

27.1 General Discussion

To effectively assure Equal Employment Opportunity (EEO), it is the policy of the Federal Highway Administration (FHWA) to require that all federal aid highway construction contracts include specific requirements to implement the Title VI Program (Chapter 28), related civil rights laws and regulations. These specific requirements apply to contractors and all their subcontractors (not including material suppliers) holding subcontracts of \$10,000 or more. To be eligible for federal aid funds, the local agency must comply with the civil rights requirements.

The following statement shall be accepted by local agencies and contractors as their operating policy:

It is the policy of this Company to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, 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, trainees, and/or on-the-job training.

Local agencies and their contractors must each designate an EEO officer to ensure compliance with the EEO Title VI, Section 504, and training policy.

The Washington State Department of Transportation (WSDOT) will monitor both the local agency and its contractors for compliance as part of the normal project management reviews and through contract compliance reviews of selected contracts.

The local agency, by signature to the Local Agency Agreement, agrees to the following:

1. To assist and cooperate actively with the state in obtaining contractor and subcontractor compliance with the equal opportunity clause and rules, regulations, and relevant orders of the FHWA and/or Secretary of Labor.
2. To furnish the state such information as it may require for the supervision of such compliance and otherwise assist the state in the discharge of its primary responsibility for securing compliance.
3. To refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, as amended, with a contractor debarred from, or who has not demonstrated eligibility for, government contracts and federally-assisted construction contracts pursuant to the Executive Order and other pertinent rules, laws, and regulations.

4. To carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the state, FHWA, or the Secretary of Labor pursuant to Part II, subpart D of the Executive Order.

In addition, the agency agrees that if it fails or refuses to comply with these undertakings, the state may take any or all of the following actions:

- Cancel, terminate, or suspend the Local Agency Agreement in whole or in part;
- Refrain from extending any further assistance to the agency regarding the failure or refusal to comply until satisfactory assurance of future compliance has been received from the agency; and
- Refer the case to the Department of Justice for appropriate legal proceedings.

The local agency must consult the *WSDOT/APWA Standard Specifications, Amendments, General Special Provisions*, and the *WSDOT Construction Manual* to administer the EEO and training programs.

27.2 Training

To meet federal requirements, each contract must comply with applicable GSPs and Form FHWA-1273.

Training goals are established by the Highways and Local Programs Operations Engineer on selected federal aid construction contracts. The goals are set based on the formula developed by WSDOT, and the goal setting process takes into account the following factors:

1. The dollar amount of the project (normally Highways and Local Programs will not set goals on projects of less than \$500,000).
2. Type of work. Project must lend itself to training.
3. Availability of minorities and women for training.
4. Geographic location of the project.
5. Duration of the work (normally Highways and Local Programs will not set training goals on projects of less than 75 working days).

The training hours are established on the amount of labor, opportunity and location of each federally assisted project. Highways and Local Programs Project Development Engineer determines the training hours for each project. The local agency must submit an engineer's estimate for the duration of the contract including estimated number of working days to the Region Local Programs Engineer as a basis for the Highways and Local Programs Project Development Engineer to set goals. (The training goals and DBE goals are established at the same time.)

27.3 Contract Administration

.31 General. The local agency has the responsibility to:

1. Conduct preconstruction conferences during which EEO and training Special Provisions for federal aid contracts are discussed with the contractor. (Emphasis should be made regarding the applicability of goal-by-craft versus average-of-all-crafts.)
2. Ensure that the contractor posts and maintains notices and posters setting forth the contractor's EEO policy. A supply of OFCCP Poster No. 1420, Equal Employment Opportunity is the Law, shall be made available to the contractor.
3. Monitor on-site compliance with the EEO and training Special Provisions of federal aid contracts.
4. Ensure that their contractors locate, qualify, and increase the skills of minority groups, women employees, and applicants for employment as specified in the training provisions.
5. Prepare and/or ensure the preparation of the required EEO and training reports.

.32 EEO Reports.

1. PR 1391: This report is submitted by the contractor and subcontractors showing all the employees in the work force including an ethnic breakdown on their federal aid highway construction projects under construction during the month of July. The report is a summation of employees on the last payroll period in which work was performed during the month of July. The local agency retains this form in its project files.
2. PR 1392: Summation of the July PR 1391 reports received from all contractors and subcontractors that were working on federally-assisted projects during the month of July. This report is prepared by the local agency and sent to the Region Local Programs Engineer by August 30. The Region Local Programs Engineer will summarize agencies PR1392 into one PR1392. This summarized report is due at WSDOT Highways and Local Programs by September 10 annually.
3. DOT Form 820-010 Monthly Employment Utilization Report: This report includes the total work hours for each employee classification in each trade in the covered area for the monthly report period. This form will be kept in the Contractors' files and does not need to be submitted to the local agency. These forms are utilized when the annual EEO compliance reviews (see section 27.5) of the randomly selected contractors are conducted by the WSDOT OEO office.

.33 Training Reports.

1. Form 272-060: Federal Aid Highway Construction Annual Project Training Report is maintained by the local agency's Project Engineer as trainees are approved. Question 10 is to be completed from the project payroll/trainee records. Form 272-060 is due in the Region Local Programs office by December 10th.
2. Form 272-061: Federal Aid Highway Construction Cumulative Training Report extracts the information taken from Form 272-060. The Region Local Programs Engineer prepares this report which is due in the Headquarters by December 20.

27.4 Monitoring During Construction

.41 EEO. During the project construction, the local agency must monitor the contractor's performance to ensure compliance with its Title VI and Section 504 EEO policy. To accomplish this, the local agency must designate an EEO Officer. The EEO Officer's duties are to conduct reviews with the contractor, maintain records, reports, and required Title VI statistical data concerning the contractor's performance, and ensure that the local agency itself is in compliance with its EEO policy.

.42 Training. When training hours are assigned to the project, the local agency must verify that the trainee is on the project and is receiving beneficial training in accordance with the approved training program. When trainees are on a project, the local agency shall periodically conduct interviews with them to determine if they are receiving the training as specified in the approved training program. The "Trainee Questionnaire" form or similar forms should be used to document the employee interviews and the contractor's compliance with the training requirement.

The contractor will submit certified monthly detailed invoices showing the related weekly payroll number, name of the trainee, total hours trained under the program, previously paid hours, hours due, and the dollar amount due this estimate. These invoices must be kept with the project records and will become part of the temporary final records to be retained for three years after acceptance of the project by WSDOT and FHWA.

.43 Complaints. The local agency will send any complaints filed against contractors by trainees to the Region Local Program Office who will forward them to Highways and Local Programs for appropriate action.

27.5 Compliance Review

In addition to the selected compliance review of local agency contracts by WSDOT External Civil Rights Branch (ECRB), the Highways and Local Programs Operations Engineer's Office will review Title VI and Section 504 EEO and training compliance during its regular project management reviews. If, upon such examination, it is determined that further review is needed, the Highways and Local Programs Office may initiate a further investigation.

The evaluation of the local agency's and its contractor's compliance is based on the provisions included in the contract.

Forms

See Chapter 11 of the WSDOT *Construction Manual*.

