

# External Employment Opportunity (EEO) LPA Projects



*Office of Civil Rights Programs*

# Equal Opportunity Contract Compliance Program

Ensure federal funds are not spent in a manner which

- encourages,
- supports,
- subsidizes, or
- results in

discrimination in the company's practices of

- employment or
- contracting

based on the person's/company's

- race
- religion
- sex
- sexual orientation
- gender identity
- color
- national origin
- age
- disability

# Definitions

## EO--Equal Opportunity

- Equal contracting opportunities for
  - Subcontractors
  - Material suppliers
  - Vendorsachieved by non-discrimination and affirmative action in
  - Selection
  - Retention

## EEO--Equal Employment Opportunity

### Personnel issues

- Recruitment
- Hiring
- Wages
- Working conditions
- Employee benefits
- Upgrading / promoting
- Transfers
- Demotions
- Layoff / termination

# Contract Compliance Authorities

## ➤ **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 Part 200, 230 (Subparts A, C, and D)
- 23 CFR Part 635.117 (Subparts D and E)
- 49 CFR 21 and 26

## ➤ **Contract Provisions:**

- FHWA Form 1273

# FHWA Form 1273

## “Required Contract Provisions - Federal-Aid Construction Contracts”

- Must be “physically incorporated” in each federal-aid construction contract (including design-build, subcontracts, and lower tier subcontracts)
  - Exclusions include: purchase orders, material suppliers/services, rental agreements, and subcontracts for design-services
  - Must be referenced for work done under any purchase orders, rental/service agreements
- Serves as the affirmative action plan for contractors working on federal-aid contracts.

**\*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.**

# General Contractor Requirements

## **EXTERNAL EQUAL OPPORTUNITY (EEO) AWARENESS**

- Distribute, post and explain contractor's EEO policy and procedures to all employees.
- Distribute, post and explain contractor's complaint procedures, including contact information for EEO Officer and additional investigative agencies, to all employees.
- Promptly investigate all alleged complaints of discrimination and resolve within a reasonable time frame.
- EEO meeting for supervisors and all persons involved in personnel duties.
  - Beginning of the project
  - Every 6 months during project
- All new supervisors or personnel employees must be trained on EEO requirements within 30 days of reporting for duty.

# General Contractor Requirements

## RECRUITMENT / APPLICANTS / HIRING

- Include “An Equal Opportunity Employer” on all recruitment advertising, company letterhead, and employment applications.
- Ask employees to refer qualified women and minorities for employment when there are hiring opportunities.
- During hiring opportunities, recruitment sources that target women and minorities should be utilized if Civilian Labor Force (CLF) data indicates availability. (*Please reference Section F in the LPA SCDOT EEO Manual*).
- Maintain applicant flow log to include listing of all women and minority applicants and the final disposition of each.

# General Contractor Requirements

## TRAINING AND PROMOTION

- Implement a On-the-Job training program
- Notify all employees of available training opportunities and establish an equitable selection process. (Documentation must be maintained and available for review).
- Maintain appropriate training records and review on a periodic basis to determine if training is being offered in an equitable manner.
- Ensure promotions and raises are provided in a nondiscriminatory manner and maintain appropriate documentation indicating reasons for promotions/raises being given to certain employees.



# General Contractor Requirements

## WAGES/PERSONNEL ACTION

- Periodically evaluate the spread of wages paid among each classification to ensure nondiscriminatory wage practices and maintain documentation of the results.
- Conduct periodic reviews of all personnel actions (applicants, new hires, terminations, etc.) to ensure nondiscrimination and maintain documentation of the results.
- Ensure that all notices setting forth the contractor's EEO policy are placed in areas readily accessible to employees, applications for employment, and potential employees.

# General Contract Requirements

## CONSTRUCTION SITE

- Post the eighteen (18) required posters and applicable EEO policies (including relevant subcontractors) in an externally visible, conspicuous place on the project site.
- Display the “General Decision” (minimum wage requirements in the contract) on the construction site.
- Conduct periodic (monthly) inspections of the project site to ensure that working conditions and employee facilities do not indicate discriminatory treatment/harassment of personnel.


# Annual FHWA PR-1391 Form

- Provides a “snap-shot” of the gender and race of the highway construction workforce in South Carolina during the last full pay period in July of each year.
- All prime and subcontractors working on projects with a contract value of \$10,000 or more must complete a PR-1391 form excluding haulers, material testers/suppliers and surveyors.
- Information is submitted to the Federal Highway Administration to assist in determining highway funding.
- LPA Compliance Officer is responsible for obtaining, verifying information and submitting forms to SCDOT by the established deadline.

# LPA Stage-Type Inspection

## PURPOSE

- Monitoring tool that provides an overview of compliance with EEO requirements on federal-aid projects.
- Identifies concerns that need to be addressed in order to assist the contractor in complying with EEO requirements.

		<b>LPA STAGE-TYPE INSPECTION</b>	
		<b>For LPA Projects Only</b>	
<small>Review Authority: 23 CFR 230 and FHWA Form 1273</small>			
<small>The LPA Compliance Officer (defined as the person employed by the LPA to ensure Equal Opportunity Compliance) 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 <a href="http://www.scdot.org/doing/lpa.shtml">http://www.scdot.org/doing/lpa.shtml</a>.</small>			
<b>REVIEW INFORMATION</b>			
1. Federal Aid Number	2. SC File Number	3. County	4. Date of Review
<b>CONTRACTOR INFORMATION</b>			
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 (Required only if you subcontract to DBEs)	
10. Project Address		11. Name and Title of Project Supervisor	
<b>PROJECT INFORMATION</b>			
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 _____	
<b>SIGNATURE OF LPA COMPLIANCE OFFICER</b>			
<small>"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."</small>			
Name of LPA Compliance Officer (Required) _____		Title of LPA Compliance Officer (Required) _____	
Signature of LPA Compliance Officer (Required) _____		Date _____	
<b>SIGNATURE OF CONSULTANT (IF APPLICABLE)</b>			
<small>(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."</small>			
Name of Consultant Representative _____		Title of Consultant Representative _____	
Consultant/Company Name _____		Signature of Consultant Representative _____	

# LPA Stage-Type Inspection

- **When should the inspection be conducted**
  - The LPA Stage-Type Inspection (STI) should be conducted when the construction work dollar amount has reached 25% of the contract value to allow time to make any necessary changes prior to completion of work on the project.
  - For relatively short projects, the LPA STI should be conducted as soon as construction work begins.
- **Who needs to be interviewed**
  - The prime contractor on every federal-aid LPA contract valued at \$10,000 or more. (Subcontractors are excluded.)

# LPA Stage-Type Inspection

## RESPONSIBILITIES

- Once project reaches 25% of the contract dollar value, LPA should schedule a meeting with the prime contractor's EEO Officer to complete the STI. (For short projects, LPA STI should be initiated once construction work begins)
- Answer each question on the LPA STI accordingly and review documentation. Please reference *SCDOT LPA EO Manual* for sample documentation that should be maintained.
- VCAP agreement should be developed and signed on the same day the LPA STI is conducted. (Please reference sample VCAP template located on SCDOT's website.)
- Give a signed copy of the VCAP to the prime contractor. Retain one signed copy for your records.

# LPA Stage-Type Inspection

## RESPONSIBILITIES (continued)

- All deficiencies and corrective action(s) should be listed on the VCAP agreement.
- Contractor should be given fourteen (14) days to implement corrective action(s) and submit appropriate documentation noted on VCAP agreement.
- After review of corrective action(s) and supportive documentation, submit a copy of the LPA STI and all other applicable documents (including VCAP agreement) to the Office of Civil Rights Programs.
- All documentation should be submitted within thirty (30) days from when the LPA STI was conducted.
- Await final determination of concurrence or non-concurrence from SCDOT (Office of Civil Rights Programs).
- Inform contractor of final determination in writing.

# LPA Stage-Type Inspection

## EMPLOYEE INTERVIEWS

- Conducted by the LPA Compliance Officer or designee
  - Confidential Interviews
- Cross section of the firm's employees should be interviewed
  - Length of time the employee has been with the firm
  - Race and gender
  - Job classification
- The number of interviews
  - On-Site Project Officer interview
  - Interview employees for each general classification to include representatives from all races and genders on the project
  - Additional interviews if concerns are raised
  - Ensure employees understand questions being asked
  - Immediately notify the Office of Civil Rights Programs of any alleged complaints of discrimination



# LPA Stage-Type Inspection

## CONSTRUCTION SITE INSPECTION

- Conducted by the LPA Compliance Officer or designee.
- Items Inspected
  - Eighteen (18) required posters
  - Copy of the Minimum Wage Regulations from the original contract
  - EEO policy display for prime and any subs actively working onsite
  - Restrooms and/or port-a-johns
  - General working conditions, complaints, racially or sexually discriminating signs, etc.

# LPA Stage-Type Inspection

## SCDOT LPA EEO MANUAL

- Tool developed to assist contractors and LPAs with EEO compliance while working on federal aid projects.
- Includes FHWA Form 1273, various sample forms, etc.
- Where applicable, recommend use of forms, etc. to contractors to ensure EEO compliance.
- Copy of the manual is located on the SCDOT website.

# LPA RESPONSIBILITIES – SNAPSHOT

- Upon award of LPA project, responsible for submitting *Project Data Sheet* to the Office of Civil Rights Programs.
- Responsible for forwarding all required EEO posters to local contractors upon receipt from SCDOT.
- Responsible for contacting the prime contractor's EEO Officer to schedule a time to complete the LPA Stage-Type Inspection form (including review of all supportive documentation) with prime contractor, interviewing prime contractor personnel, and conducting the construction site inspection.

# LPA RESPONSIBILITIES – SNAPSHOT

## (Continued)

- Responsible for notifying the Office of Civil Rights Programs of any alleged complaints of discrimination, as a result of conducting employee interviews.
- Responsible for submitting a copy of the VCAP agreement to include findings, required corrective actions and documentation received from contractor to the Office of Civil Rights Programs within **thirty (30)** days of the LPA Stage-Type Inspection review being conducted.
- Responsible for notifying contractor of compliance determination **in writing** within **five (5)** days of receiving the final EEO compliance determination letter.

# External Employment Opportunity (EEO) – LPA Projects

# Questions



**Please Contact:**

**SCDOT External Equal Opportunity Program  
Office of Civil Rights Programs  
Telephone: (803) 737-6361**

**E-mail: [BeaglesBD@scdot.org](mailto:BeaglesBD@scdot.org)**

**Website: <http://www.scdot.org/business/bus-development-equal-opportunity.aspx>**

**Please do not hesitate to contact us for assistance!** 21

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**WE ARE A TEAM!**