



External Equal Opportunity (EEO) Contract Compliance Requirements for Contractors

Office of Civil Rights Programs
South Carolina Department of Transportation

External 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
- color
- religion
- sex
- national origin
- age
- disability

Contractor 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, 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. Non-segregated Facilities 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:

Appointment of EEO Officer



- Contractor must appoint and designate a responsible company official to serve as the company EEO Officer.
- Contact information for the company's EEO Officer must be distributed to all employees.
- EEO Officer must be delegated the authority to effectively administer and promote an active EEO program.
- EEO Officer must have access to records for every employee, including name, address, telephone, gender, race, etc.

General Contractor Requirements:

Responsibilities of EEO Officer – (to include but not limited to)



- Review contractor's EEO policy for compliance with Federal and State requirements.
- Assist in identifying and resolving EEO problems to include alleged complaints of discrimination.
- Design and implement audits to track the effectiveness of the EEO policy and procedures.
- Serve as a liaison between the contractor and SCDOT.
- Maintain all required paperwork to document contractor's good faith efforts toward EEO compliance.
- Keep management informed of all EEO matters and problems within company.
- Ensure equal employee access to all facilities owned/operated/used by company.

General Contractor Requirements:

Development and Dissemination of EEO Policy



- Adopt the following EEO policy 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, 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, preapprenticeship, and/or on-the-job training."*
- Ensure that all contractor personnel in supervisory and/or hiring positions are fully aware of the company's EEO policy and contractual obligations.
- Disseminate company EEO policy to all employees. (Employee handbooks, meetings, newsletters, posted on bulletin boards, etc.)

General Contractor Requirements:

Equal Opportunity Procedures



- EEO Officer must conduct required meetings 30 days before or 30 days after the start of work and every six months after in which the contractor's EEO policy, and its implementation will be reviewed and explained.
 - Minutes documenting what items were covered and sign-in sheets to include the name and title of all attendees should be maintained.
- All new supervisory and personnel employees must be trained on EEO responsibilities and procedures within 30 days of reporting for duty by the contractor's EEO Officer.
- Contractor must develop and post complaint procedures and promptly investigate all alleged complaints of discrimination within a reasonable timeframe.
 - Contact information for additional agencies must be included (SCDOT, South Carolina Human Affairs Commission (SCHAC), Equal Employment Opportunity Commission (EEOC), and Department of Labor – Office of Federal Contract Compliance Program (DOL – OFCCP).

General Contractor Requirements:

Recruitment and Advertising



- Contractor must maintain an applicant flow log for all applicants to include date of application, name, address, race, gender, telephone number, position applied for, recruitment source and final disposition code.

- Contractor must practice affirmative action in recruiting and hiring:
 - Current employees must be encouraged to recruit and refer qualified women and minorities for employment.
 - “An Equal Opportunity Employer” phrase must be displayed on all advertisements including company letterhead and job applications.
 - Develop, utilize, and periodically update list of recruitment sources for minority and women community organizations.

General Contractor Requirements:

Recruitment and Advertising



- Contractor 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.
<http://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml>

- Utilization of the CLF statistics will enable contractor to determine the degree to which action must be taken to seek minority and women recruits.

- Contractor must maintain records documenting progress and good faith efforts made in locating and hiring minority and women employees.
 - Vacancy Letters
 - Follow-up efforts
 - Communication Log

General Contractor Requirements:

Personnel Practices and Evaluations



- Contractor must ensure that work assignments, job classifications, promotions/raises, training opportunities, and salaries are offered in a nondiscriminatory manner.
- Contractor must implement and make full use of general training programs (i.e. OJT, apprenticeship, etc.).
- Contractor must advise all employees of available training opportunities and the training selection process, as well as document all training activities.
- Contractor must review all personnel actions to include promotions, pay increases, spread of wages, training opportunities, terminations, lay-offs, hiring, etc. to ensure nondiscrimination.
- Reviews must be documented and made available to SCDOT and/or FHWA upon request.

General Contractor Requirements:

Construction Site – EEO Posters/Policies Bulletin Board



- Single Location Projects –(Bridge replacement projects, two-lane to five-lane widening projects, etc.), mount the project bulletin board in a permanent location within the project limits so that it is visible and accessible at all times.
 - If contractor has an on-site office/trailer (within project limits as defined in the contract/plans), posters/policies must be displayed at this location.

- Mobile/Multiple Location Projects: - (Resurfacing projects, pavement marking projects, etc.), display a portable bulletin board with at least one of the prime contractor's work crews. If the prime contractor is not performing work, display the portable bulletin board with at least one of the subcontractor's work crews. The EEO posters/policies must be visible and accessible at all times.
 - It is not acceptable for the EEO posters/policies to be displayed inside a company truck/vehicle
 - If the portable bulletin board is unable to accommodate a large number of EEO policies, it is acceptable for the EEO policies to be maintained in a binder (labeled "EEO policies") and attached to the portable bulletin board.
 - On resurfacing projects, mount an additional project bulletin board in a permanent location at the asphalt plant supplying asphalt mix to the project so that it is visible and accessible at all times.

The project/portable bulletin board should be displayed in a location and a manner that is acceptable to the RCE/Consultant. The prime contractor is responsible for notifying the RCE/Consultant and all subcontractors of the location of the project/portable bulletin board.

General Contractor Requirements:

Construction Site



- Prime contractor must post the following on the construction site in an area readily accessible to current employees, applicants, and potential employees:

- Twenty (20) required EEO posters
 - “Equal Employment Opportunity is The Law”(EEOC-P/E-1 (Revised 11/09)) - English **and** Spanish
 - “Equal Employment Opportunity is the Law Mandatory Supplement - English **and** Spanish (EEOC-P/E-1, Revised 9/2015)
 - “Employee Rights and Responsibilities under the Family and Medical Leave Act” (WHD 1420, Revised April 2016) – English **and** Spanish
 - “OSHA Job Safety and Health - It’s the Law!” (OSHA 3165-04R2015)- 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” (WH 1088, Revised July 2016)- English **and** Spanish
 - “NOTICE” (Title 18, U.S. Code, Section 1020) (FHWA 1022, Revised May 2015)- - English **and** Spanish
 - “Polygraph Protection Act” (WH 1462, Revised July 2016) - English **and** Spanish
 - “Pay Transparency Nondiscrimination Provision” (December 2016) - English **and** Spanish
 - “Minimum Wage Regulations” (from original contract) - English Only
 - “Your Rights Under USERRA” (April 2017) - English Only

- Applicable EEO policies, including contact information for the contractor’s EEO Officer (*Prime contractor and all subcontractors*)

- Davis Bacon Minimum Wage Rate Information (located on the “General Decision” page of contract)

- Ensure the “Employee Rights Under the Davis-Bacon Act” and “Notice- Title 15, U.S. Code, Section 1020”- (FHWA 1022) have the appropriate contact information prior to posting on the project site.

General Contractor Requirements:

Construction Site (continued)



- Contractor must ensure and maintain a working environment free of harassment, coercion, and intimidation at all sites and in all facilities where employees work.
- All facilities and activities should be non-segregated, except single-user toilets/changing facilities to ensure privacy.
- Periodic inspections of the construction site must be conducted and documented accordingly.
 - Defined as at least once per month
- When possible, contractor must take necessary means to reduce minority/women isolation and curb hostile actions/behavior on construction site.

SCDOT Monitoring:

EEO In-Depth Contract Compliance Reviews



- A systematic, comprehensive review of the employment practices of SCDOT contractors and/or subcontractors in order to determine compliance with EEO contractual requirements.
 - Process involves:
 - Payroll Review
 - Employee Interviews
 - Meeting with EEO Officer to discuss deficiencies and required corrective action
 - Evaluation of employment practices and procedures
 - Determination of any discriminatory practices
 - On-Site Inspection

SCDOT Monitoring:

EEO In-Depth Contract Compliance Reviews



- Results
 - Compliance Determination
 - *In compliance*—EEO requirements have been met
 - *In Non-compliance*—contractor failed to effectively implement EEO requirements
 - Voluntary Corrective Action Plan (VCAP)
 - *Minor deficiencies that can be corrected immediately*
 - Major Corrective Measures
 - Show Cause Notice
 - Corrective Action Plan (CAP)
 - State Administration Contract Procedures
- Follow-up Review

General Contractor Requirements

Requirements and Procedures:



DOCUMENTATION

If you cannot document it, we are required to assume that it did not happen.

General Contractor Requirements

Requirements and Procedures:



Please reference the

SCDOT

EEO Manual

Equal Opportunity Manual



External EO and OJT
Office of Business Development & Special Programs
South Carolina Department of Transportation
PO Box 191
Columbia, SC 29201

https://www.scdot.org/business/pdf/businessDevelop/EO_manual.pdf

Please let us know if you need assistance in reaching our goal!



Equal Opportunity— It's the law for everyone!