

EQUAL EMPLOYMENT OPPORTUNITY PROVISIONS

As used in these provisions, "Engineer" means the Chief Engineer of the Oregon Department of Transportation acting either directly or through his authorized representatives. "Good Faith Effort" means "affirmative action measures designed to implement the established objectives of an Affirmative Action Plan" 23 CFR 230.407(o).

Section 140 of Title 23, United States Code, EQUAL EMPLOYMENT OPPORTUNITY, as in effect on May 1, 1982, is incorporated by this reference and made a part of these provisions.

Written Notification

The Contractor shall provide written notification to the Engineer within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.

In addition to the notification required in item 7d in the "On-Site Workforce Affirmative Action Requirements For Women and Minorities on Federal-Aid Contracts" the Contractor shall provide immediate written notification to the Engineer when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor minorities or women sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its equal opportunity obligations.

Monthly Report

The Contractor and each Subcontractor (\$10,000 or more) shall submit to the Engineer a "Monthly Employment Utilization Report" (MEUR), Form 731-0394, by the 5th of each month.

Annual Report

Each July for the duration of the project, contracts in the amount of \$10,000 or more and on each subcontract, not including material suppliers, in the amount of \$10,000 or more, the contractor and each subcontractor shall submit From PR-1391. This report shall be sent directly to ODOT Office of Civil Rights.

PURSUANT TO 23 CFR PART 230, SUBPART D, THE STATE HIGHWAY AGENCY HAS A RESPONSIBILITY TO ASSURE COMPLIANCE BY CONTRACTORS WITH THE REQUIREMENTS OF FEDERAL-AID CONSTRUCTION CONTRACTS, 23 CFR 230.405(b). THEREFORE, THE STATE HIGHWAY AGENCY HAS THE FOLLOWING OBLIGATIONS CONCERNING MONITORING AND COMPLIANCE, INCLUDING SHOW CAUSE NOTICE REQUIREMENTS.

Monitoring And Compliance

The Agency will maintain a vigorous monitoring process to ensure nondiscrimination and affirmative action in federal-aid and federally-assisted highway construction projects. Monitoring shall include at a minimum, monthly meetings to review MEUR submittals with Contractor's Equal Employment Opportunity (EEO) Officer and quarterly reviews of Contractor's good faith efforts as outlined in FHWA 1273.

The Agency shall determine contractor's compliance with equal opportunity requirements including:

- Non-discrimination in selection and retention of subcontractors, material suppliers and vendors;
- Maintenance of nonsegregated facilities;
- Adequate representation and utilization of minorities an workforce (by craft/trade) in the contractor's workforce;
- Good faith efforts (GFE) on meeting on-the-job training (OJT) and training special provisions (TSP) contained in FHWA 1273;
- Fair treatment in all terms and conditions of employment; and,
- Adherence (where applicable) to preference in Indian preference provisions.

If the agency or the FHWA becomes aware of any possible violations of Executive Order 11246 or 41 CFR 60, each has the authority and the responsibility to notify the Office of Federal Contract Compliance Programs. The Contractor has the responsibility to meet all the craft goals set forth in the applicable "Covered Area" of "On-Site Workforce Affirmative Action Requirements for Women and Minorities on Federal-Aid Contracts", or can demonstrate good faith efforts to meet these goals (as specified in paragraphs 7a through 7p of the "On-Site Workforce Affirmative Action Requirements for Women and Minorities on Federal-Aid Contracts").

Show Cause Notice

If an investigation or review reveals that a construction Contractor or Subcontractor has not complied with these Special Provisions, the Agency shall issue a show cause notice to initiate efforts to bring the Contractor or Subcontractor into compliance. This written notice shall state the deficiencies found during the review, and shall advise the Contractor or Subcontractor to show cause within 30 days why the Agency shall not impose administrative sanctions. Within 30 days the Contractor or Subcontractor must show good cause or must provide an acceptable agreement for corrective action.

If the Contractor or Subcontractor does not provide this information by the end of the 30 days, the Engineer shall withhold all project progress payments in process as of the date the show cause notice was issued and will continue to withhold project progress payments until the Contractor or Subcontractor responds in an acceptable manner. If the Contractor or Subcontractor fails to meet the conditions of the corrective action agreement, no further show cause notice is required; the Agency shall immediately initiate enforcement proceedings.

If a Contractor's prequalification certification is revoked and/or disqualified because the Contractor has been found on at least two occasions to be in breach of these EEO Provisions of Federal-Aid highway construction contracts, the Contractor must be determined to be in compliance with these EEO Provisions prior to the Contractor's prequalification certificate being reinstated.