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Civil Rights Non-discrimination Requirements on Construction Contracts

www.fhwa.dot.gov/federal-aidessentials

Federal nondiscrimination requirements must be enforced on all Federal aid construction contracts



One of your responsibilities as a local public agency, or LPA, is to ensure that prime contractors and their subcontractors comply with all nondiscrimination requirements that apply to your federally funded construction contract.



Nondiscrimination is the prevention of unequal treatment toward a person because of race, religion, sex, color, national origin, age, or disability. Equal employment opportunity, or EEO, and affirmative action are requirements on federally funded construction contracts that are designed to prevent discrimination. Equal employment opportunity is treating all persons the same and providing the same opportunities to everyone. Affirmative action is the series of steps taken to prevent and correct discrimination.

The Federal nondiscrimination requirements make it illegal for federal-aid construction contractors to discriminate in their employment practices or against individuals for the purposes of employment. As you prepare the contract

documents for a federal-aid construction project, make sure you understand that Form FHWA-1273 must be included in every contract and subcontract associated with the project.

Form FHWA-1273 lists several Federal requirements to be included in federal-aid contracts. Included in this form are the mandated nondiscrimination provisions that apply to all contracts or subcontracts of \$10,000 or more. Therefore, when your contractor signs the project contract, the nondiscrimination provisions of the Form FHWA-1273 become the contractors equal employment opportunity and affirmative action standards. In addition, the contractor must insert these same nondiscrimination provisions in any subcontract associated with the project.

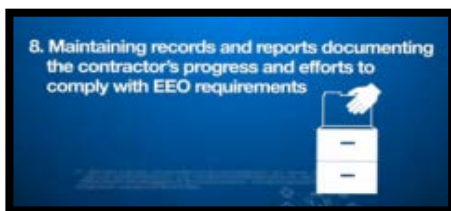
During project construction, you, as the local public agency, or LPA, should monitor prime



contractors and subcontractors to confirm compliance with all EEO and affirmative action standards identified in their contracts.

Among the many requirements found in the Form FHWA-1273 that you will monitor are the required actions of contractors and their subcontractors. These include:

- Accepting the EEO policy statement as the companies operating policy for its employees and applicants, Disseminating the EEO policy throughout the workforce and placing the required posters in areas readily accessible to employees and applicants,
- Appointing an EEO officer who is responsible for actively administering their EEO program,
- Reviewing and monitoring all personnel actions to ensure EEO and affirmative action in employment practices such as recruitment, hires, promotions, and training,
- Making full use of training programs to increase the skills of minorities and women employees and applicants for employment,
- Promptly investigating alleged discrimination complaints and attempting to resolve them,
- Ensuring nondiscrimination in the selection and retention of subcontractors and ensure disadvantaged business enterprises have equal opportunity to compete for and perform subcontracts, and
- Maintaining records and reports documenting the contractor's progress and efforts to comply with the EEO requirements.



Additionally, your monitoring responsibilities include confirming that prime contractors are ensuring that all subcontractors comply with

these requirements. While you are primarily responsible for ensuring compliance by your contractors, your Federal-aid project may be subject to contract compliance reviews by the State department of transportation, the Federal Highway Administration, or the Department of Labor: Office of Federal Contract Compliance Programs.

Nondiscrimination provisions are as important as all other contract provisions. To protect applicants and employees from being discriminated against and ensure you receive Federal funds for your project, monitor your contractors to ensure they comply with these requirements. For additional guidance to ensure nondiscrimination on Federal-aid highway projects, contact your State department of transportation.



Additional Resources

- Regulations on the contractor compliance program and FHWA 1273
<http://www.fhwa.dot.gov/civilrights/programs/cc.htm>
- Information on the requirements of FHWA 1273
<http://www.fhwa.dot.gov/programadmin/contracts/core02.cfm#s2A02>
- Regulation for required contract provisions
<http://www.ecfr.gov/cgi/t/text/text-idx?c=ecfr&sid=6e2ccbb66576498220877d55e8e71e7a&rqn=div5&view=text&node=23:1.0.1.7.22&idno=23>
- Federal regulations on specific EEO contract requirements
<http://www.ecfr.gov/cgi/t/text/text-idx?c=ecfr&sid=d03f9881e68119e0a2a4edab40c0280a&rqn=div5&view=text&node=23:1.0.1.3.8&idno=23>

The content of this document is not a substitute for information obtained from State departments of transportation, appropriate FHWA Division Offices, and applicable laws. Scenarios have been simplified for emphasis and do not necessarily reflect the actual range of requirements applicable to the scenario or this topic. This document was created under contract number DTFH63-11-F-00066 by the Federal Highway Administration, U.S. Department of Transportation, and is offered to the public to heighten and focus awareness of Federal-aid requirements within the local public agencies community and reinforces the importance of these necessary policies, procedures, and practices.

This companion resource is the script content for the video production of the same name.