for ensuring that all subcontractors with a contract value of \$10,000 or more comply with EO requirements.
- ii) Consequences for failing to comply with the requirements of “Required Contract Provisions— Federal Construction Contracts”.
  - (1) A breach of any of the stipulations contained in the FHWA Form 1273 shall be sufficient grounds for termination of the contract.
  - (2) A breach of certain specified clauses of FHWA Form 1273 may be grounds for debarment.
- iii) The portions of FHWA Form 1273 relevant to equal opportunity (EO), and thus monitored by the Local Public Agency (LPA) and External Equal Opportunity Program Unit are found in Sections “II” and “III.”; the remainder of FHWA Form 1273 is monitored by other entities within SCDOT.
- iv) Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be without regard to race, color, religion, sex, national origin, age, or disability.
  - (1) The contractor shall maintain records as necessary to document compliance with the EEO requirements. These records must be retained for a period of three years, following completion of the contract.
  - (2) These records must be made available at reasonable times for inspection by authorized representatives of the Local Public Agency (LPA), SCDOT and FHWA.
- v) Documentation of all efforts is essential.

### b) Practices

- i) The contractor must work with the LPA, SCDOT and the Federal Highway Administration (FHWA) in order to comply with all EEO obligations, including fully cooperating with any

- compliance review activities initiated by any of these entities, or any other state or federal agency.
- ii) The contractor must develop an Equal Employment Opportunity (EEO) Policy.
  - iii) The contractor must designate an EEO Officer who meets the following criteria:
    - (1) Responsible for and capable of effectively administering and promoting an active EO program.
    - (2) Assign adequate authority and responsibility to carry out these duties.
  - iv) All of the following members of the contractor's staff must be made fully aware of, and must implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment:
    - (1) Persons who are authorized to hire, supervise, promote, and discharge employees, AND
    - (2) Persons who recommend such action, or who are substantially involved in such action.
  - v) All new supervisory or personnel office employees must be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty (30) days following their reporting for duty with the contractor.
  - vi) Notices and posters setting forth the contractor's EEO policy must be placed in areas readily accessible to employees, applicants for employment, and potential employees.
  - vii) Documentation should be kept to support the reasons for the pay rates provided to employees.
  - viii) Contractors should conduct periodic reviews of various personnel actions.

### 3) Procedures to Follow Prior to Commencing Work on a Federal-Aid Project

- a) Selection of Subcontractors, Procurement of Materials, and Leasing of Equipment

The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment.

- b) Initial Submittals

Prime contractor must identify the following to the LPA:

- i) Name and contact information for the firm's EEO Officer and DBE/MBE Liaison Officer.
- c) Conduct EEO Meetings for Supervisory and Personnel Office Employees.
- d) Post the 20 Required Posters on the Construction-Site. (Please refer to Section K for details regarding the required posters).
- e) Post the minimum wage regulations (the "General Decision" page from the contract) on the construction site.

### 4) Procedures to Follow During Construction on the Project

- a) Duties of the EEO Officer (or trained designee) during the project
  - i) Conduct periodic site inspections.
  - ii) Evaluate periodically selected personnel actions and the spread of wages paid within each classification to determine whether there is evidence of any discrimination.
- b) The contractor's EEO policy and the procedures to implement such policy must be brought to the attention of all employees.

## LPA Equal Opportunity Manual

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- c) Recruit employees based on review of the Civilian Labor Force (CLF) data whenever hiring opportunities exist (Please refer to Section F for details regarding how to use CLF data).
- d) Training and Promotion
  - i) The contractor will assist in locating, qualifying, and increasing the skills of minority group and women employees, and applicants for employment.
  - ii) Consistent with the contractor's workforce requirements and as permissible under Federal and State regulations, the contractor shall make full use of available training programs (i.e. apprenticeship and on-the-job training programs for the geographical area of contract performance.)
- e) Complete LPA Stage-Type Inspection (STI) Forms or Reports with LPA Compliance Officer or designee.
- f) Submit the annual FHWA Form PR-1391 during August of each year for all active projects. (NOTE: "active" is defined as the project was awarded but the final invoice has not been submitted and/or paid.)
  - i) Purpose of the PR-1391  
The PR-1391 captures the gender and race of the construction workforce in the state of South Carolina during the last full pay period of July each year. This information is submitted to Federal Highway Administration to assist with determining highway funding.
  - ii) Procedures for the PR-1391
    - (1) During the month of May, letters, forms, and instructions (including deadlines) will be forwarded to prime contractors and RCE's, requesting forms are completed by all relevant prime and subcontractors working on active federal-aid projects.
      - (a) "Active Projects" = were awarded prior to July 1 of the current year and the final invoice has not been submitted and/or paid.
      - (b) "Relevant prime and sub-contractors" =
        - (i) Was listed as a subcontractor on an active federal aid project.
        - (ii) Has a contract value of \$10,000 or more.
        - (iii) Works on the construction site—i.e. is required to submit payrolls. (e.g. subcontractors who simply haul products to or from the construction site are NOT required to submit; surveyors are NOT required to submit)
    - (2) Prime contractors:
      - (a) Distribute all information to relevant subcontractors, including a deadline for when the subcontractor should submit forms to the prime contractor.
      - (b) Collect all subcontractor forms and forward to the LPA. Prime contractors must ensure that all relevant subcontractors submit their reports.
      - (c) Immediately notify the Office of Civil Rights Programs if a PR-1391 was requested from a contractor who is not a "relevant" subcontractor.
      - (d) Send all completed reports to the LPA by the deadline stated in the May letter.
    - (3) Subcontractors must send their completed forms to the prime contractor to ensure the prime knows when all subcontractors reports have been submitted, since the prime contractor is responsible for ensuring all forms are submitted to the LPA.
    - (4) Statistics must include all employees on that project during the last full pay period of July.
    - (5) If the prime contractor or any of the subcontractors do not submit the report in a timely manner, the payment may be withheld on the project until the reports are received.
- g) Conduct EEO meetings for supervisory and personnel office employees not less than every six months from the time of the meeting that was held at the beginning of the project.
- h) Additional records and reports:



In addition to the various records and reports already mentioned, the contractor must also maintain the following records:

- i) The number of minority and non-minority group members and women employed in each work classification on the project.
  - ii) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for women and minorities.
  - iii) The progress and efforts being made in training, qualifying, and upgrading minority and female employees.
- i) Complaints of alleged discrimination:

Contractor must respond promptly to all complaints of alleged discrimination made to the contractor in connection with his obligations under the designation contract:

- i) Investigate promptly.
- ii) Attempt to resolve these complaints.
- iii) Take appropriate corrective action within a reasonable time.
- iv) Include all persons in the corrective action who have been shown by the investigation to have been discriminated against, even if they were not the original complainant.
- v) Inform every complainant of all of his avenues of appeal, once the investigation has been completed.

If you have any questions, please contact:

**South Carolina Department of Transportation  
Office of Civil Rights Programs  
External EO and OJT Unit**

Phone: 803-737-6361

Fax: 803-737-2021

### Guidelines for Completing LPA Stage-Type Inspections (STI)

#### Purpose of the Stage-Type Inspections

- a) The STI provides an overview of compliance with EO requirements on federal-aid projects.
- b) The STI alerts the LPA and the Office of Civil Rights Programs of issues that need to be addressed in order to assist the contractor in complying with EEO requirements.

#### 1) Who should conduct the Stage-Type Inspection:

- a) The LPA is responsible for initiating the STI process to include the following: scheduling the on-site meeting with the prime contractor to complete the STI form, reviewing supportive documentation, conducting employee interviews and site inspection, and submitting the STI, supplemental documents, and employee interviews to the Office of Civil Rights Programs for review.
- b) The contractor is responsible for attending the on-site meeting, answering questions, and providing supportive documentation for review by LPA.
- c) The Office of Civil Rights Programs is responsible for reviewing the STI forms to ensure compliance with federal EEO requirements.

#### 2) When should the inspection be conducted:

The LPA Stage-Type Inspection should be conducted when the project dollar amount has reached 25% of the contract value. However, if the project is expected to be completed within a relatively short period of time, the LPA STI should be conducted as soon as work begins.

##### (a) When should the inspection be conducted:

- The LPA Stage-Type Inspection should be conducted when the construction work dollar amount has reached 25% of the contract value. This allows the contractor sufficient time to make any necessary changes.

##### (b) Who needs to be reviewed:

- The prime contractor on every federal aid contract valued at \$10,000 or more.

##### (c) Conduct Interviews:

- On-Site Project Officer Interview: An On-Site Project Officer's interview must be conducted for each prime contractor when the LPA STI is completed.

- Workforce Employee interviews: Workforce Employee Interviews must be conducted by the LPA Compliance Officer, or designated person, not the contractor's personnel.
  - **Must never be given to or shown to other contractor employees.** because these are confidential interviews.
  - A cross section of the firm's employees on the project should be interviewed. In determining the "cross section," give consideration to all of the following factors:
    1. Length of time employee has been with the firm.
    2. Gender and race.
    3. Job classification
  - Conduct one interview for each classification of employees on the project, with special emphasis placed on women and minority employees. Women interview forms should be used on interviews conducted with women employees. Forms are available in Spanish for employees who do not speak English, but read Spanish.
  - Interview additional employees, if concerns are raised during the interviews, to investigate how generalized the concerns are. "Concerns" would include, but not be limited to, matters such as lack of familiarity with EEO policies, lack of being asked to refer minority or female persons for employment, lack of awareness of who should be contacted with EEO concerns, reports of discrimination, etc.
  - If at any time during the interview, employee alleges complaint(s) of discrimination, notify the Office of Civil Rights Programs for assistance.
  - Ensure that the employees being interviewed understand the questions being asked and re-word questions if necessary. Conduct interviews in a private area so that employees feel comfortable answering questions without fear of someone overhearing their responses.
- 3) Employee interviews:
- a) The EEO employee interviews will be conducted by the LPA Compliance Officer. **These confidential interviews should never be given to or shown to other contractor personnel, including supervisors, managers, etc.**
  - b) A *cross section* of the firm's employees will be interviewed, giving consideration to length of time the employee has been with the firm, gender, race, and job classification, with the majority of interviews being conducted with women and minority employees.
  - c) *The number of interviews:* One interview is conducted for each general classification of employees on the project. However, if concerns are raised, additional interviews will be conducted to determine how extensive the concerns are.



# LPA STAGE-TYPE INSPECTION

## For LPA Projects Only

Review Authority: 23 CFR 230 and FHWA Form 1273

The LPA Compliance Officer (defined as the person employed by the LPA to ensure Equal Opportunity Compliance)/Consultant is responsible for completing this form by scheduling an on-site meeting with the prime contractor in order to verify supportive documentation in response to each question on pages 2-3 of this form. For additional information, please refer to [http://www.scdot.org/business/pdf/businessDevelop/lpa\\_sti\\_form.pdf](http://www.scdot.org/business/pdf/businessDevelop/lpa_sti_form.pdf).

### REVIEW INFORMATION

1. Federal Aid Number	2. SC File Number	3. County	4. Date of Review
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### CONTRACTOR INFORMATION

5. Name, Address, Telephone Number of Contractor's Home Office	6. Name and Title of EEO Officer
7. Contractor Identification: <input type="checkbox"/> Prime contractor <input type="checkbox"/> Other (specify _____)	8. Is contractor a Certified DBE? <input type="checkbox"/> Yes <input type="checkbox"/> No
	9. Name and Title of DBE Liaison <b>(Required only if you subcontract to DBEs)</b>
10. Project Address	11. Name and Title of Project Supervisor

### PROJECT INFORMATION

12. Type of Construction: <input type="checkbox"/> Highway <input type="checkbox"/> Bridge <input type="checkbox"/> Landscaping <input type="checkbox"/> Other (Specify _____)	
13. Contract Dollar Value _____ 14. Type of Work Performed _____	
15. Does the contractor maintain a branch office at this project site? <input type="checkbox"/> Yes <input type="checkbox"/> No	16. Do project personnel have a central meeting place on site? <input type="checkbox"/> Yes (Specify _____) <input type="checkbox"/> No
17. Percent Completed (Based on Dollar Amount) _____	18. Work Start Date _____
19. Anticipated Peak Employment Dates _____	20. Estimated Completion Date _____

### SIGNATURE OF LPA COMPLIANCE OFFICER

"My signature below indicates that, to the best of my knowledge, the information submitted in and with this form is accurate. I understand that any falsification with these submittals may result in a finding of 'non-compliance' with federal equal opportunity requirements."

\_\_\_\_\_  
Name of LPA Compliance Officer (Required)

\_\_\_\_\_  
Title of LPA Compliance Officer (Required)

\_\_\_\_\_  
Signature of LPA Compliance Officer (Required)

\_\_\_\_\_  
Date

### SIGNATURE OF CONSULTANT (IF APPLICABLE)

(The following signature is applicable only if the LPA Stage-Type Inspection is completed by someone other than the LPA Compliance Officer)  
"My signature below indicates that, to the best of my knowledge, the information submitted in and with this form is accurate. I understand that any falsification with these submittals may result in a finding of 'non-compliance' with federal equal opportunity requirements."

\_\_\_\_\_  
Name of Consultant Representative

\_\_\_\_\_  
Title of Consultant Representative

\_\_\_\_\_  
Consultant/Company Name

\_\_\_\_\_  
Signature of Consultant Representative

\_\_\_\_\_  
Date

## EQUAL OPPORTUNITY AWARENESS

Yes	No	Issues to address
		21. Does the company have an EEO Policy and is it displayed conspicuously at the contractor's home office? <u>If YES, review EEO policy to ensure required verbiage listed in the FHWA Form 1273 (Section II Nondiscrimination 1.b.) is included. If NO, corrective action is needed.</u>
		22. Has the Contractor's EEO Policy and Procedure to implement such policy been explained to ALL employees? By what means? <u>If YES, review minutes and sign-in sheets or other appropriate documentation to ensure compliance. If NO, corrective action is needed.</u>
		23. Have employees been advised of their right to file a complaint of discrimination and the appropriate person(s) with whom to file that complaint? <u>If YES, review procedures and ensure that contact information for all other applicable agencies responsible for investigating complaints of discrimination are included. If NO, corrective action is needed.</u>
		24. Is the prescribed "Equal Opportunity Employer" clause included in the employee applications? <u>If YES, review application to ensure compliance. If NO, corrective action is needed.</u>
		25. Have EEO meetings of SUPERVISORY (i.e. project managers, superintendents, foremen) and PERSONNEL OFFICE employees (i.e. Human Resource Department) been conducted at the BEGINNING (30 days before or after work start date) of the project and every 6 months thereafter? <u>If YES, review a copy of minutes and sign-in sheet(s) for each meeting, including the title of each person in attendance. If NO, corrective action is needed.</u>

## RECRUITMENT / APPLICANTS / HIRING

Yes	No	Issues to address
		26. Has contractor hired new employees since work began on this project? <u>If NO, go to question 32.</u>
		27. Do advertisements for this project include the phrase "An Equal Opportunity Employer"? <u>If YES, review advertisements to ensure compliance. If NO, corrective action is needed.</u>
		28. Has the contractor recruited through public and private sources that refer minorities? <u>If YES, review copies of relevant correspondence(s) since the start of this project. If NO, corrective action is needed.</u>
		29. Has the contractor recruited through public and private sources that refer women? <u>If YES, review copies of relevant correspondence(s) since the start of this project. If NO, corrective action is needed.</u>
		30. Does the firm encourage present employees to refer minority and women applicants? <u>If YES, request that contractor identify methods used and review appropriate documentation. If NO, corrective action is needed.</u>
		31. Does the contractor keep a listing of all women and minority applicants and the final disposition of each? <u>If YES, review information for evidence of discrimination and ensure the following information is included: Date Received, Name/Address/Phone, Race, Gender, Position Applied for, Recruitment Source, and Final Disposition. If NO, corrective action is needed.</u>

## TRAINING AND PROMOTION

Yes	No	Issues to address
		32. Are there any available training opportunities on this project? <u>If NO, go to question 35.</u>
		33. Does the contractor advise ALL project employees of training opportunities, if available? <u>If YES, request that contractor identify methods used for informing employees of available training and the process used for selecting persons to receive training. If NO, corrective action is needed.</u>
		34. Does contractor maintain and periodically review training records to determine if there is any evidence of discrimination? <u>If YES, review appropriate documentation. If NO, corrective action is needed.</u>
		35. Are there any promotional opportunities on this project? <u>If NO, go to question 37.</u>

36. Does the contractor maintain a list of employee promotions and raises for this project? If YES, review information for evidence of discrimination and ensure the following information is included: Date, Name, Race, Gender, Old and New Pay Rate, and Reason for Promotion/Raise. If NO, corrective action is needed.

## WAGE EVALUATIONS

Yes	No	Issues to address
		37. Please request that the contractor submit a copy of the certified payroll for the most recent pay period. Contractor also needs to provide the following information: Employee Name, Race, Gender, Salary, Job Classification and Years of Service. <u>Verify information for accuracy and review for potential evidence of discrimination. If potential evidence of discrimination is found, immediately contact the Office of Civil Rights Programs for additional guidance.</u>
		38. Does the Contractor periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices? <u>If YES, request contractor state how often evaluations are conducted and request documentation indicating the results of the most recent evaluation. If NO, corrective action is needed.</u>

## OTHER PERSONNEL ACTIONS

Yes	No	Issues to address
		39. Has the Contractor conducted periodic reviews of any other personnel actions (i.e. applicants, new hires, terminations, raises/promotions, etc.) to determine whether there is evidence of discrimination? <u>If YES, request contractor identify which personnel actions are reviewed, the frequency of these reviews, and the results of the most recent evaluation. If NO, corrective action is needed.</u>
		40. Are there any terminations for this project? <u>If NO, go to question 42.</u>
		41. Does the contractor maintain a list of employee terminations for this project? <u>If YES, review information for evidence of discrimination and ensure the following information is included: Date, Name, Race, Gender, and Reason for Termination. If NO, corrective action is needed.</u>

## SUB-CONTRACTORS / VENDORS / MATERIAL SUPPLIERS INFORMATION

Yes	No	Issues to address
		42. Does contractor attach the FHWA Form 1273 to all subcontract agreements with a contract value of \$10,000 or more? <u>If YES, review all applicable information for verification purposes. If NO, corrective action is needed.</u>

## CONSTRUCTION SITE

Yes	No	Issues to address
		43. Are the twenty (20) required posters and EEO policies of all active subcontractors conspicuously displayed on the construction site in a location that is visible to the general public? <u>If YES, review all applicable information for verification purposes. If NO, corrective action is needed.</u>
		44. Is the "General Decision" (minimum wage requirements in the contract) posted on the construction site? <u>If NO, corrective action is needed.</u>
		45. Has the company EEO Officer (or trained designee) conducted periodic inspections of the project site to ensure that working conditions and employee facilities do not indicate discriminatory treatment of construction-site personnel? <u>If YES, review appropriate documentation, including results. If NO, corrective action is needed.</u>

**Please Note: Confidential Employee Interviews and a Project Site Inspection Form must be submitted along with the LPA Stage-Type Inspection Form. Copies of these forms may be requested from Barbara Beagles, Director of Civil Rights Programs at 803-737-6361 or by e-mail at [BeaglesBD@scdot.org](mailto:BeaglesBD@scdot.org).**

### Equal Opportunity Awareness

#### EEO Policy

- 1) The contractor's EEO policy and the procedures to implement such policy must be brought to the attention of all employees. Contractors may use meetings, handbooks and any other appropriate means to inform their employees.
- 2) The following practices would provide the required documentation verifying that the information has been explained to employees.
  - a. Include company's EEO policy in the company handbook and require employees to sign acknowledging that they have read and understood the EEO policy and implementation procedures.
  - b. Include company's EEO policy in employee paychecks once or twice a year.
  - c. Explain the company's EEO Policy and implementation procedures to employees during company EEO meetings.
- 3) If a contractor does not have an Equal Employment Opportunity (EEO) Policy, one must be developed (*For details on information that should be included in an EEO Policy, please refer to page E-3*).

#### EEO Meetings

EEO meetings for supervisory and personnel office employees should be conducted at the start of work on a project *thirty (30) days before or after the project begins* and at least once every six months.

- a. Company's EEO Officer and/or assigned designee must conduct the meeting.
- b. The contractor's EEO policy and its implementation must be reviewed and explained to all supervisory personnel on the project and all office employees who are involved in recruiting, hiring, determination of employee pay rates and benefits, termination of employees, etc.
- c. All personnel who are engaged in direct recruitment for the project must be instructed by the EEO Officer of the contractor's procedures for locating and hiring women and minority group employees.

#### Company's Complaint Procedure

The contractor's complaint procedures should instruct employees on how to file complaints. Complaint procedures should also include additional contact information for agencies if an employee feels their complaint is unresolved at company level.

### Definition of Forms

- ❖ EEO Policy & Complaint Contact Information – a sample EEO policy that can be used by contractor(s) and contact information for agencies that are responsible for investigating complaints of discrimination.
- ❖ Acknowledgement of Receipt of EEO Policy – a form for employees to sign verifying receipt and understanding of the EEO Policy.
- ❖ Supervisory and Personnel Office Employees EEO Meeting Outline – form detailing topics that should be covered during EEO meetings held with supervisory and personnel office employees. This outline can serve as minutes and sign-in sheets verifying that meetings were conducted.
- ❖ Memo to Managers and Supervisors – alternative method for ensuring that supervisors and personnel office employees are aware of duties and responsibilities while working on federal-aid projects. This memo can serve as documentation that employees serving in this capacity are fully aware of contractual responsibilities.
- ❖ Jobsite EEO Meeting Minutes and Sign-in Sheets – minutes verifying that an EEO meeting was held with all workforce employees working on a project, the required topics were discussed, and signatures of meeting attendees.





# Guidelines for Equal Employment Opportunity (EEO) Policy

An **Equal Employment Opportunity (EEO) Policy** is usually a one-page statement that includes at least, the following required information:

1. "It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, sexual orientation, gender identity, color, national origin, age or disability. Such action shall include: 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, pre-apprenticeship, and/or on-the-job training."
2. Statement of intent to comply with applicable regulations, including
  - Title VII of the Civil Rights Act of 1964
  - Required Contract Provisions—Federal-Aid Construction Contracts—FHWA 1273
  - Executive Order No. 11246, as amended
  - Rehabilitation Act of 1973
  - Vietnam Era Veterans Readjustment Assistance Act
  - All other relevant state and local regulations
3. Name and contact information for company's EEO Officer
4. Name and contact information for filing a complaint if issues were unresolved at the company level:
  - a. SCDOT External Equal Opportunity Program Coordinator  
Office of Business Development & Special Programs  
Post Office Box 191  
Columbia, SC 29201  
Phone: 803-737-6361  
Fax: 803-737-2021
  - b. South Carolina Human Affairs Commission (SCHAC)  
1026 Sumter Street, Suite 101  
Columbia, SC 29201  
Phone: 803-737-7800  
Toll-free phone: 800-521-0725
  - c. Office of Federal Contract Compliance Programs (OFCCP)  
U. S. Department of Labor  
1835 Assembly Street, Room 608  
Columbia, SC 29201  
Phone: 803-765-5244  
Fax: 803-765-5245
  - d. Equal Employment Opportunity Commission (EEOC)  
301 N. Main Street, Suite 1402  
Greenville, SC 29601  
Phone: 864-241-4400  
Toll-free phone: 800-669-4000
5. Signature of the president of the firm.

Also recommended, but not required, are the following items:

1. Encouraging current employees to refer minority and women recruits.
2. Inviting all employees to request further training.

## **EEO Policy**

**CONTRACTOR'S NAME** reaffirms its commitment to the principle of Equal Employment Opportunity in its personnel policies and practices. It is the policy of this company to comply with all applicable regulations of the Civil Rights Act of 1964, Required Contract Provisions-Federal-Aid Construction Contracts-FHWA 1273, Executive Order No. 11246, as amended, Rehabilitation Act of 1973, Vietnam Era Veterans Readjustment Assistance Act, and all other relevant state and local regulations.

It is **CONTRACTOR'S NAME** policy to recruit, hire, train and promote into all jobs levels, employees and applicants for employment without regard to race, religion, sex, sexual orientation, gender identity, color, national origin, age or disability. All such decisions are based on (1) individual merit, qualifications, and competence as they relate to the particular position, and (2) promotion of the principle of equal employment opportunity. All current employees are encouraged to refer minority and women recruits for employment whenever hiring opportunities are available.

All other personnel programs such as compensation, benefits, transfers, layoff, return from layoff, training, education, and social and recreational programs are administered without regard to race, color, religion, age, sex, national origin, physical or mental disability, or veteran status. All employees are encouraged to request for additional training.

All harassment is strictly prohibited, including sexual, race, color, religion and any other form of conduct, which has the purpose or effect of unreasonably interfering with the employee's work performance or creating an environment, which is intimidating, hostile or offensive to the employee. Any employee who feels that a violation of this policy has occurred should immediately report the matter to their supervisor. If that person is unavailable or the employee believes it would be inappropriate to contact the supervisor, the employee should contact the supervisor's supervisor, Human Resources or the facility head. Each complaint will be investigated and any violations will be remedied. The complaining employee will not be affected in employment with the company as a result of bringing the harassment complaints to the attention of the company.

**CONTRACTOR'S EEO OFFICER'S NAME** is the company's EEO Officer and is responsible for administering the company's EEO Policy. Anyone having questions, comments or complaints regarding the company's equal employment policy should contact **CONTRACTOR'S EEO OFFICER'S NAME**, EEO Officer, at **CONTRACTOR'S EEO OFFICER'S CONTACT NUMBER**.

If complaints remain unresolved by our company, please contact any of the following for further assistance:

**The Office of Federal Contract Compliance Programs (OFCCP)**  
U.S. Department of Labor  
1835 Assembly Street, Room 608  
Columbia, South Carolina 29201  
803-765-5244  
803-765-5245

**SCDOT External Equal Opportunity Program Coordinator**  
Office of Civil Rights Programs  
Post Office Box 191  
Columbia, SC 29201  
Phone: 803-737-6361  
Fax: 803-737-2021

**Equal Employment Opportunity Commission (EEOC)**  
301 N. Main Street, Suite 1402  
Greenville, South Carolina 29601  
864-241-4400  
800-669-4000 – Toll Free

**South Carolina Human Affairs Commission**  
1026 Sumter Street, Suite 101  
Columbia, South Carolina 29201  
803-737-7800  
800-521-0725 – Toll Free

**COMPANY NAME**

---

**Signature of EEO Officer**

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**Signature of President**

**CONTRACTOR'S NAME AND ADDRESS**

**ACKNOWLEDGEMENT OF RECEIPT OF EEO POLICY**

By signing this form, I acknowledge that I have received, read and understand the EEO policy provided to me by **CONTRACTOR'S NAME**. I understand that if I have questions concerning the policy, I am to contact **CONTRACTOR'S EEO OFFICER'S NAME**, EEO Officer, at **CONTRACTOR'S EEO OFFICER'S CONTACT NUMBER**.

\_\_\_\_\_  
Signature of Employee

\_\_\_\_\_  
Date

**Record of Supervisory and Personnel Office EEO Meeting**

“Periodic meetings of supervisory and personnel office employees must be conducted before the start of work and then not less often than once every six months, at which time the contractor’s EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.”

*FHWA 1273 -- Required Contract Provisions – Federal-Aid Construction Contracts, II.3.a.*

<b>1. Company name</b>	<b>2. Date of meeting</b>													
<b>3. SC File No.</b>	<b>4. Location of Project</b>													
<b>5. Name of Corporate EEO Officer</b>	<b>6. Location of meeting (including address)</b>													
<b>7. Name of person conducting meeting</b>	<b>8. Title/Position of person conducting meeting</b>													
<p><b>9. Certification of meeting:</b> My signature in this box certifies that I held an EEO meeting for the supervisors and personnel office employees working with the federal-aid project named above. This meeting was held to address all aspects of our equal employment opportunity (EEO) obligations. The main topics addressed, and the persons in attendance are indicated below.</p> <p style="text-align: center;"> <span style="margin-right: 100px;">_____</span> <span>_____</span>  <b>EEO Officer or Designee’s Signature</b>                      <b>Date</b> </p>														
<p><b>10. Major topics (details on attached pages)—check all items that were covered in this meeting:</b></p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"><input type="checkbox"/> EEO Policy</td> <td style="width: 50%; border: none;"><input type="checkbox"/> Recruitment sources to use</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> Identification of EEO Officer</td> <td style="border: none;"><input type="checkbox"/> Workforce diversity and recruitment</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> Wages and payrolls</td> <td style="border: none;"><input type="checkbox"/> Utilization of DBE firms</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> Bulletin boards</td> <td style="border: none;"><input type="checkbox"/> Interviews by state and federal representatives</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> General company training opportunities</td> <td style="border: none;"><input type="checkbox"/> Required Training Special Provision</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> Complaint procedure</td> <td style="border: none;"></td> </tr> </table>			<input type="checkbox"/> EEO Policy	<input type="checkbox"/> Recruitment sources to use	<input type="checkbox"/> Identification of EEO Officer	<input type="checkbox"/> Workforce diversity and recruitment	<input type="checkbox"/> Wages and payrolls	<input type="checkbox"/> Utilization of DBE firms	<input type="checkbox"/> Bulletin boards	<input type="checkbox"/> Interviews by state and federal representatives	<input type="checkbox"/> General company training opportunities	<input type="checkbox"/> Required Training Special Provision	<input type="checkbox"/> Complaint procedure	
<input type="checkbox"/> EEO Policy	<input type="checkbox"/> Recruitment sources to use													
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<input type="checkbox"/> Wages and payrolls	<input type="checkbox"/> Utilization of DBE firms													
<input type="checkbox"/> Bulletin boards	<input type="checkbox"/> Interviews by state and federal representatives													
<input type="checkbox"/> General company training opportunities	<input type="checkbox"/> Required Training Special Provision													
<input type="checkbox"/> Complaint procedure														
<b>11. Attendees:</b>														
<b>Printed name</b>	<b>Title / Position</b>	<b>Signature</b>												

MEMORANDUM

TO: ALL SUPERVISORS, MANAGERS, FOREMAN

FROM: (Name), PRESIDENT OR EEO OFFICER

It is the intention of CONTRACTOR'S NAME, to provide and maintain a working environment free of harassment, intimidation, and coercion at all construction sites and in all facilities at which this company has assigned employees to work.

As a part of our program of affirmative action, all supervisors, managers, and foreman, where possible, are to seek additional minorities and women to work on federal-aid highway construction projects.

You are to encourage all employees to recruit minorities and women by encouraging them to apply for work at your jobsite.

You are to invite all employees and applicants who are disabled (post job offer, only), disabled veterans (post job offer, only), or veterans of the Vietnam Era (at time of application) to identify themselves to me, if they wish to take part in our affirmative action program designed for these individuals.

You are to ensure that all facilities and activities are non-segregated, except for privacy between the sexes.

It is the responsibility of all supervisors, managers, and foremen to ensure that this type of working environment exists at all of our construction sites.

**My signature below verifies that I have received and understand information contained in this memo.**

\_\_\_\_\_  
**Signature of Employee**

\_\_\_\_\_  
**Title**

\_\_\_\_\_  
**Date**

***Print on company letterhead***

**JOB SITE EEO MEETING**

SC File Number \_\_\_\_\_

Company No. \_\_\_\_\_

County \_\_\_\_\_

Date \_\_\_\_\_

Project description \_\_\_\_\_

Meeting led by \_\_\_\_\_

**I, \_\_\_\_\_, hereby certify that I held a Jobsite (project) EEO Meeting on the date and project site stated above. All items marked below were discussed, and the signatures below verify employee attendance.**

- \_\_\_\_\_ 1. Read and explain EEO policy to the employees
- \_\_\_\_\_ 2. Give name and contact information for EEO Officer
- \_\_\_\_\_ 3. Discuss complaint procedures, including external contacts (SCDOT, SCHAC, EEOC)
- \_\_\_\_\_ 4. Encourage reporting of any complaints at the earliest possible time
- \_\_\_\_\_ 5. Discuss location of EEO Posters and EEO Policy posting. (Meeting should be held in front of where these are posted)
- \_\_\_\_\_ 6. Ask employees to refer minority and women to the contractor for employment, including any specific hiring opportunities currently available
- \_\_\_\_\_ 7. Discuss contractor’s formal and/or in-house informal training program and invite participation in any training opportunities currently available
- \_\_\_\_\_ 8. Inform employees of Federal (FHWA, DOL-Office of Federal Contract Compliance Programs) and State (SCDOT) compliance officers who may visit the project and why; encourage employees to cooperate

**My signature below certifies that I attended the Jobsite EEO Meeting held on the above referenced date and project, and that the items checked above were explained in that meeting.**

Name (printed)	Title	Signature

### Recruitment / Applicants / Hiring

#### Basic Guidelines

- 1) Recruitment guidelines apply to company-wide recruitment during the time period the contractor is working on a federal-aid project.
- 2) Contractors may not discriminate against labor from any other state, possession, or territory of the United States (except for employment preference for Appalachian contracts, when applicable).
- 3) Contractors may not employ convict labor for any purpose within the limits of the project unless it is labor performed by convicts who are on parole, supervised release, or probation.
- 4) Contractors should consult the Civilian Labor Force (CLF) statistics published by the Census Bureau to determine the availability of minority and women within their recruitment area. Utilization of these statistics enables the contractor to determine the degree to which he must take action to seek minority/women recruits.
- 5) If women and/or minority representation or utilization is below the levels of availability for that classification as specified in the Civilian Labor Force (CLF) statistics, and if evidence of active recruitment of applicants from these classes cannot be documented; the contractor may be determined to be in non-compliance with federal EO requirements.
- 6) Contractors must maintain records documenting progress and efforts being made in locating and hiring minority and women employees.
- 7) When advertising for new employees, the contractor must
  - a) Include in all advertisements for employees the notation: "An Equal Opportunity Employer."
  - b) Place advertisements in publications having a large circulation among minority groups in the area from which the project work force would normally be derived.
  - c) Conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified applicants, unless precluded by a valid bargaining agreement, by
    - i) Identifying sources of potential women and minority group employees.
    - ii) Establishing with such identified sources procedures whereby women and minority group applicants may be referred to the contractor for employment consideration.
  - d) Encourage present employees to refer minority group applicants and women applicants for employment, including providing present employees with the relevant information and procedures.

### Definition of Forms

- ❖ Recruitment Sources – list of sources that can be used to target w and minority personnel for employment whenever hiring opportunities exist.
- ❖ Recruitment/Vacancy Letter – letter sent to recruitment sources specifically notifying an organization or agency of vacant positions that are available in certain classifications.
- ❖ Equal Opportunity Data Reporting Form – voluntary form attached to applications for employment as a method to gather the race and gender of applicants.  
***Please note:** This form should be detached from applications prior to forwarding application to hiring officials to avoid any allegations of discrimination in regard to race and gender of applicants.*
- ❖ CLF – Civilian Labor Force – Statistics based on the last national census (2000) that provides the number and percentage of persons in various employment classifications, and the racial and gender breakdown of those persons; CLF provides information on the availability of persons in a specific geographical area for each employment classification.
- ❖ Applicant Flow Log – spreadsheet maintained by designated office personnel of all applicants to include the race and gender of applicants.



# Recruitment Sources

Please contact the local offices of the following agencies/organizations.  
You may get local contact information from the state offices or from a local phone directory.

---

## General Recruiting Sources

The local telephone directory can also be checked for the **One-Stop Centers**.

### **SC Department of Employment and Workforce**

Columbia Workforce Department  
1550 Gadsden Street  
Post Office Box 995  
Columbia, South Carolina 29202  
Phone: (866) 831-1724  
Fax: Not Available

### **SC Vocational Rehabilitation**

Department of Human Resources  
1410 Boston Avenue  
West Columbia, South Carolina 29171  
Phone: (803) 896-6500  
Toll Free: (800) 832-7526  
Fax: (803) 896-6558

### **Telamon Corporation**

2000 Park Street  
Suite 103  
Columbia, South Carolina 29201  
Phone: (803) 256-7411  
Fax: (803) 256-8528

## African-American Organizations

Advertising can also be done through area churches or other African-American organizations.

### **Columbia Urban League, Inc.**

1400 Barnwell Street  
Columbia, South Carolina 29201  
Phone: (803) 799-8150  
Fax: (803) 254-6052

### **South Carolina Conference of the NAACP**

6111 North Main Street  
Columbia, South Carolina 29203  
Phone: (803) 754-4584  
Fax: (803) 754-5457

## Native American Organizations

### **Catawba Indian Nation**

996 Avenue of the Nations  
Rock Hill, South Carolina 29730  
Phone: (803) 328-2208  
Fax: (803) 327-4853

### **Four Holes Indian Organizations**

1125 Ridge Road  
Ridgeville, South Carolina 29472  
Phone: (843) 871-2126  
Fax: (843) 832-6019

### **Santee Indian Organization**

432 Bayview Street  
Holly Hill, South Carolina 29059  
Phone: (803) 308-7991  
Fax: Not Available

### **Chicora-Waccamaw Indian People**

Waccamaw Indian People  
Post Office Box 628  
Conway, South Carolina 29528  
Phone: (843) 358-6877  
Fax: (843) 347-0312

### Women Organizations

Contacts may be made through local childcare facilities, shelters for women or families, laundromats, beauty shops, churches, or schools.

#### **SC Dept. of Social Services**

1535 Confederate Avenue  
Columbia, South Carolina 29201  
Post Office Box 1520  
Columbia, South Carolina 29202-1520  
Phone: (803) 898-7601  
Fax: (803) 898-7176 or 898-9413

#### **National Association of Women in Construction**

NAWIC Chapter 113  
Post Office Box 7531  
Columbia, South Carolina 29202  
Phone: (803) 251-8130  
Fax: (803) 708-8484

#### **Sistercare, Inc.**

Post Office Box 1029  
Columbia, South Carolina 29202  
Phone: (803) 929-0505  
Fax: (803) 794-0098

#### **Columbia College**

1301 Columbia College Drive  
Columbia, South Carolina 29203  
Phone: (803) 786-3871  
Fax: (803) 786-3164

## (SAMPLE RECRUITMENT/VACANCY LETTER)

Date

Contact Person

Title

Organization/Agency

Address

City, State, Zip

Dear **Contact Person**:

This letter is to advise you of **CONTRACTOR'S NAME** Equal Employment Opportunity Policy and to notify you of current employment opportunities available due to the award of a federal contract. The project is located in **CITY WHERE PROJECT IS LOCATED, STATE**. Currently we are looking to fill the following positions:

- \_\_\_(classification) \_\_\_
- \_\_\_(classification) \_\_\_

It is our policy not to discriminate against any employee or applicant for employment because of age, race, color, religion, sex, sexual orientation, gender identity or national origin or disability or veteran status. We will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their age, race, color, religion, sex, national origin, or disability or veteran status.

Please refer applicants you feel are qualified for these positions to our office located in **CITY, STATE**. I can be contacted by telephone at **CONTACT NUMBER**. In addition, we request that you give special emphasis to including minorities and women applicant referrals in response to this request.

We appreciate your cooperation in assisting our affirmative action goals.

Sincerely,

**NAME,**  
**EEO Officer**

## **Equal Employment Opportunity Data Reporting Form**

The Federal Highway Administration (FHWA) requires the following information to be collected for statistical reporting of applicants as a part of the Equal Opportunity and Affirmative Action Program requirements (FHWA-1273). This information is not used in the employment process nor released in a manner that identifies the individual. This form will be removed prior to being forwarded to the hiring authority.

**Today's Date** \_\_\_\_ / \_\_\_\_ / \_\_\_\_

**First Name** \_\_\_\_\_

**Middle Initial** \_\_\_\_

**Last Name** \_\_\_\_\_

**Position for which you are applying:** \_\_\_\_\_

**Gender (Please check appropriate box):**

- Male
- Female

**Date of Birth** \_\_\_\_ / \_\_\_\_ / \_\_\_\_

**Race (Please check appropriate box):**

- White, not of Hispanic Origin
- Black or African American, not of Hispanic Origin
- Hispanic or Latino
- Asian, not Hispanic or Latino
- Native Hawaiian or Other Pacific Islander, not Hispanic or Latino
- American Indian or Alaskan Native
- Two or more races, not Hispanic or Latino

### Steps for Using Census Labor Force (CLF) Data (If Hiring Opportunities Exist Only)

1. Go to the website - [www.census.gov/eeo2000/index.html](http://www.census.gov/eeo2000/index.html)
2. Choose the Table You Want to Display - Employment by Census Occupation Codes
3. Select Geography – Residence
4. Click Next
5. Click on County Sets for (Select a State)
6. Click Next
7. Choose the County You Would Like Information On
8. Click Next
9. Sort Occupations Alphabetically
10. Enter Single Word or Phrase to Search for an Occupation (ex. Equipment Operators)
11. Click Find
12. Select the Applicable Occupation Category (ex. Miscellaneous Construction Equipment Operators)
13. Click outside of the Occupation Category Table and Scroll Down to the Bottom of the Screen
14. Click Display Table
15. Table One will Display the Number of People
16. Table Two will Display the Percentages



### Training and Promotion

- 1) The contractor will assist in locating, qualifying, and increasing the skills of minority group and women employees, and applicants for employment.
- 2) Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of available training programs (i.e. apprenticeship and on-the-job training programs for the geographical area of contract performance).
- 3) All training provided by the contractor—whether a formal, structured training program, or an informal on-the-job training provided by the contractor—must be administered in keeping with non-discrimination and affirmative action principles.
- 4) Contractor must maintain records indicating progress and efforts being made in training, qualifying, and upgrading minority and women employees.
- 5) If a Training Special Provision requirement has been included as part of the contract, compliance with the SCDOT On-the-Job Training Program Manual is essential.
- 6) The contractor will advise ALL employees and applicants for employment of
  - (a) Available training programs.
  - (b) Entrance requirements for various training opportunities.
  - (c) Benefits of additional training, including encouraging ALL eligible employees to participate in training opportunities.
- 7) If the contractor relies in whole or in part on unions as a source of employees, the contractor must use their best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.
- 8) The contractor will periodically review the training and promotion potential of minority and women employees and will encourage eligible employees to apply for such training and promotion. This requirement can be met in several different manners:
  - (a) Discussed as a part of the annual performance evaluation completed for each employee.
  - (b) Advertised in the company newspaper.
  - (c) Included in the company EEO Policy, which all employees are required to read and receive.
  - (d) Presented at an EEO Meeting held for all workforce employees.
- 9) The contractor will maintain a record of training received by each individual employee in a format that will facilitate a review of training provided company-wide.
- 10) The contractor will periodically review records of all training and promotions/raises provided to employees to determine if there is any evidence of discrimination. If evidence of discrimination exists, contractor will take corrective action immediately as required by FHWA Form-1273.

**Please Note:**

The SCDOT LPA On-the-Job Training (OJT) Manual is available upon request.

**Please contact:**

SCDOT - Office of Civil Rights Programs  
Post Office Box 191, Columbia, South Carolina 29201

**Phone: (803) 737-6361**

**Fax: (803) 737-2021**

### Definition of Forms

- ❖ Training Log – spreadsheet used to document formal and informal training provided to employees.
- ❖ Promotion and Raises Log – spreadsheet used to document promotions and raises given to employees.







### Wage and Hour Evaluations

- 1) Documentation should be maintained supporting the reasons for the pay rates provided to employees. One means of providing documentation is to conduct regularly scheduled employee evaluations. *See section I – for sample Employee Evaluation Forms.*
- 2) Evaluate periodically the spread of wages paid within each classification to determine whether there is any evidence of discrimination.
  - a. If evidence is found that indicates discrimination, the contractor will promptly take corrective action.
  - b. If the review indicates that discrimination may extend beyond the designated review area, then such corrective action shall include all affected persons.
  - c. An annotated spreadsheet of employees should be kept on file to conduct reviews on the spread of wages paid within each classification.
  - d. Results from evaluations conducted should be recorded and kept on file.



## Personnel Action Review In Partial Fulfillment of Equal Opportunity Requirements

Date of Review	Personnel Action Reviewed
	<input type="checkbox"/> Spread of wages <input type="checkbox"/> Promotions and raises <input type="checkbox"/> Applicant Flow Log <input type="checkbox"/> Terminations <input type="checkbox"/> Training Log <input type="checkbox"/> Other (specify) _____
Reason for Review	
<input type="checkbox"/> Annual Review <input type="checkbox"/> Special Review (explain) _____	
Findings of the Review	
Corrective Actions Taken as a Result of the Review	
Name of Person Conducting Review	Reviewer's Position / Title
Signature of Person Conducting Review	Date Report Submitted

### Other Personnel Actions

- 1) Contractors should conduct periodic reviews of various personnel actions. Reviews can be performed in areas such as recruitment, hiring, terminations, raises/promotions, and training.
  - a. The EEO Officer should periodically evaluate selected personnel actions in depth to determine whether there is evidence of discrimination.
  - b. If evidence is found that indicates discrimination, the contractor will promptly take corrective action.
  - c. If the review indicates that discrimination may extend beyond the designated review area, then such corrective action shall include all affected persons.
- 2) Records should be maintained of what procedures are reviewed and final conclusions.

### Definition of Forms

- ❖ Employee Skills Audit – detailed form used to evaluate overall skill of employees.
- ❖ Operator Performance Evaluation – brief form used to evaluate overall performance of employees.
- ❖ Termination Log – spreadsheet recording all employee terminations and used to assist in periodic reviews of terminations. Reasons for terminations may include:
  - Company-Initiated
    - Absenteeism/tardiness
    - Failure to follow instructions
    - On-the-job use of intoxicating beverages
    - Failure to achieve work related expectations
    - Refusal to work overtime
    - Rude or offensive behavior
    - Willful neglect or damage to employer
    - Insubordination
    - Safety violation
    - Theft (company property, other employees, others on site)
    - Assault or threatening to assault another person
    - Other
  - Voluntarily Quit
    - Dissatisfaction with pay, hours, working conditions, or with job duties
    - Relocated to another state, town, etc.
    - Quit to marry
    - Seek or accept other employment
    - Personal reasons
    - Return to school
    - Self-employed
    - Health reasons such as self, spouse, child, or other dependent
  - In-House/Neutral
    - Retired
    - Laid off (insufficient work)
    - Transferred

**EMPLOYEE SKILLS AUDIT**  
**PERFORMANCE APPRAISAL**

Employee Name: \_\_\_\_\_ Job: \_\_\_\_\_

Evaluation Period: \_\_\_\_\_ to \_\_\_\_\_ Hire Date: \_\_\_\_\_

PERFORMANCE CRITERIA	EVALUATION
<p><b>ATTENDANCE</b></p> <p># Absences (Regardless of Reason): _____</p> <p># Tardy Occurrences: _____</p>	<p>___ <b>Excellent:</b> Rarely misses work, no tardiness, works full shift.</p> <p>___ <b>Good:</b> Occasional absence and/or tardiness, minimizes hours lost to personal affairs.</p> <p>___ <b>Fair:</b> Could improve, below average in absences and/or tardiness, leaves early too often.</p> <p>___ <b>Poor:</b> Too many absences and/or tardiness occurrences, needs to handle personal affairs on own time.</p>
<p><b>COOPERATION</b></p> <p>Example(s):</p> <p>_____</p> <p>_____</p>	<p>___ <b>Excellent:</b> Real team player, gets along well with others, tries to see other's view.</p> <p>___ <b>Good:</b> Generally cooperates.</p> <p>___ <b>Fair:</b> Cooperates sometimes, can be difficult to get along with others occasionally.</p> <p>___ <b>Poor:</b> Only cooperates when forced to, others do not like to work around, needs to improve.</p>
<p><b>JOB SKILL and KNOWLEDGE</b></p> <p>Example(s):</p> <p>_____</p> <p>_____</p> <p>_____</p>	<p>___ <b>Excellent:</b> Very proficient in job, keeps area and equipment well-maintained and clean, knows and does what it takes to do high quality work without instruction.</p> <p>___ <b>Good:</b> Sufficient knowledge and skill to do job, occasionally needs instruction.</p> <p>___ <b>Fair:</b> Either due to lack of experience or basic skill needs frequent instruction and supervision.</p> <p>___ <b>Poor:</b> Does NOT show good job skill or knowledge, makes mistakes, requires close supervision, and definitely needs improvement.</p>
<p><b>PRODUCTIVITY &amp; EFFICIENCY</b></p> <p>Example(s):</p> <p>_____</p> <p>_____</p> <p>_____</p>	<p>___ <b>Excellent:</b> Works hard, efficient, accomplishes more than others, looks for and implements better ways to do things, innovative, looks for something to do when own job permits.</p> <p>___ <b>Good:</b> Generally works hard at job, normally accomplishes task in reasonable time, and occasionally comes up with new ideas.</p> <p>___ <b>Fair:</b> Ordinary worker, nothing exceptional, could improve.</p> <p>___ <b>Poor:</b> Only works hard enough to get by, often hard to find, will disappear, quits early, consistently late from breaks/lunch, needs to improve.</p>

# LPA Equal Opportunity Manual

<p><b>SAFETY</b></p> <p>1. # Accidents: _____</p> <p>2. Workers' Compensation Case(s): ____ Yes ____ No</p> <p>3. Property Damage: ____ Yes Amount (estimated): _____</p> <p>Did "accident investigation" confirm employee negligence and/or fault? __ Yes _ No</p>	<p>___ <b>Excellent:</b> Knows safety rules, obeys rules, makes suggestions for improvement, actively participates in safety meetings/activities, watches out for others, and does NOT take safety short-cuts—NO ACCIDENTS.</p> <p>___ <b>Good:</b> Knows rules, usually watches out for others, average safety participation, usually no accidents.</p> <p>___ <b>Fair:</b> Could have better knowledge of rules, has had accidents and near misses, could improve attitude about and performance of safety practices.</p> <p>___ <b>Poor:</b> Has history of safety violations, pattern of accidents or near misses, considered by other employees as disinterested about safety and dangerous to work around, needs improvement.</p>
<p><b>WORK ATTITUDE</b></p> <p>Example(s):</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>	<p>___ <b>Excellent:</b> Goes out of way to do a good job, will do extra things to complete job, looks for ways to do job better, will work extra hours when needed without complaint, maintains high standards.</p> <p>___ <b>Good:</b> Generally does what is needed to do job, dependable, will generally do extra if asked.</p> <p>___ <b>Fair:</b> Does job but needs pushing or reminding, will not do anything extra.</p> <p>___ <b>Poor:</b> Does only the minimum to get by, needs to improve.</p>

**OVERALL RATING:** \_\_\_\_\_ Excellent \_\_\_\_\_ Good \_\_\_\_\_ Fair \_\_\_\_\_ Poor

Education: \_\_\_\_\_ Race/Sex: \_\_\_\_\_ Veteran Status: \_\_\_\_\_ Handicap: \_\_\_\_\_

**SKILLS SUMMARY:**

Summary of Qualifications	Development Needs

**ADDITIONAL COMMENTS:**

\_\_\_\_\_

\_\_\_\_\_

Current pay rate: \_\_\_\_\_ Recommended pay rate: \_\_\_\_\_

**EMPLOYEE COMMENTS:**

Employee Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Rater's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Supervisor's Supervisor: \_\_\_\_\_ Date: \_\_\_\_\_

*(Once completed, place a copy in employee's personnel file and provide a copy to employee)*



**PERFORMANCE EVALUATION**

<b>Name</b>	<b>Review Beginning Date</b>	<b>Review Ending Date</b>
-------------	------------------------------	---------------------------

**Instructions:** Evaluate job performance for this time period and mark the appropriate box. Use the definitions below to assist you in your decision-making. If an employee did not perform a certain task because he/she was not expected to do so, then mark the "N/A" (not applicable) box.

**Definitions:**

- O = Outstanding = the person **CONSISTENTLY** performs far above the normal expectations
- E = Excellent = the person **OFTEN** exceeds normal standards of satisfactory performance
- G = Good = the person **SOMETIMES** exceeds normal standards of satisfactory performance
- S = Satisfactory = the person is fulfilling the requirements of this position
- M = Marginal = the person is performing only the minimum expected or below what is expected
- N/A= Not applicable = the person was not expected to do this task

<b>GENERAL WORK CRITERIA</b>	<b>O</b>	<b>E</b>	<b>G</b>	<b>S</b>	<b>M</b>	<b>JOB FUNCTION RATING</b>	<b>O</b>	<b>E</b>	<b>G</b>	<b>S</b>	<b>M</b>	<b>N/A</b>	
1. Comprehends instructions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1. Operated designated equipment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2. Organized job efforts	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	2. Maintains quality control of work being done	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
3. Understands job	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	3. Maintains assigned trucks and equipment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
4. Accuracy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	4. Maintains job safety according to safety policy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
5. Performance dependability	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	5. Checks truck for proper loading	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
6. Completes work assignments	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	6. Substitutes for superintendent when required	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
7. Attitude towards job	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	7. Assists superintendent with training	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
8. Personal appearance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>OVERALL PERFORMANCE</b>							
9. Punctuality	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>O</b>	<input type="checkbox"/>	<b>E</b>	<input type="checkbox"/>	<b>G</b>	<input type="checkbox"/>	<b>S</b>	<input type="checkbox"/>
10. Work attendance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>M</b>	<input type="checkbox"/>						
11. Communicates w/ supervisors	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>								
12. Integration with peers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>								
13. Interaction w/ management	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>								
14. Cooperation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>								
15. Follows company policies	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>								
16. Follows safety rules	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>								

**SUPERVISOR'S COMMENTS** on overall performance, strengths and weaknesses in any of the above areas and plans for improvement.

**WORK GOALS** for next rating period (list in order of importance the areas to be acted on)

**Rated By:** \_\_\_\_\_ **Date Rated:** \_\_\_\_\_

**EMPLOYEE COMMENTS**  I agree  I do NOT agree with this evaluation for the following reasons:

**Employee Signature:** \_\_\_\_\_ **Date Signed:** \_\_\_\_\_



### Selection of Subcontractors

- 1) The contractor shall notify all potential subcontractors of their EEO obligations by providing them with a copy of the FHWA 1273.
- 2) Disadvantaged Business Enterprises (DBEs), as defined in 49 CFR 23, shall have equal opportunity to compete for and perform subcontracts that the contractor enters into pursuant to this contract. The contractor will use his best efforts to solicit bids from and to utilize DBE subcontractors or subcontractors with meaningful minority group and women representation among their employees. Contractors shall obtain a list of DBE construction firms from the State Highway Administration personnel.
- 3) The contractor will use his best efforts to ensure subcontractor compliance with their EEO obligations.
- 4) The contractor will maintain records indicating progress and efforts being made in securing the services of DBE subcontractors or subcontractors with meaningful minority and women representation.
- 5) FHWA 1273 – Supplemental Specifications: Required Contract Provisions – Federal-Aid Construction Contracts– Supplemental Specifications: Standard Federal Equal Employment Opportunity Construction Contract Specifications should be included in all subcontracts with, as well as lower-tier subcontracts.

***Please Note: Section II. Nondiscrimination and Section III. Nonsegregated Facilities of the FHWA Form 1273 applies to subcontract values of \$10,000 or more. Since other applicable requirements are included as part of the FHWA Form 1273, contractors are required to include a copy in every subcontract agreement.***

### Definition of Form

- ❖ Cover Letter to Subcontractors – letter accompanying subcontract agreements specifying the inclusion of FHWA 1273.

**Sample Cover Letter to Subcontractors**

**DATE**

**SUBCONTRACTOR'S CONTACT NAME**

**TITLE**

**SUBCONTRACTOR'S NAME**

**ADDRESS**

**CITY, STATE, ZIP**

Re: SC FILE # \_\_\_\_\_ - FAP # \_\_\_\_\_ - COUNTY NAME  
Subcontract Agreement

Dear **CONTACT NAME**:

Enclosed please find two (2) copies of the subcontract agreement on the above project, along with the following documents:

- FHWA 1273 – Supplemental Specifications: Required Contract Provisions – Federal-Aid Construction Contracts
- **ANY OTHER APPLICABLE DOCUMENTS**

Please sign and have both copies of the subcontract agreement witnessed. Once appropriate signatures are complete, please return one (1) copy to our office by **DEADLINE**.

If you have any questions, please do not hesitate to contact **PRIME CONTRACTOR'S CONTACT NAME AND NUMBER**.

Sincerely,

**CONTRACTOR'S CONTACT NAME,  
TITLE**

Enclosures

***Please Note: Copies of the FHWA Form 1273 should be attached to all subcontract agreements; only referencing the FHWA Form 1273 is not sufficient.***

## Construction Site

- 1) Notices and posters setting forth the contractor's EEO Policy must be placed in areas readily accessible to employees, applicants for employment, and potential employees.
- 2) Post the following information in an externally visible, conspicuous place on the project site.
  - a. Secure the following posters from the Local Public Agency (LPA) or Resident Construction Engineer (RCE):
    - **"Know Your Rights: Workplace Discrimination is Illegal"**  
*(EEOC Revised June 2023) - English*  
*(EEOC Revised October 2022) - Spanish*
    - **"Pay Transparency Nondiscrimination Provision"**  
*English and Spanish*
    - **"Employee Rights under the Family and Medical Leave Act" (FMLA)**  
*(WH1420 Revised April 2023) – English*  
*(WH1420 Revised April 2023) – Spanish*
    - **"NOTICE (Title 18, U.S. Code, Section 1020)**  
*(Form FHWA-1022 (Revised May 2015) - English and Spanish*
    - **"Job Safety and Health IT'S THE LAW"**  
*(OSHA 3165-04R 2019) English and Spanish (OSHA 3167-04R 2019)*
    - **"Your Rights Under USERRA"**  
*(USERRA Poster – May 2022) - English Only*
    - **"Employee Polygraph Protection Act" (EPPA)**  
*(WH1462 Revised February 2022) - English and Spanish*
    - **"Employee Rights Under the Davis-Bacon Act"**  
*(WH 1321, Revised October 2017) - English and Spanish*
    - **"Employee Rights Under the Fair Labor Standards Act" (FLSA)**  
*(WH1088 Revised April 2023) - English and Spanish*
    - **"Minimum Wage Regulations"**  
*(From original contract)*
  - b. Display the "General Decision" page from the contract, which records the minimum wage regulations.
- 3) Post the EEO Policy for each relevant firm working on the project.

- 4) Prime contractors are responsible for posting the information listed above.
- 5) Subcontractors should make sure all required posters and a copy of the subcontractor's EEO policy are posted onsite by the prime contractor before construction begins on the project.
- 6) Even for very short projects, all of this information must be displayed in an external location on the construction site that is available to the project employees and to walk-in applicants.
- 7) Conduct periodic (at least once per month) inspections of the site to insure that working conditions and employee facilities do not display any evidence of discrimination. **(Both prime contractors and subcontractors are responsible for conducting site inspections) If contractor is not actively working during the monthly site inspections, documentation should maintained indicating "No Work Performing".**

### Definition of Form

- ❖ Construction Site Inspection Form – form used by contractor to document site inspections conducted on federal-aid projects. SCDOT recommends that site inspections be conducted on a monthly basis.

**LPA Construction Site Inspection**

Date of visit \_\_\_\_\_ Contractor's Name \_\_\_\_\_  
 SC File No. \_\_\_\_\_ Signature of Inspector \_\_\_\_\_  
 Title of Inspector \_\_\_\_\_

\_\_\_ Yes \_\_\_ No **1. Are all eighteen (18) posters listed below and a copy of the minimum wage rates displayed in an externally visible place on the job site? Location**

If "No," state action taken

- |  |                          |  |                          |
|--|--------------------------|--|--------------------------|
| Know Your Rights: Workplace Discrimination is Illegal – English ( <b>EEOC, Revised 06/2023</b> ) | <input type="checkbox"/> | Employee Rights Under FMLA –English ( <b>WH 1420, Revised 4/2023</b> )           | <input type="checkbox"/> |
| Know Your Rights: Workplace Discrimination is Illegal – Spanish ( <b>EEOC, Revised 10/2022</b> ) | <input type="checkbox"/> | Employee Rights Under FMLA – Spanish ( <b>WH 1420 SPA, Revised 4/2023</b> )      | <input type="checkbox"/> |
| Employee Rights – Davis Bacon Act – English ( <b>WH 1321, Revised 10/2017</b> )                  | <input type="checkbox"/> | Polygraph Protection Act – English ( <b>WH 1462, Revised 2/2022</b> )            | <input type="checkbox"/> |
| Employee Rights – Davis Bacon Act –Spanish ( <b>WH 1321 SPA, Revised 10/2017</b> )               | <input type="checkbox"/> | Polygraph Protection Act – Spanish ( <b>WH 1462 SPA, Revised 2/2022</b> )        | <input type="checkbox"/> |
| OSHA Job Safety and Health – English ( <b>OSHA 3165-04R2019</b> )                                | <input type="checkbox"/> | Pay Transparency Nondiscrimination Provision – English ( <b>12/2016</b> )        | <input type="checkbox"/> |
| OSHA Job Safety and Health –Spanish ( <b>OSHA 3167-04R2019</b> )                                 | <input type="checkbox"/> | Pay Transparency Nondiscrimination Provision – Spanish ( <b>12/2016</b> )        | <input type="checkbox"/> |
| Employee Rights (FLSA) – English ( <b>WH 1088, Revised 4/2023</b> )                              | <input type="checkbox"/> | Notice (Title 18, U. S. Code) ( <b>FHWA 1022, Revised 5/2015</b> )               | <input type="checkbox"/> |
| Employee Rights (FLSA) – Spanish ( <b>WH 1088 SPA, Revised 4/2023</b> )                          | <input type="checkbox"/> | Notice (Title 18, U. S. Code) – Spanish ( <b>FHWA 1022 SPA, Revised 5/2015</b> ) | <input type="checkbox"/> |
| Minimum Wage Regulations ( <b>from original contract</b> )                                       | <input type="checkbox"/> | Your Rights Under USERRA ( <b>5/2022</b> )                                       | <input type="checkbox"/> |

\_\_\_ Yes \_\_\_ No **2. FOR PRIME CONTRACTOR ONLY: EEO Policies for ALL active subcontractors are displayed in an externally visible place on the job site. (List each subcontractor)**

If "No," state action taken

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_ Yes \_\_\_ No **3. FOR ALL CONTRACTORS: EEO Policy is displayed in an externally visible place on the job site. If "No," state action taken**

\_\_\_ Yes \_\_\_ No **4. I found no segregated areas on this job site. If "No," state action taken**

\_\_\_ Yes \_\_\_ No **5. I found no racially or sexually discriminating signs, words, or drawings on this jobsite, including recreational areas, break areas, or restroom facilities, if they apply. If "No," state action taken**

\_\_\_ Yes \_\_\_ No **6. The restrooms and changing areas have no "peepholes" and can be locked from the inside. If "No," state action taken**  
**Total Number of port-a-johns inspected:** \_\_\_\_\_

\_\_\_ Yes \_\_\_ No **7. I saw no visible evidence that employee working conditions or facilities demonstrate discriminatory treatment of jobsite personnel. If "No," state action taken**

\_\_\_ Yes \_\_\_ No **8. I have asked employees if they have any discrimination complaints, and they have all answered "no." If "No," state action taken**

\_\_\_ Yes \_\_\_ No **9. I have discussed with the Project Manager any EEO concerns that were raised as a result of this inspection. If "Yes," explain results**