

# Equal Opportunity Manual



Updated December 14, 2010

Dear Contractor:

Thank you for working with the South Carolina Department of Transportation to improve the roadways of South Carolina. As you are aware, all federal-aid construction contracts require contractors to comply with federal equal opportunity requirements. The Equal Opportunity (EO) Contractor's Compliance Program ensures that federal highway construction funds are not used in a manner which encourages, supports or results in discrimination in employment or contracting practices based on race, color, religion, sex, national origin, age or disability.

In an effort to assist you with ensuring EO compliance, we have developed an Equal Opportunity Manual. Contractors awarded projects within the state of South Carolina should follow the guidelines of this manual while working on federal-aid construction projects.

I hope that you find this manual very useful and welcome your cooperation in complying with federal EO requirements. If you have any questions, please contact Nicole Edwards, External EO & OJT Program Coordinator, by telephone at 803-737-6428 or by email at [EdwardsNB@scdot.org](mailto:EdwardsNB@scdot.org).

Again, thank you for working with our agency as we continue to improve the roadways of South Carolina.

Sincerely,



Arlene Prince  
Director  
Office of Business Development and  
Special Programs



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### Introduction

This manual has been developed and is intended to be used as a resource to assist contractors in complying with all federal requirements as set forth by Federal Highway Administration's Required Contract Provisions Federal-Aid Construction Contracts (FHWA 1273).

As a contractor performing work on federal-aid projects, you are responsible for complying with nondiscrimination and equal opportunity requirements. To assist in this effort, various examples and forms have been included in this manual.

From time to time, this manual may be revised to reflect changes associated with EO compliance. In the event changes occur, information will be distributed accordingly. Questions concerning information provided in this manual should be directed to the Office of Business Development and Special Programs.

**Please Note: Some of the forms included in this manual were developed by local contractors and we have received permission to reproduce them for your use.**

**FEDERAL HIGHWAY ADMINISTRATION (FHWA) FORM 1273  
SUPPLEMENTAL SPECIFICATIONS  
Required Contract Provisions Federal-Aid Construction Contracts**

The FHWA Form 1273 includes specific guidelines concerning federal EO requirements. This document also contains guidance on many other items related to project construction and is monitored and enforced by FHWA and SCDOT. Contractors should become familiar with this document in order to ensure compliance with all federal guidelines while working on federal-aid projects.

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## SUPPLEMENTAL SPECIFICATIONS

### REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

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#### I. GENERAL

1. These contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.
2. Except as otherwise provided for in each section, the contractor shall insert in each subcontract all of the stipulations contained in these Required Contract Provisions, and further require their inclusion in any lower tier subcontract or purchase order that may in turn be made. The Required Contract Provisions shall not be incorporated by reference in any case. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with these Required Contract Provisions.
3. A breach of any of the stipulations contained in these Required Contract Provisions shall be sufficient grounds for termination of the contract.
4. A breach of the following clauses of the Required Contract Provisions may also be grounds for debarment as provided in 29 CFR 5.12:
  - Section I, paragraph 2;
  - Section IV, paragraphs 1, 2, 3, 4, and 7;
  - Section V, paragraphs 1 and 2a through 2g.
5. Disputes arising out of the labor standards provisions of Section IV (except paragraph 5) and Section V of these Required Contract Provisions shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the U.S. Department of Labor (DOL) as set forth in 29 CFR 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the

contracting agency, the DOL, or the contractor's employees or their representatives.

6. **Selection of Labor:** During the performance of this contract, the contractor shall not:
  - a. discriminate against labor from any other State, possession, or territory of the United States (except for employment preference for Appalachian contracts, when applicable, as specified in Attachment A), or
  - b. employ convict labor for any purpose within the limits of the project unless it is labor performed by convicts who are on parole, supervised release, or probation.

#### II. NONDISCRIMINATION

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$10,000 or more.)

1. **Equal Employment Opportunity:** Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630 and 41 CFR 60) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The Equal Opportunity Construction Contract Specifications set forth under 41 CFR 60-4.3 and the provisions of the American Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:
  - a. The contractor will work with the State highway agency (SHA) and the Federal Government in carrying out EEO obligations and in their review of his/her activities under the contract.
  - b. The contractor will accept as his operating policy the following 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."*
2. **EEO Officer:** The contractor will designate and make known to the SHA contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering

and promoting an active contractor program of EEO and who must be assigned adequate authority and responsibility to do so.

3. **Dissemination of Policy:** All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

- a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.
- b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.
- c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minority group employees.
- d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.
- e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. **Recruitment:** When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minority groups in the area from which the project work force would normally be derived.

- a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority group applicants may be referred to the contractor for employment consideration.
- b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, he is expected to observe the provisions of that agreement to the extent that the system permits the contractor's compliance with

EEO contract provisions. (The DOL has held that where implementation of such agreements have the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Executive Order 11246, as amended.)

- c. The contractor will encourage his present employees to refer minority group applicants for employment. Information and procedures with regard to referring minority group applicants will be discussed with employees.

5. **Personnel Actions:** Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

- a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.
- b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.
- c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.
- d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with his obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of his avenues of appeal.

6. **Training and Promotion:**

- a. The contractor will assist in locating, qualifying, and increasing the skills of minority group and women employees, and applicants for employment.
- b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or

- training. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision.
- c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.
  - d. The contractor will periodically review the training and promotion potential of minority group and women employees and will encourage eligible employees to apply for such training and promotion.
7. **Unions:** If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use his/her best efforts to obtain the cooperation of such unions to increase opportunities for minority groups and women within the unions, and to effect referrals by such unions of minority and female employees. Actions by the contractor either directly or through a contractor's association acting as agent will include the procedures set forth below:
- a. The contractor will use best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.
  - b. The contractor will use best efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.
  - c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the SHA and shall set forth what efforts have been made to obtain such information.
  - d. In the event the union is unable to provide the contractor with a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The DOL has held that it shall be no excuse that the union with which the contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority employees.) In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the SHA.
8. **Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:** The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment.
- a. The contractor shall notify all potential subcontractors and suppliers of his/her EEO obligations under this contract.
  - b. Disadvantaged business enterprises (DBE), as defined in 49 CFR 23, shall have equal opportunity to compete for and perform subcontracts which the contractor enters into pursuant to this contract. The contractor will use his best efforts to solicit bids from and to utilize DBE subcontractors or subcontractors with meaningful minority group and female representation among their employees. Contractors shall obtain lists of DBE construction firms from SHA personnel.
  - c. The contractor will use his best efforts to ensure subcontractor compliance with their EEO obligations.
9. **Records and Reports:** The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the SHA and the FHWA.
- a. The records kept by the contractor shall document the following:
    - (1) The number of minority and non-minority group members and women employed in each work classification on the project;
    - (2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women;
    - (3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees; and
    - (4) The progress and efforts being made in securing the services of DBE subcontractors or subcontractors with meaningful minority and female representation among their employees.
  - b. The contractors will submit an annual report to the SHA each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. If on-the job training is being required by special provision, the contractor will be required to collect and report training data.

### III. NONSEGREGATED FACILITIES

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$10,000 or more.)

- a. By submission of this bid, the execution of this contract or subcontract, or the consummation of this material supply agreement or purchase order, as appropriate, the bidder, Federal-aid construction contractor, subcontractor, material supplier, or vendor, as appropriate, certifies that the firm does not maintain or provide for its employees any segregated facilities at any of its establishments, and that the firm does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The firm agrees that a breach of this certification is a violation of the EEO provisions of this contract. The firm further certifies that no employee will be denied access to adequate facilities on the basis of sex or disability.
- b. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive, or are, in fact, segregated on the basis of race, color, religion, national origin, age or disability, because of habit, local custom, or otherwise. The only exception will be for the disabled when the demands for accessibility override (e.g. disabled parking).
- c. The contractor agrees that it has obtained or will obtain identical certification from proposed subcontractors or material suppliers prior to award of subcontracts or consummation of material supply agreements of \$10,000 or more and that it will retain such certifications in its files.

### IV. PAYMENT OF PREDETERMINED MINIMUM WAGE

(Applicable to all Federal-aid construction contracts exceeding \$2,000 and to all related subcontracts, except for projects located on roadways classified as local roads or rural minor collectors, which are exempt.)

#### 1. General:

- a. All mechanics and laborers employed or working upon the site of the work will be paid unconditionally and not less often than once a week and without subsequent deduction or rebate on any account [except such payroll deductions as are permitted by regulations (29 CFR 3) issued by the Secretary of Labor under the Copeland Act (40 U.S.C. 276c)] the full amounts of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment. The payment shall be computed at wage rates not less than those contained in the wage determination of the Secretary of Labor (hereinafter "the wage determination") which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor or its subcontractors and such laborers and mechanics. The wage determination (including any additional classifications

and wage rates conformed under paragraph 2 of this Section IV and the DOL poster (WH-1321) or Form FHWA-1495) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers. For the purpose of this Section, contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act (40 U.S.C. 276a) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of Section IV, paragraph 3b, hereof. Also, for the purpose of this Section, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in paragraphs 4 and 5 of this Section IV.

- b. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein, provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed.
- c. All rulings and interpretations of the Davis-Bacon Act and related acts contained in 29 CFR 1, 3, and 5 are herein incorporated by reference in this contract.

#### 2. Classification:

- a. The SHA contracting officer shall require that any class of laborers or mechanics employed under the contract, which is not listed in the wage determination, shall be classified in conformance with the wage determination.
- b. The contracting officer shall approve an additional classification, wage rate and fringe benefits only when the following criteria have been met:
  - (1) the work to be performed by the additional classification requested is not performed by a classification in the wage determination;
  - (2) the additional classification is utilized in the area by the construction industry;
  - (3) the proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and
  - (4) with respect to helpers, when such a classification prevails in the area in which the work is performed.

- c. If the contractor or subcontractors, as appropriate, the laborers and mechanics (if known) to be employed in the additional classification or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the DOL, Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, D. C . 20210. The Wage and Hour Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- d. In the event the contractor or subcontractors, as appropriate, the laborers or mechanics to be employed in the additional classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. Said Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary
- e. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 2c or 2d of this Section IV shall be paid to all workers performing work in the additional classification from the first day on which work is performed in the classification.

### 3. Payment of Fringe Benefits:

- a. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor or subcontractors, as appropriate, shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly case equivalent thereof.
- b. If the contractor or subcontractor, as appropriate, does not make payments to a trustee or other third person, he/she may consider as a part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided, that the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may

require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

### 4. Apprentices and Trainees (Programs of the U.S. DOL) and Helpers:

- a. *Apprentices:*
  - (1) Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the DOL, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State apprenticeship agency recognized by the Bureau, or if a person is employed in his/her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State apprenticeship agency (where appropriate) to be eligible for probationary employment as an apprentice.
  - (2) The allowable ratio of apprentices to journeyman-level employees on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate listed in the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor or subcontractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman-level hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.
  - (3) Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman-level hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance

with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator for the Wage and Hour Division determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

- (4) In the event the Bureau of Apprenticeship and Training, or a State apprenticeship agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor or subcontractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the comparable work performed by regular employees until an acceptable program is approved.

b. *Trainees:*

- (1) Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the DOL, Employment and Training Administration.
- (2) The ratio of trainees to journeyman-level employees on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.
- (3) Every trainee must be paid at not less than the rate specified in the approved program for his/her level of progress, expressed as a percentage of the journeyman-level hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of

fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman-level wage rate on the wage determination which provides for less than full fringe benefits for apprentices, in which case such trainees shall receive the same fringe benefits as apprentices.

- (4) In the event the Employment and Training Administration withdraws approval of a training program, the contractor or subcontractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. *Helpers:*

Helpers will be permitted to work on a project if the helper classification is specified and defined on the applicable wage determination or is approved pursuant to the conformance procedure set forth in Section IV.2. Any worker listed on a payroll at a helper wage rate, who is not a helper under an approved definition, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed.

**5. Apprentices and Trainees (Programs of the U.S. DOT):**

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

**6. Withholding:**

The SHA shall upon its own action or upon written request of an authorized representative of the DOL withhold, or cause to be withheld, from the contractor or subcontractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements which is held by the same prime contractor, as much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the SHA contracting officer may, after

written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

## 7. Overtime Requirements:

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers, mechanics, watchmen, or guards (including apprentices, trainees, and helpers described in paragraphs 4 and 5 above) shall require or permit any laborer, mechanic, watchman, or guard in any workweek in which he/she is employed on such work, to work in excess of 40 hours in such workweek unless such laborer, mechanic, watchman, or guard receives compensation at a rate not less than one-and-one-half times his/her basic rate of pay for all hours worked in excess of 40 hours in such workweek.

## 8. Violation:

**Liability for Unpaid Wages; Liquidated Damages:** In the event of any violation of the clause set forth in paragraph 7 above, the contractor and any subcontractor responsible thereof shall be liable to the affected employee for his/her unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer, mechanic, watchman, or guard employed in violation of the clause set forth in paragraph 7, in the sum of \$10 for each calendar day on which such employee was required or permitted to work in excess of the standard work week of 40 hours without payment of the overtime wages required by the clause set forth in paragraph 7.

## 9. Withholding for Unpaid Wages and Liquidated Damages:

The SHA shall upon its own action or upon written request of any authorized representative of the DOL withhold, or cause to be withheld, from any monies payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 8 above.

## V. STATEMENTS AND PAYROLLS

(Applicable to all Federal-aid construction contracts exceeding \$2,000 and to all related subcontracts, except for projects located on roadways classified as local roads or rural collectors, which are exempt.)

### 1. Compliance with Copeland Regulations (29 CFR 3):

The contractor shall comply with the Copeland Regulations of the Secretary of Labor which are herein incorporated by reference.

## 2. Payrolls and Payroll Records:

- a. Payrolls and basic records relating thereto shall be maintained by the contractor and each subcontractor during the course of the work and preserved for a period of 3 years from the date of completion of the contract for all laborers, mechanics, apprentices, trainees, watchmen, helpers, and guards working at the site of the work.
- b. The payroll records shall contain the name, social security number, and address of each such employee; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalent thereof the types described in Section 1(b)(2)(B) of the Davis Bacon Act); daily and weekly number of hours worked; deductions made; and actual wages paid. In addition, for Appalachian contracts, the payroll records shall contain a notation indicating whether the employee does, or does not, normally reside in the labor area as defined in Attachment A, paragraph 1. Whenever the Secretary of Labor, pursuant to Section IV, paragraph 3b, has found that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis Bacon Act, the contractor and each subcontractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, that the plan or program has been communicated in writing to the laborers or mechanics affected, and show the cost anticipated or the actual cost incurred in providing benefits. Contractors or subcontractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprentices and trainees, and ratios and wage rates prescribed in the applicable programs.
- c. Each contractor and subcontractor shall furnish, each week in which any contract work is performed, to the SHA resident engineer a payroll of wages paid each of its employees (including apprentices, trainees, and helpers, described in Section IV, paragraphs 4 and 5, and watchmen and guards engaged on work during the preceding weekly payroll period). The payroll submitted shall set out accurately and completely all of the information required to be maintained under paragraph 2b of this Section V. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal stock number 029-005-0014-1), U.S. Government Printing Office, Washington, D.C. 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.
- d. Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his/her agent who pays or supervises the payment of the persons

employed under the contract and shall certify the following:

- (1) that the payroll for the payroll period contains the information required to be maintained under paragraph 2b of this Section V and that such information is correct and complete;
  - (2) that such laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in the Regulations, 29 CFR 3;
  - (3) that each laborer or mechanic has been paid not less than the applicable wage rate and fringe benefits or cash equivalent for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.
- e. The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 2d of this Section V.
- f. The falsification of any of the above certifications may subject the contractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 231.
- g. The contractor or subcontractor shall make the records required under paragraph 2b of this Section V available for inspection, copying, or transcription by authorized representatives of the SHA, the FHWA, or the DOL, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the SHA, the FHWA, the DOL, or all may, after written notice to the contractor, sponsor, applicant, or owner, take such actions as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

## VI. RECORD OF MATERIALS, SUPPLIES, AND LABOR

1. On all Federal-aid contracts on the National Highway System, except those which provide solely for the installation of protective devices at railroad grade crossings, those which are constructed on a force account or direct labor basis, highway beautification contracts, and contracts for which the total final construction cost for roadway and bridge is less than \$1,000,000 (23 CFR 635) the contractor shall:
  - a. Become familiar with the list of specific materials and supplies contained in Form FHWA-47, "Statement of Materials and Labor Used by Contractor of Highway Construction Involving Federal Funds," prior to the commencement of work under this contract.
  - b. Maintain a record of the total cost of all materials and supplies purchased for and incorporated in

the work, and also of the quantities of those specific materials and supplies listed on Form FHWA-47, and in the units shown on Form FHWA-47.

- c. Furnish, upon the completion of the contract, to the SHA resident engineer on Form FHWA-47 together with the data required in paragraph 1b relative to materials and supplies, a final labor summary of all contract work indicating the total hours worked and the total amount earned.
2. At the prime contractor's option, either a single report covering all contract work or separate reports for the contractor and for each subcontract shall be submitted.

## VII. SUBLETTING OR ASSIGNING THE CONTRACT

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the State. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635).
  - a. "Its own organization" shall be construed to include only workers employed and paid directly by the prime contractor and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor, assignee, or agent of the prime contractor.
  - b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid on the contract as a whole and in general are to be limited to minor components of the overall contract.
2. The contract amount upon which the requirements set forth in paragraph 1 of Section VII is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.
3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the SHA contracting officer determines is necessary to assure the performance of the contract.
4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the SHA contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the SHA has assured that each subcontract is evidenced in

writing and that it contains all pertinent provisions and requirements of the prime contract.

## VIII. SAFETY: ACCIDENT PREVENTION

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the SHA contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.
2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).
3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).

## IX. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, the following notice shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

### NOTICE TO ALL PERSONNEL ENGAGED ON FEDERAL-AID HIGHWAY PROJECTS

18 U.S.C. 1020 reads as follows:

*"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost*

*thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or*

*Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or*

*Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;*

*Shall be fined not more than \$10,000 or imprisoned not more than 5 years or both."*

## X. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$100,000 or more.)

By submission of this bid or the execution of this contract, or subcontract, as appropriate, the bidder, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any facility that is or will be utilized in the performance of this contract, unless such contract is exempt under the Clean Air Act, as amended (42 U.S.C. 1857 et seq., as amended by Pub.L. 91-604), and under the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq., as amended by Pub.L. 92-500), Executive Order 11738, and regulations in implementation thereof (40 CFR 15) is not listed, on the date of contract award, on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities pursuant to 40 CFR 15.20.
2. That the firm agrees to comply and remain in compliance with all the requirements of Section 114 of the Clean Air Act and Section 308 of the Federal Water Pollution Control Act and all regulations and guidelines listed thereunder.
3. That the firm shall promptly notify the SHA of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that a facility that is or will be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.
4. That the firm agrees to include or cause to be included the requirements of paragraph 1 through 4 of this Section X in every nonexempt subcontract, and further agrees to take such action as the government may direct as a means of enforcing such requirements.

## XI. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

## 1. Instructions for Certification - Primary Covered Transactions: (Applicable to all Federal-aid contracts - 49 CFR 29)

- a. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
- b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.
- c. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.
- d. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- e. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is submitted for assistance in obtaining a copy of those regulations.
- f. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
- g. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not

debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the nonprocurement portion of the "Lists of Parties Excluded From Federal Procurement or Nonprocurement Programs" (Nonprocurement List) which is compiled by the General Services Administration.

- i. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- j. Except for transactions authorized under paragraph f of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

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## Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Primary Covered Transactions

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
  - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
  - b. Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1b of this certification; and
  - d. Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

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## 2. Instructions for Certification - Lower Tier Covered Transactions:(Applicable to all subcontracts, purchase

orders and other lower tier transactions of \$25,000 or more - 49 CFR 29)

- a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.
- b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.
- d. The terms "covered transaction," "debarred," "suspended," "ineligible," "primary covered transaction," "participant," "person," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
- e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
- f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
- h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in

addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

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### **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions:**

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

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### **XII. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING**

(Applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 - 49 CFR 20)

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:
  - a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
  - b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

**ATTACHMENT A - EMPLOYMENT PREFERENCE FOR APPALACHIAN CONTRACTS** (Applicable to Appalachian contracts only.)

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except
  - a. To the extent that qualified persons regularly residing in the area are not available.
  - b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.
  - c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph 1c shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph 4 below.
2. The contractor shall place a job order with the State Employment Service indicating
  - (a) the classifications of the laborers, mechanics and other employees required to perform the contract work,
  - (b) the number of employees required in each classification,
  - (c) the date on which he estimates such employees will be required, and

- (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, he shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.
4. If, within 1 week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph 1c above.
5. The contractor shall include the provisions of Sections 1 through of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

### Contractor Responsibilities

#### Equal Opportunity (EO) Procedures for Contractors Working on Federal-Aid Highway Construction Projects

*These requirements apply only to contractors awarded a contract or subcontract with a dollar value of \$10,000 or more AND who work on the construction site. (Note: Truckers who only haul materials to or from the construction site and surveyors do NOT meet these criteria).*

#### Definition of Terms

- ❖ Relevant contractor – a contractor awarded a contract or subcontract with a dollar value of \$10,000 or more and also responsible for performing work on the construction site. **Please Note:** *Truckers who only haul materials to or from the construction site and surveyors do not meet these criteria.*
- ❖ Discrimination – an act or failure to act, whether intentional or unintentional, through which a person in the United States, solely because of race, color, religion, sex, national origin, age, or disability, has been subjected to unequal treatment under any program or activity of a recipient, sub-recipient or contractor receiving financial assistance from FHWA under Title 23 U.S.C.
- ❖ Affirmative Action – efforts exerted toward achieving equal opportunity through positive, aggressive and continuous result-oriented measures to correct past and present discriminatory practices and the effects on the conditions and privileges of employment and contracting.
- ❖ Equal Employment Opportunity (EEO) – practice of not discriminating and taking affirmative action in employment practices.
- ❖ Equal Opportunity (EO) – the absence of partiality or distinction in employment treatment and contractor selection, so that the right of all persons to compete and perform work, and be employed and advanced on the basis of merit, ability and capability is maintained.
- ❖ South Carolina Department of Transportation (SCDOT) – state agency responsible for monitoring Equal Opportunity Compliance on federal-aid projects in South Carolina.
- ❖ Federal Highway Administration (FHWA) – the division of the U. S. Department of Transportation responsible for monitoring compliance of the state departments of transportation.
- ❖ Department of Labor (DOL) – Office of Federal Contract Compliance Programs (OFCCP) – the division of DOL responsible for monitoring compliance of contractors working on federal-aid projects.
- ❖ RCE – SCDOT Resident Construction Engineer or CRM-East/West person filling the role of RCE, or any person carrying out these responsibilities under the direction of the RCE.
- ❖ On-Site Project Officer – the contractor's highest ranking employee responsible for overseeing daily work on a construction project.
- ❖ EEO Officer – the contractor's employee who is familiar with the federal EEO requirements and also equipped to evaluate the company's compliance with EEO requirements.

## 1) Authorities for Equal Employment Opportunity (EEO) Requirements

Several authorities are applied to ensure non-discrimination and equal employment opportunity on Federal-aid highway projects. These authorities include the following laws, regulations and policies:

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 200, 230, 635.117(d) and (e) 23 CFR 200 49 CFR 21 and 26
Contract Provisions:	FHWA 1273 (including Appalachian contract provisions)
Policies:	FHWA Order 4710.8 FHWA Notice N4720.7

## 2) General Principles and Procedures for Contractors Working on Federal-Aid Construction Projects

### a) Principles

- i) The prime contractor is responsible for ensuring that all subcontractors, vendors, and materials suppliers with a contract value of \$10,000 or more comply with EO requirements.
- ii) Consequences for failing to comply with the requirements of “Required Contract Provisions—Federal Construction Contracts”.
  - (1) A breach of any of the stipulations contained in the FHWA Form 1273 shall be sufficient grounds for termination of the contract.
  - (2) A breach of certain specified clauses of FHWA Form 1273 may be grounds for debarment.
- iii) The portions of FHWA Form 1273 relevant to equal opportunity (EO), and thus monitored by the External Equal Opportunity Program Unit are found in Sections “II” and “III.”; the remainder of FHWA Form 1273 is monitored by other entities within SCDOT.
- iv) Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be without regard to race, color, religion, sex, national origin, age, or disability.
  - (1) The contractor shall maintain records as necessary to document compliance with the EEO requirements. These records must be retained for a period of three years, following completion of the contract.
  - (2) These records must be made available at reasonable times for inspection by authorized representatives of SCDOT and FHWA.
- v) Documentation of all efforts is essential.

### b) Practices

- i) The contractor must work with SCDOT and the Federal Highway Administration (FHWA) in order to comply with all EEO obligations, including fully cooperating with any compliance review activities initiated by any of these entities, or any other state or federal agency.

- ii) The contractor must develop an Equal Employment Opportunity (EEO) Policy.
- iii) The contractor must designate an EEO Officer who meets the following criteria:
  - (1) Responsible for and capable of effectively administering and promoting an active contractor program of EEO.
  - (2) Assign adequate authority and responsibility to carry out these duties.
- iv) All of the following members of the contractor's staff must be made fully aware of, and must implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment:
  - (1) Persons who are authorized to hire, supervise, promote, and discharge employees, AND
  - (2) Persons who recommend such action, or who are substantially involved in such action.
- v) All new supervisory or personnel office employees must be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty (30) days following their reporting for duty with the contractor.
- vi) Notices and posters setting forth the contractor's EEO policy must be placed in areas readily accessible to employees, applicants for employment, and potential employees.
- vii) Documentation should be kept to support the reasons for the pay rates provided to employees.
- viii) Contractors should conduct periodic reviews of various personnel actions.

### 3) Procedures to Follow Prior to Commencing Work on a Federal-Aid Project

#### a) Selection of Subcontractors, Procurement of Materials, and Leasing of Equipment

The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment.

#### b) Initial Submittals

Prime contractor must submit the following to the Office of Business Development and Special Programs (Attn: EEO Program Coordinator):

- i) Name and contact information for the firm's EEO Officer and DBE/MBE Liaison Officer.
- ii) Minutes and sign-in sheets from the last EEO meeting for supervisory and personnel employees.
- iii) A list of recruitment sources that will be used if new employees are needed while working on the construction project.

#### c) Conduct EEO Meetings for Supervisory and Personnel Office Employees.

#### d) Post the 14 Required Posters on the Construction-Site. (Please refer to Section K for details regarding the required posters).

#### e) Post the minimum wage regulations (the "General Decision" page from the contract) on the construction site.

### 4) Procedures to Follow During Construction on the Project

#### a) Duties of the EEO Officer (or trained designee) during the project

- i) Conduct periodic site inspections.
- ii) Evaluate periodically selected personnel actions and the spread of wages paid within each classification to determine whether there is evidence of any discrimination.

- b) The contractor's EEO policy and the procedures to implement such policy must be brought to the attention of all employees.
- c) Recruit employees based on review of the Civilian Labor Force (CLF) data whenever hiring opportunities exist (Please refer to Section F for details regarding how to use CLF data).
- d) Training and Promotion
  - i) The contractor will assist in locating, qualifying, and increasing the skills of minority group and women employees, and applicants for employment.
  - ii) Consistent with the contractor's workforce requirements and as permissible under Federal and State regulations, the contractor shall make full use of available training programs (i.e. apprenticeship and on-the-job training programs for the geographical area of contract performance.)
- e) Complete Stage-Type Inspection (STI) Forms or Reports.
- f) Submit the annual FHWA Form PR-1391 during August of each year for all active projects. (NOTE: "active" is defined as the project was awarded but the "Form 3099—Report Recommending Roads for State Maintenance has not been submitted.)
  - i) Purpose of the PR-1391

The PR-1391 captures the gender and race of the construction workforce in the state of South Carolina during the third pay period of July each year. This information is submitted to Federal Highway Administration to assist with determining highway funding.
  - ii) Procedures for the PR-1391
    - (1) During the month of June, the External EO Program Coordinator will send letters, forms, and instructions (including deadlines) to prime contractors and RCEs, requesting submission of these forms from all relevant prime and sub-contractors working on active federal-aid projects.
      - (a) "Active Projects" = were awarded prior to July 1 of the current year, and the "Form 3099—Report Recommending Roads for State Maintenance" has not been submitted.
      - (b) "Relevant prime and sub-contractors" =
        - (i) Was listed as a subcontractor on an active federal aid project.
        - (ii) Has a contract value of \$10,000 or more.
        - (iii) Works on the construction site—i.e. is required to submit payrolls. (e.g. subcontractors who simply haul products to or from the construction site are NOT required to submit; surveyors are NOT required to submit)
    - (2) Prime contractors:
      - (a) Distribute all information to relevant subcontractors, including a deadline for when the subcontractor should submit forms to the prime contractor.
      - (b) Collect all subcontractor forms and forward to the RCE. Prime contractors must ensure that all relevant subcontractors submit their reports.
      - (c) Immediately notify the Office of Business Development and Special Programs if a PR-1391 was requested from a contractor who is not a "relevant" subcontractor.
      - (d) Send all completed reports to the Resident Construction Engineer (RCE) by the deadline stated in the June letter.
    - (3) Subcontractors are requested to send completed forms to the prime contractor so that the prime contractor can account for all forms before submitting to the RCE.
    - (4) Statistics must include all employees on that project during the third full pay period of July.
    - (5) If the prime contractor or any of the subcontractors do not submit the report in a timely manner, the RCE may withhold payment on the project until the reports are received.

## Equal Opportunity Manual

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g) Conduct EEO meetings for supervisory and personnel office employees not less than every six months from the time of the meeting that was held at the beginning of the project.

h) Additional records and reports:

In addition to the various records and reports already mentioned, the contractor must also maintain the following records:

- i) The number of minority and non-minority group members and women employed in each work classification on the project.
- ii) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for women and minorities.
- iii) The progress and efforts being made in training, qualifying, and upgrading minority and female employees.

i) Complaints of alleged discrimination:

Contractor must respond promptly to all complaints of alleged discrimination made to the contractor in connection with his obligations under the designation contract:

- i) Investigate promptly.
- ii) Attempt to resolve these complaints.
- iii) Take appropriate corrective action within a reasonable time.
- iv) Include all persons in the corrective action who have been shown by the investigation to have been discriminated against, even if they were not the original complainant.
- v) Inform every complainant of all of his avenues of appeal, once the investigation has been completed.

j) Cooperate with In-Depth Reviews conducted by the Office of Business Development and Special Programs.

If you have any questions, please contact:

**South Carolina Department of Transportation  
Office of Business Development and Special Programs**

**External EO and OJT Unit**

Phone: 803-737-1372

Fax: 803-737-2021

### Guidelines for Completing Stage-Type Inspections

#### Purpose of Stage-Type Inspections (STIs)

- a) Gives an overview of compliance with EO requirements on federal-aid projects.
- b) Provides information used by the Office of Business Development and Special Programs for determining which contractors will receive an “In-Depth Review”.
- c) Alerts the RCE and the Office of Business Development and Special Programs of issues that need to be addressed in order to assist the contractor in complying with EEO requirements.

#### 1) When should the inspection be conducted:

- a) The regularly-scheduled Stage-Type Inspection should be conducted when the project dollar amount has reached 25% of the contract value.
- b) The Office of DBE and Special Programs may also request a Stage-Type Inspection on a contractor at any time during the course of the project.

#### 2) Who needs to be reviewed:

- a) The prime contractor on every contract valued at \$10,000 or more.
- b) All subcontractors actively working on a project during the two weeks following the employee interviews being conducted with the prime contractor, IF
  - i) Their subcontract is valued at \$10,000 or more AND
  - ii) They work on-site (i.e. are required to submit certified payrolls); therefore, STIs are not required on haulers, surveyors, or material testers.
  - iii) Any additional subcontractors for whom the External EO Compliance Officer requests a Stage-Type Inspection, at any time during the course of the project.

#### 3) The inclusion of FHWA PR-1391 Forms with the Stage-Type Inspection (STI):

- a) The STI form includes a PR-1391 form for project specific employment statistics and a PR-1391 for company-wide employment statistics.
  - i) Project Specific Employment Statistics - The PR-1391 must cover the employment statistics for the last pay period when the contractor had employees on the project preceding when the STI is completed. Statistics must include ONLY the employees who worked on the project being reviewed.
  - ii) Company-wide Employment Statistics – The second PR-1391 must record company-wide workforce employees during the same pay period.

#### 4) Employee interviews:

- a) The EEO employee interviews will be conducted by the RCE and/or a designated SCDOT employee. **These confidential interviews should never be given to or shown to other contractor personnel, including supervisors, managers, etc.**
- b) A *cross section* of the firm’s employees will be interviewed, giving consideration to length of time the employee has been with the firm, gender, race, and job classification, with the majority of interviews being conducted with female and minority employees.
- c) *The number of interviews:* One interview is conducted for each general classification of employees on the project. However, if concerns are raised, additional interviews will be conducted to determine how extensive the concerns are.

### Step-by-Step Procedures for Completing STIs

- 1) Complete questions 6 – 21 in ink, not pencil. *See section C – 3 for the STI form.*
- 2) Be sure to answer all questions completely.
- 3) Attach the appropriate supporting documentation to include:
  - a) EEO Policy Dissemination Documentation – This documentation may include minutes and sign-in sheets from EEO meetings held with all employees verifying that the EEO policy was distributed during the meeting. Other supporting documentation may include a copy of the sheet that all employees are required to sign at the time of hire verifying that he/she has received, read, and understands the EEO policy.
  - b) Minutes from EEO Meeting for Supervisory and Personnel Office Employees held at the start of work on a project - This meeting should occur thirty (30) days before or after the start of work on a project and at least once every six (6) months throughout the duration of the project. Documentation should include minutes from the meeting held within this timeframe and sign-in sheets for meeting attendees.
  - c) List of Sources Used to Recruit New Employees – If employees were recruited through specific sources other than employee referrals, a list of these sources, vacancy letters, telephone logs, ads, etc. must be attached to the STI.
  - d) Site Inspections – A copy of any site inspections conducted on the project should be attached to the STI. *See section K-2 for sample site inspection form.*
  - e) Verification of Employees Being Encouraged to make Referrals – Documentation of current employees being asked to refer qualified minority and female persons for employment should also be attached to the STI. Such documentation can be provided in meeting minutes and sign-in sheets where employees have been asked to make referrals, special memos distributed with employee paychecks, etc.
- 4) Complete PR-1391 information for both project specific workforce employees and company-wide workforce employees for the same pay period that employees worked on the project.
- 5) Be sure to sign and date when the STI was completed.
- 6) Retain a copy of the STI and all documentation for your records.
- 7) Send the completed STI and all supporting documentation to the Resident Construction Engineer (RCE) by the deadline provided in the cover letter.



# Equal Employment Opportunity Stage-Type Inspection Home Office

01/09

*Local SCDOT Construction Office completes #1-5 and sends to Contractor's home office.*

1. Name, address, phone number of contractor/subcontractor	2. SC File No	3. Contract/Subcontract value
4. Percent complete based on contract value	5. Type of work for this contractor	

*Contractor's home office completes #6-21 and returns form to the local SCDOT Construction Office.  
NOTE: "you / your" = the contractor named in #1 above.*

6. Your start date	7. Your estimated completion date	8. Your expected peak employment dates	9. Name and title of EEO Officer
--------------------	-----------------------------------	--	----------------------------------

10. Name & title of Project Officer	11. You are <input type="checkbox"/> Prime contractor <input type="checkbox"/> First-tier subcontractor <input type="checkbox"/> Other (specify)
-------------------------------------	--

12. You are (check all that apply)  Minority Enterprise (at least 51% owned by minority)  Non-minority  SCDOT certified DBE

13. Do you maintain records to show minority and female members of your work force AND do you keep those records for 3 years? <b>If YES, where are records kept?</b>	<input type="checkbox"/>	<input type="checkbox"/>	Yes	No
--	--------------------------	--------------------------	-----	----

14. Has your EEO policy been disseminated to all your employees on this project and to other appropriate persons related to this project? <b>If YES, provide copy of your EEO policy and documentation such as employee acknowledgement form, minutes &amp; sign-in sheets from EEO meetings.</b>	<input type="checkbox"/>	<input type="checkbox"/>	Yes	No
---	--------------------------	--------------------------	-----	----

15. Has the EEO Officer held EEO meetings for SUPERVISORY and PERSONNEL OFFICE employees at the START of this project AND not less often than once every 6 months since the project began? <ul style="list-style-type: none"> <li>o <b>If YES, provide minutes and sign-in sheets for the meeting held <u>30 days before or after your work start date.</u></b></li> <li>o <b>If NO, give date(s) of scheduled meeting(s).</b></li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	Yes	No
--	--------------------------	--------------------------	-----	----

16. Have you hired new employees COMPANY-WIDE since work began on this project? <ul style="list-style-type: none"> <li>o <b>If NO, go directly to #17.</b></li> <li>o <b>If YES, state how many _____ and answer the questions below:</b></li> </ul> <div style="margin-left: 40px;"> <input type="checkbox"/> Are any of these new employees working on THIS construction project?  <b>If YES, how many? _____</b> </div>	<input type="checkbox"/>	<input type="checkbox"/>	Yes	No
<input type="checkbox"/> Are any of these new employees working on THIS construction project? <b>If YES, how many? _____</b>	<input type="checkbox"/>	<input type="checkbox"/>	Yes	No

What job openings/classifications were available for hiring opportunities on this project?

<input type="checkbox"/> Were female and minority recruitment sources used to recruit these new employees on this project? <b>If YES, please provide documentation i.e. vacancy letters, employee referrals, telephone logs, ads, etc.</b>	<input type="checkbox"/>	<input type="checkbox"/>	Yes	No
---	--------------------------	--------------------------	-----	----

17. Has the EEO Officer (or trained designee) conducted EEO inspection(s) on this project? <ul style="list-style-type: none"> <li>o <b>If YES, provide documentation (e.g. Jobsite Inspection Forms).</b></li> <li>o <b>If NO, give date visit is scheduled to be made: _____</b></li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	Yes	No
---	--------------------------	--------------------------	-----	----

18. Have your employees on this project been encouraged to refer qualified minority and female persons to your firm? <b>If YES, provide documentation.</b>	<input type="checkbox"/>	<input type="checkbox"/>	Yes	No
--	--------------------------	--------------------------	-----	----

19. In the modified PR-1391 below, record **ONLY** employees on **THIS** project during the **MOST RECENT PAY PERIOD THAT YOU HAD EMPLOYEES ON THIS CONSTRUCTION SITE.** (If using electronic form, double click in the chart to open up a self-calculating excel spread sheet.)

Job Categories	Total Employees		Female Percent	Total Minorities		Minority Percent	Black (Not Hispanic)		Hispanic		American Indian or Alaskan Native		Asian or Pacific Islander		White (Not Hispanic)	
	M	F		M	F		M	F	M	F	M	F	M	F	M	F
Foremen																
Clerical--field office only																
Equipment Operators																
Mechanics																
Truck Drivers																
Ironworkers																
Carpenters																
Cement Masons																
Electrician																
Pipefitters / Plumbers																
Painters																
Laborers, Semi-skilled																
Laborers, Unskilled																
<b>Total</b>																

20. In the modified PR-1391 below, record **COMPANY-WIDE** workforce employees during the **SAME PAY PERIOD USED IN #19 ABOVE.** (If using electronic form, double click in the chart to open up a self-calculating excel spread sheet.)

Job Categories	Total Employees		Female Percent	Total Minorities		Minority Percent	Black (Not Hispanic)		Hispanic		American Indian or Alaskan Native		Asian or Pacific Islander		White (Not Hispanic)	
	M	F		M	F		M	F	M	F	M	F	M	F	M	F
Foremen																
Clerical--field office only																
Equipment Operators																
Mechanics																
Truck Drivers																
Ironworkers																
Carpenters																
Cement Masons																
Electrician																
Pipefitters / Plumbers																
Painters																
Laborers, Semi-skilled																
Laborers, Unskilled																
<b>Total</b>																

**Contractor's EEO Officer: Sign and send form and attachments to the local SCDOT Construction Office.**

21. My signature verifies that all information submitted with this form is accurate and complete.

Name

Date

**Local SCDOT Construction Office:**

Attach interviews, sign, and forward Stage-Type Inspection to Office of Business Development and Special Programs.

22. My signature verifies I reviewed this report for completeness and our office conducted the interviews.

Name

Title

Date

### In-Depth Reviews

- 1) The Office of Business Development and Special Programs conducts in-depth reviews on contractors' compliance with EO requirements while working on highway construction projects.
- 2) If such a review is scheduled, the Office of Business Development and Special Programs will notify the contractor 3-4 weeks in advance with a letter detailing what information must be made available to the Compliance Reviewer(s) by the specified date.
- 3) Included with the initial notification letter is an In-Depth Review form that must be completed and submitted by the specified date. Failure to submit the information by the established deadline may result in the RCE withholding payment on the project.
- 4) If a subcontractor is selected to be reviewed, the prime contractor is responsible for ensuring that a copy of the notification letter and forms are forwarded to the subcontractor.
- 5) Initial submittals will be reviewed and only items that require further clarification or corrective action will be discussed on the day of the review.
- 6) Occasionally, additional information may be requested if all documentation is not received prior to the review date or if further supporting documentation is needed.
- 7) If minor deficiencies are found, the contractor will be requested to enter into a Voluntary Correction Action Plan (VCAP) outlining corrective actions that must be taken in order for the contractor to be in compliance with EO requirements.
  - a. The prime contractor will be required to sign the VCAP agreement along with the subcontractor where applicable.
  - b. The contractor will be given a deadline to submit corrective actions to SCDOT.
  - c. Steps will be taken against the contractor if responses to the VCAP are not received by the deadline provided and if problems persist with the contractor's EO compliance including, but not limited to, withholding payments, canceling or suspending contracts, and suspending or disbaring contractors.
- 8) If the contractor's VCAP responses are satisfactory, a final report will be submitted to FHWA notating the deficiencies found during the review and the corrective action(s) taken.
- 9) If FHWA concurs with SCDOT's determinations, a final letter will be sent to the contractor of the final outcome of the review.

### Equal Opportunity Awareness

#### EEO Policy

- 1) The contractor's EEO policy and the procedures to implement such policy must be brought to the attention of all employees. Contractors may use meetings, handbooks and any other appropriate means to inform their employees.
- 2) The following practices would provide the required documentation verifying that the information has been explained to employees.
  - a. Include company's EEO policy in the company handbook and require employees to sign off indicating that they have read and understood the EEO policy and implementation procedures.
  - b. Include company's EEO policy in employee paychecks once or twice a year.
  - c. Explain the company's EEO Policy and implementation procedures to employees during company EEO meetings.
- 3) If a contractor does not have an Equal Employment Opportunity (EEO) Policy, one must be developed (*For details on information that should be included in an EEO Policy, please refer to page E-3*).

#### EEO Meetings

EEO meetings for supervisory and personnel office employees should be conducted at the start of work on a project (*thirty (30) days before or after the project begins*) and at least once every six months.

- a. Company's EEO Officer and/or assigned designee must conduct the meeting.
- b. The contractor's EEO policy and its implementation must be reviewed and explained to all supervisory personnel on the project and all office employees who are involved in recruiting, hiring, determination of employee pay rates and benefits, termination of employees, etc.
- c. All personnel who are engaged in direct recruitment for the project must be instructed by the EEO Officer of the contractor's procedures for locating and hiring female and minority group employees.

#### Company's Complaint Procedure

The contractor's complaint procedures should instruct employees on how to file complaints. Complaint procedures should also include additional contact information for agencies if an employee feels their complaint is unresolved at company level.

### Definition of Forms

- ❖ EEO Policy & Complaint Contact Information – a sample EEO policy that can be used by contractor(s) and contact information for agencies that are responsible for investigating complaints of discrimination.
- ❖ Acknowledgement of Receipt of EEO Policy – a form for employees to sign verifying receipt and understanding of the EEO Policy.
- ❖ Supervisory and Personnel Office Employees EEO Meeting Outline – form detailing topics that should be covered during EEO meetings held with supervisory and personnel office employees. This outline can serve as minutes and sign-in sheets verifying that meetings were conducted.
- ❖ Memo to Managers and Supervisors – alternative method for ensuring that supervisors and personnel office employees are aware of duties and responsibilities while working on federal-aid projects. This memo can serve as documentation that employees serving in this capacity are fully aware of contractual responsibilities.
- ❖ Jobsite EEO Meeting Minutes and Sign-in Sheets – minutes verifying that an EEO meeting was held with all workforce employees working on a project, the required topics were discussed, and signatures of meeting attendees.



### Guidelines for Equal Employment Opportunity (EEO) Policy

An **Equal Employment Opportunity (EEO) Policy** is usually a one-page statement that includes at least, the following required information:

1. "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, pre-apprenticeship, and/or on-the-job training."
2. Statement of intent to comply with applicable regulations, including
  - Title VII of the Civil Rights Act of 1964
  - Required Contract Provisions—Federal-Aid Construction Contracts—FHWA 1273
  - Executive Order No. 11246, as amended
  - Rehabilitation Act of 1973
  - Vietnam Era Veterans Readjustment Assistance Act
  - All other relevant state and local regulations
3. Name and contact information for company's EEO Officer
4. Name and contact information for filing a complaint if issues were unresolved at the company level:
  - a. SCDOT External Equal Opportunity Program Coordinator  
Office of Business Development and Special Programs  
Post Office Box 191  
Columbia, SC 29201  
Phone: 803-737-1372  
Fax: 803-737-2021
  - b. South Carolina Human Affairs Commission (SCHAC)  
2611 Forest Drive  
Columbia, SC 29204  
Phone: 803-737-7800  
Toll-free phone: 800-521-0725
  - c. Office of Federal Contract Compliance Programs (OFCCP)  
U. S. Department of Labor  
1835 Assembly Street, Room 608  
Columbia, SC 29201  
Phone: 803-765-5244  
Fax: 803-765-5245
  - d. Equal Employment Opportunity Commission (EEOC).  
301 N. Main Street, Suite 1402  
Greenville, SC 29601  
Phone: 864-241-4400  
Toll-free phone: 800-669-4000
5. Signature of the president of the firm.

Also recommended, but not required, are the following items:

1. Encouraging current employees to refer minority and female recruits.
2. Inviting all employees to request further training.

## EEO Policy

**CONTRACTOR'S NAME** reaffirms its commitment to the principle of Equal Employment Opportunity in its personnel policies and practices. It is the policy of this company to comply with all applicable regulations of the Civil Rights Act of 1964, Required Contract Provisions-Federal-Aid Construction Contracts-FHWA 1273, Executive Order No. 11246, as amended, Rehabilitation Act of 1973, Vietnam Era Veterans Readjustment Assistance Act, and all other relevant state and local regulations.

It is **CONTRACTOR'S NAME** policy to recruit, hire, train and promote into all jobs levels, employees and applicants for employment without regard to race, color, religion, age, sex, marital status, sexual preference, national origin, physical or mental disability, or veteran status. All such decisions are based on (1) individual merit, qualifications, and competence as they relate to the particular position, and (2) promotion of the principle of equal employment opportunity. All current employees are encouraged to refer minority and female recruits for employment whenever hiring opportunities are available.

All other personnel programs such as compensation, benefits, transfers, layoff, return from layoff, training, education, and social and recreational programs are administered without regard to race, color, religion, age, sex, national origin, physical or mental disability, or veteran status. All employees are encouraged to request for additional training.

All harassment is strictly prohibited, including sexual, race, color, religion and any other form of conduct, which has the purpose or effect of unreasonably interfering with the employee's work performance or creating an environment, which is intimidating, hostile or offensive to the employee. Any employee who feels that a violation of this policy has occurred should immediately report the matter to their supervisor. If that person is unavailable or the employee believes it would be inappropriate to contact the supervisor, the employee should contact the supervisor's supervisor, Human Resources or the facility head. Each complaint will be investigated and any violations will be remedied. The complaining employee will not be affected in employment with the company as a result of bringing the harassment complaints to the attention of the company.

**CONTRACTOR'S EEO OFFICER'S NAME** is the company's EEO Officer and is responsible for administering the company's EEO Policy. Anyone having questions, comments or complaints regarding the company's equal employment policy should contact **CONTRACTOR'S EEO OFFICER'S NAME**, EEO Officer, at **CONTRACTOR'S EEO OFFICER'S CONTACT NUMBER**.

If complaints remain unresolved by our company, please contact any of the following for further assistance:

**The Office of Federal Contract Compliance Programs (OFCCP)**  
U.S. Department of Labor  
1835 Assembly Street, Room 608  
Columbia, South Carolina 29201  
803-765-5244  
803-765-5245

**SCDOT External Equal Opportunity Program Coordinator**  
Office of Business Development and Special Programs  
Post Office Box 191  
Columbia, SC 29201  
Phone: 803-737-1372  
Fax: 803-737-2021

**Equal Employment Opportunity Commission (EEOC)**  
301 N. Main Street, Suite 1402  
Greenville, South Carolina 29601  
864-241-4400  
800-669-4000 – Toll Free

**South Carolina Human Affairs Commission**  
2611 Forest Drive  
Columbia, South Carolina 29204  
803-737-7800  
800-521-0725 – Toll Free

**COMPANY NAME**

---

Signature of EEO Officer

---

Signature of President

**CONTRACTOR'S NAME AND ADDRESS**

**ACKNOWLEDGEMENT OF RECEIPT OF EEO POLICY**

By signing this form, I acknowledge that I have received, read and understand the EEO policy provided to me by **CONTRACTOR'S NAME**. I understand that if I have questions concerning the policy, I am to contact **CONTRACTOR'S EEO OFFICER'S NAME**, EEO Officer, at **CONTRACTOR'S EEO OFFICER'S CONTACT NUMBER**.

\_\_\_\_\_  
Signature of Employee

\_\_\_\_\_  
Date

## Record of Supervisory and Personnel Office EEO Meeting

“Periodic meetings of supervisory and personnel office employees must be conducted before the start of work and then not less often than once every six months, at which time the contractor’s EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.”

*FHWA 1273 -- Required Contract Provisions – Federal-Aid Construction Contracts, II.3.a.*

<b>1. Company name</b>	<b>2. Date of meeting</b>																		
<b>3. SC File No.</b>	<b>4. Location of Project</b>																		
<b>5. Name of Corporate EEO Officer</b>	<b>6. Location of meeting (including address)</b>																		
<b>7. Name of person conducting meeting</b>	<b>8. Title/Position of person conducting meeting</b>																		
<p><b>9. Certification of meeting:</b> My signature in this box certifies that I held an EEO meeting for the supervisors and personnel office employees working with the federal-aid project named above. This meeting was held to address all aspects of our equal employment opportunity (EEO) obligations. The main topics addressed, and the persons in attendance are indicated below.</p>																			
<table style="width: 100%; border: none;"> <tr> <td style="border-top: 1px solid black; width: 60%;"></td> <td style="border-top: 1px solid black; width: 40%;"></td> </tr> <tr> <td style="text-align: center;"><b>EEO Officer or Designee’s Signature</b></td> <td style="text-align: center;"><b>Date</b></td> </tr> </table>				<b>EEO Officer or Designee’s Signature</b>	<b>Date</b>														
<b>EEO Officer or Designee’s Signature</b>	<b>Date</b>																		
<p><b>10. Major topics (details on attached pages)—check all items that were covered in this meeting:</b></p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> <input type="checkbox"/> EEO Policy  <input type="checkbox"/> Identification of EEO Officer  <input type="checkbox"/> Wages and payrolls  <input type="checkbox"/> Bulletin boards  <input type="checkbox"/> General company training opportunities  <input type="checkbox"/> Complaint procedure                 </td> <td style="width: 50%; vertical-align: top;"> <input type="checkbox"/> Recruitment sources to use  <input type="checkbox"/> Workforce diversity and recruitment  <input type="checkbox"/> Utilization of DBE firms  <input type="checkbox"/> Interviews by state and federal representatives  <input type="checkbox"/> Required Training Special Provision                 </td> </tr> </table>		<input type="checkbox"/> EEO Policy <input type="checkbox"/> Identification of EEO Officer <input type="checkbox"/> Wages and payrolls <input type="checkbox"/> Bulletin boards <input type="checkbox"/> General company training opportunities <input type="checkbox"/> Complaint procedure	<input type="checkbox"/> Recruitment sources to use <input type="checkbox"/> Workforce diversity and recruitment <input type="checkbox"/> Utilization of DBE firms <input type="checkbox"/> Interviews by state and federal representatives <input type="checkbox"/> Required Training Special Provision																
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<p><b>11. Attendees:</b></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 33%; text-align: center;">Printed name</th> <th style="width: 33%; text-align: center;">Title / Position</th> <th style="width: 33%; text-align: center;">Signature</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td></tr> </tbody> </table>		Printed name	Title / Position	Signature															
Printed name	Title / Position	Signature																	

## MEMORANDUM

TO: ALL SUPERVISORS, MANAGERS, FOREMAN

FROM: (Name), PRESIDENT OR EEO OFFICER

It is the intention of CONTRACTOR'S NAME, to provide and maintain a working environment free of harassment, intimidation, and coercion at all construction sites and in all facilities at which this company has assigned employees to work.

As a part of our program of affirmative action, all supervisors, managers, foreman, where possible, are to seek additional females to work on federal-aid highway construction projects.

You are to encourage all minority and female employees to recruit other minorities and females by encouraging them to apply for work at your jobsite.

You are to invite all employees and applicants who are disabled (post job offer, only), disabled veterans (post job offer, only), or veterans of the Vietnam Era (at time of application) to identify themselves to me, if they wish to take part in our affirmative action program designed for these individuals.

You are to ensure that all facilities and activities are non-segregated, except for privacy between the sexes.

It is the responsibility of all supervisors, managers, and foremen to ensure that this type of working environment exists at all of our construction sites.

**My signature below verifies that I have received and understand information contained in this memo.**

\_\_\_\_\_  
**Signature of Employee**

\_\_\_\_\_  
**Title**

\_\_\_\_\_  
**Date**

***Print on company letterhead***

**JOB SITE EEO MEETING**

SC File Number \_\_\_\_\_ Company No. \_\_\_\_\_  
 County \_\_\_\_\_ Date \_\_\_\_\_  
 Project description \_\_\_\_\_ Meeting led by \_\_\_\_\_

**I, \_\_\_\_\_, hereby certify that I held a Jobsite (project) EEO Meeting on the date and project site stated above. All items marked below were discussed, and the signatures below verify employee attendance.**

- \_\_\_\_\_ 1. Read and explain EEO policy to the employees
- \_\_\_\_\_ 2. Give name and contact information for EEO Officer
- \_\_\_\_\_ 3. Discuss complaint procedures, including external contacts (SCDOT, SCHAC, EEOC)
- \_\_\_\_\_ 4. Encourage reporting of any complaints at the earliest possible time
- \_\_\_\_\_ 5. Discuss location of EEO Posters and EEO Policy posting. (Meeting should be held in front of where these are posted)
- \_\_\_\_\_ 6. Ask employees to refer minority and females to the contractor for employment, including any specific hiring opportunities currently available
- \_\_\_\_\_ 7. Discuss contractor's formal and/or in-house informal training program and invite participation in any training opportunities currently available
- \_\_\_\_\_ 8. Inform employees of Federal (FHWA, DOL-Office of Federal Contract Compliance Programs) and State (SCDOT) compliance officers who may visit the project and why; encourage employees to cooperate

**My signature below certifies that I attended the Jobsite EEO Meeting held on the above referenced date and project, and that the items checked above were explained in that meeting.**

Name (printed)	Title	Signature

### Recruitment / Applicants / Hiring

#### Basic Guidelines

- 1) Recruitment guidelines apply to company-wide recruitment during the time period the contractor is working on a federal-aid project.
- 2) Contractors may not discriminate against labor from any other state, possession, or territory of the United States (except for employment preference for Appalachian contracts, when applicable).
- 3) Contractors may not employ convict labor for any purpose within the limits of the project unless it is labor performed by convicts who are on parole, supervised release, or probation.
- 4) Contractors should consult the Civilian Labor Force (CLF) statistics published by the Census Bureau to determine the availability of minority and female persons within their recruitment area. Utilization of these statistics enables the contractor to determine the degree to which he must take action to seek minority/female recruits.
- 5) If female and/or minority representation or utilization is below the levels of availability for that classification as specified in the Civilian Labor Force (CLF) statistics, and if evidence of active recruitment of applicants from these classes cannot be documented; the contractor may be determined to be in non-compliance with federal EO requirements.
- 6) Contractors must maintain records documenting progress and efforts being made in locating and hiring minority and female employees.
- 7) When advertising for new employees, the contractor must
  - a) Include in all advertisements for employees the notation: "An Equal Opportunity Employer."
  - b) Place advertisements in publications having a large circulation among minority groups in the area from which the project work force would normally be derived.
  - c) Conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified applicants, unless precluded by a valid bargaining agreement, by
    - i) Identifying sources of potential female and minority group employees.
    - ii) Establishing with such identified sources procedures whereby female and minority group applicants may be referred to the contractor for employment consideration.
  - d) Encourage present employees to refer minority group applicants and female applicants for employment, including providing present employees with the relevant information and procedures.

## Definition of Forms

- ❖ Recruitment Sources – list of sources that can be used to target female and minority personnel for employment whenever hiring opportunities exist.
- ❖ Recruitment/Vacancy Letter – letter sent to recruitment sources specifically notifying an organization or agency of vacant positions that are available in certain classifications.
- ❖ Communication Log – spreadsheet maintained by designated office personnel to serve as documentation in demonstrating good faith efforts towards recruiting qualified females and minorities for employment opportunities.
- ❖ Equal Opportunity Data Reporting Form – voluntary form attached to applications for employment as a method to gather the race and gender of applicants.  
***Please note:** This form should be detached from applications prior to forwarding application to hiring officials to avoid any allegations of discrimination in regard to race and gender of applicants.*
- ❖ CLF – Civilian Labor Force – Statistics based on the last national census (2000) that provides the number and percentage of persons in various employment classifications, and the racial and gender breakdown of those persons; CLF provides information on the availability of persons in a specific geographical area for each employment classification.
- ❖ Applicant Flow Log – spreadsheet maintained by designated office personnel of all applicants to include the race and gender of applicants.

# Recruitment Sources

Please contact the local offices of the following agencies/organizations.  
You may get local contact information from the state offices or from a local phone directory.

---

## General Recruiting Sources

### **SC Employment Security Commission**

Columbia Workforce Department  
Post Office Box 567  
Columbia, South Carolina 29202  
Phone: 803-737-9931  
Fax: 803-737-0202

### **SC Vocational Rehabilitation**

Laura Spears, Business Relations  
Post Office Box 15  
West Columbia, South Carolina 29202  
Phone: 803-896-6500  
800-832-7526

**ALSO:** check in the local telephone directory for the **One-Stop Centers**.

## African-American Organizations

### **Columbia Urban League**

Seena Hodges  
Post Office Box 50125  
Columbia, South Carolina 29201  
Phone: 803-799-8150  
Fax: 803-254-6052

### **South Carolina Conference of the NAACP**

James Bryant or Christi Savage  
Post Office Box 1148  
Columbia, South Carolina 29202  
Phone: 803-754-4584  
Fax: 803-754-5457

**ALSO:** advertising can be done through area churches or African-American organizations

## African American Newspapers

### **Black News**

1310 Harden  
Columbia, South Carolina 29204  
803-799-7709

## Hispanic Organization

### **Telamon Corporation**

Ms. Barbara Coleman, State Director  
1413 Calhoun Street  
Post Office Box 12217  
Columbia, South Carolina 29211  
Phone: 803-256-7411  
Fax: 803-256-8528

## Native American Organizations

### **Catawba Indian Nation**

Lewis George  
996 Avenue of the Nations  
Post Office Box 11106  
Rock Hill, South Carolina 29730  
Phone: 803-366-4792 ext. 228  
Fax: 803-366-8380

### **Four Holes Indian Organization**

Edisto Tribal Council  
Matthew Creel, Chief  
1125 Ridge Road  
Ridgeville, South Carolina 29472  
Phone: 843-871-2126  
Fax: 843-871-8048

### **Native American Organizations**

#### **Santee Indian Organization**

Chief Scott  
224 Bayview St.  
Holly Hill, South Carolina 29059  
Phone: 803-496-7169

#### **Chicora-Waccamaw Indian People**

Harold Hatcher, Chief  
Post Office Box 628  
Conway, South Carolina 29528  
Phone: 843-397-1333

### **Women's Organizations**

#### **SC Dept. of Social Services**

Clark Leslie, Dir. of Employment in  
Training/Workforce Dev.  
Post Office Box 1520  
Columbia, South Carolina 29202  
Phone: 803-898-0968  
Fax: 803-898-0960

#### **National Association of Women in Construction**

NAWIC Chapter 13  
April Coleman, President  
Phyllis Epting, Contact  
Post Office Box 7531  
Columbia, South Carolina 29202  
Phone: 803-732-6446  
Email: [pepting@mikeco.org](mailto:pepting@mikeco.org)

### **Women's Organizations**

#### **Sistercare, Inc. (Women's Shelter)**

Kathleen Shaw, Director  
Post Office Box 1029  
Columbia, South Carolina 29202  
Phone: 803-926-0505  
Fax: 803-794-0098

#### **Columbia College**

Fiona Lofton, Placement Office  
1301 Columbia College Drive  
Columbia, South Carolina 29203  
Phone: 803-786-3862  
Fax: 803-786-3164

**ALSO: contacts may be made through local childcare facilities, shelters for women or families, laundromats, beauty shops, churches, or schools.**

### (SAMPLE RECRUITMENT/VACANCY LETTER)

Date

Contact Person

Title

Organization/Agency

Address

City, State, Zip

Dear **Contact Person**:

This letter is to advise you of **CONTRACTOR'S NAME** Equal Employment Opportunity Policy and to notify you of current employment opportunities available due to the award of a federal contract. The project is located in **CITY WHERE PROJECT IS LOCATED, STATE**. Currently we are looking to fill the following positions:

- \_\_\_\_**(classification)** \_\_\_\_
- \_\_\_\_**(classification)** \_\_\_\_

It is our policy not to discriminate against any employee or applicant for employment because of age, race, color, religion, sex, or national origin or disability or veteran status. We will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their age, race, color, religion, sex, national origin, or disability or veteran status.

Please refer applicants you feel are qualified for these positions to our office located in **CITY, STATE**. I can be contacted by telephone at **CONTACT NUMBER**. In addition, we request that you give special emphasis to including minorities and female applicant referrals in response to this request.

We appreciate your cooperation in assisting our affirmative action goals.

Sincerely,

**NAME,**  
EEO Officer



### Equal Employment Opportunity Data Reporting Form

The Federal Highway Administration (FHWA) requires the following information to be collected for statistical reporting of applicants as a part of the Equal Opportunity and Affirmative Action Program requirements (FHWA-1273). This information is not used in the employment process nor released in a manner that identifies the individual. This form will be removed prior to being forwarded to the hiring authority.

Today's Date \_\_\_\_ / \_\_\_\_ / \_\_\_\_

First Name \_\_\_\_\_

Middle Initial \_\_\_\_\_

Last Name \_\_\_\_\_

Position for which you are applying: \_\_\_\_\_

Gender (Please check appropriate box):

- Male
- Female

Date of Birth \_\_\_\_ / \_\_\_\_ / \_\_\_\_

Race (Please check appropriate box):

- White, not of Hispanic Origin
- Black or African American, not of Hispanic Origin
- Hispanic or Latino
- Asian, not Hispanic or Latino
- Native Hawaiian or Other Pacific Islander, not Hispanic or Latino
- American Indian or Alaskan Native
- Two or more races, not Hispanic or Latino

### Steps for Using Census Labor Force (CLF) Data

1. Go to the website - [www.census.gov/eo2000/index.html](http://www.census.gov/eo2000/index.html)
2. Choose the Table You Want to Display - Employment by Census Occupation Codes
3. Select Geography – Residence
4. Click Next
5. Click on County Sets for (Select a State)
6. Click Next
7. Choose the County You Would Like Information On
8. Click Next
9. Sort Occupations Alphabetically
10. Enter Single Word or Phrase to Search for an Occupation (ex. Equipment Operators)
11. Click Find
12. Select the Applicable Occupation Category (ex. Miscellaneous Construction Equipment Operators)
13. Click outside of the Occupation Category Table and Scroll Down to the Bottom of the Screen
14. Click Display Table
15. Table One will Display the Number of People
16. Table Two will Display the Percentages



### Training and Promotion

- 1) The contractor will assist in locating, qualifying, and increasing the skills of minority group and female employees, and applicants for employment.
- 2) Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of available training programs (i.e. apprenticeship and on-the-job training programs for the geographical area of contract performance).
- 3) All training provided by the contractor—whether a formal, structured training program, or an informal on-the-job training provided by the contractor—must be administered in keeping with non-discrimination and affirmative action principles.
- 4) Contractor must maintain records indicating progress and efforts being made in training, qualifying, and upgrading minority and female employees.
- 5) If a Training Special Provision requirement has been included as part of the contract, compliance with the SCDOT On-the-Job Training Program Manual is essential.
- 6) The contractor will advise ALL employees and applicants for employment of
  - (a) Available training programs.
  - (b) Entrance requirements for various training opportunities.
  - (c) Benefits of additional training, including encouraging ALL eligible employees to participate in training opportunities.
- 7) If the contractor relies in whole or in part on unions as a source of employees, the contractor must use their best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.
- 8) The contractor will periodically review the training and promotion potential of minority and female employees and will encourage eligible employees to apply for such training and promotion. This requirement can be met in several different manners:
  - (a) Discussed as a part of the annual performance evaluation completed for each employee.
  - (b) Advertised in the company newspaper.
  - (c) Included in the company EEO Policy, which all employees are required to read and receive.
  - (d) Presented at an EEO Meeting held for all workforce employees.
- 9) The contractor will maintain a record of training received by each individual employee in a format that will facilitate a review of training provided company-wide.
- 10) The contractor will periodically review records of all training and promotions/raises provided to employees to determine if there is any evidence of discrimination. If evidence of discrimination exists, contractor will take corrective action immediately as required by FHWA Form-1273.

**Please Note:**

The SCDOT On-the-Job Training (OJT) Manual is available upon request.

**Please contact:**

SCDOT - Office of Business Development & Special Programs – OJT

Post Office Box 191, Columbia, South Carolina 29201

**Phone: (803) 737-1372**

**Fax: (803) 737-2021**

### Definition of Forms

- ❖ Training Log – spreadsheet used to document formal and informal training provided to employees.
- ❖ Promotion and Raises Log – spreadsheet used to document promotions and raises given to employees.





### Wage and Hour Evaluations

- 1) Documentation should be maintained supporting the reasons for the pay rates provided to employees. One means of providing documentation is to conduct regularly scheduled employee evaluations. See *section I – for sample Employee Evaluation Forms*.
- 2) Evaluate periodically the spread of wages paid within each classification to determine whether there is any evidence of discrimination.
  - a. If evidence is found that indicates discrimination, the contractor will promptly take corrective action.
  - b. If the review indicates that discrimination may extend beyond the designated review area, then such corrective action shall include all affected persons.
  - c. An annotated spreadsheet of employees should be kept on file to conduct reviews on the spread of wages paid within each classification.
  - d. Results from evaluations conducted should be recorded and kept on file.



## Personnel Action Review

### In Partial Fulfillment of Equal Opportunity Requirements

Date of Review	Personnel Action Reviewed	
	<input type="checkbox"/> Spread of wages <input type="checkbox"/> Applicant Flow Log <input type="checkbox"/> Training Log	<input type="checkbox"/> Promotions and raises <input type="checkbox"/> Terminations <input type="checkbox"/> Other (specify) _____
Reason for Review		
<input type="checkbox"/> Annual Review <input type="checkbox"/> Special Review (explain) _____		
Findings of the Review		
Corrective Actions Taken as a Result of the Review		
Name of Person Conducting Review	Reviewer's Position / Title	
Signature of Person Conducting Review	Date Report Submitted	

### Other Personnel Actions

- 1) Contractors should conduct periodic reviews of various personnel actions. Reviews can be performed in areas such as recruitment, hiring, terminations, raises and promotions, and training.
  - a. The EEO Officer should periodically evaluate selected personnel actions in depth to determine whether there is evidence of discrimination.
  - b. If evidence is found that indicates discrimination, the contractor will promptly take corrective action.
  - c. If the review indicates that discrimination may extend beyond the designated review area, then such corrective action shall include all affected persons.
- 2) Records should be maintained of what procedures are reviewed and final conclusions.

### Definition of Forms

- ❖ Employee Skills Audit – detailed form used to evaluate overall skill of employees.
- ❖ Operator Performance Evaluation – brief form used to evaluate overall performance of employees.
- ❖ Termination Log – spreadsheet recording all employee terminations and used to assist in periodic reviews of terminations. Reasons for terminations may include:
  - Company-Initiated
    - Absenteeism/tardiness
    - Failure to follow instructions
    - On-the-job use of intoxicating beverages
    - Failure to achieve work related expectations
    - Refusal to work overtime
    - Rude or offensive behavior
    - Willful neglect or damage to employer
    - Insubordination
    - Safety violation
    - Theft (company property, other employees, others on site)
    - Assault or threatening to assault another person
    - Other
  - Voluntarily Quit
    - Dissatisfaction with pay, hours, working conditions, or with job duties
    - Relocated to another state, town, etc.
    - Quit to marry
    - Seek or accept other employment
    - Personal reasons
    - Return to school
    - Self-employed
    - Health reasons such as self, spouse, child, or other dependent
  - In-House/Neutral
    - Retired
    - Laid off (insufficient work)
    - Transferred

## EMPLOYEE SKILLS AUDIT PERFORMANCE APPRAISAL

Employee Name: \_\_\_\_\_ Job: \_\_\_\_\_

Evaluation Period: \_\_\_\_\_ to \_\_\_\_\_ Hire Date: \_\_\_\_\_

PERFORMANCE CRITERIA	EVALUATION
<p><b>ATTENDANCE</b></p> <p># Absences (Regardless of Reason): _____</p> <p># Tardy Occurrences: _____</p>	<p>___ <b>Excellent:</b> Rarely misses work, no tardiness, works full shift.</p> <p>___ <b>Good:</b> Occasional absence and/or tardiness, minimizes hours lost to personal affairs.</p> <p>___ <b>Fair:</b> Could improve, below average in absences and/or tardiness, leaves early too often.</p> <p>___ <b>Poor:</b> Too many absences and/or tardiness occurrences, needs to handle personal affairs on own time.</p>
<p><b>COOPERATION</b></p> <p>Example(s): _____ _____</p>	<p>___ <b>Excellent:</b> Real team player, gets along well with others, tries to see other's view.</p> <p>___ <b>Good:</b> Generally cooperates.</p> <p>___ <b>Fair:</b> Cooperates sometimes, can be difficult to get along with others occasionally.</p> <p>___ <b>Poor:</b> Only cooperates when forced to, others do not like to work around, needs to improve.</p>
<p><b>JOB SKILL and KNOWLEDGE</b></p> <p>Example(s): _____ _____ _____ _____</p>	<p>___ <b>Excellent:</b> Very proficient in job, keeps area and equipment well-maintained and clean, knows and does what it takes to do high quality work without instruction.</p> <p>___ <b>Good:</b> Sufficient knowledge and skill to do job, occasionally needs instruction.</p> <p>___ <b>Fair:</b> Either due to lack of experience or basic skill needs frequent instruction and supervision.</p> <p>___ <b>Poor:</b> Does NOT show good job skill or knowledge, makes mistakes, requires close supervision, and definitely needs improvement.</p>
<p><b>PRODUCTIVITY &amp; EFFICIENCY</b></p> <p>Example(s): _____ _____ _____ _____</p>	<p>___ <b>Excellent:</b> Works hard, efficient, accomplishes more than others, looks for and implements better ways to do things, innovative, looks for something to do when own job permits.</p> <p>___ <b>Good:</b> Generally works hard at job, normally accomplishes task in reasonable time, and occasionally comes up with new ideas.</p> <p>___ <b>Fair:</b> Ordinary worker, nothing exceptional, could improve.</p> <p>___ <b>Poor:</b> Only works hard enough to get by, often hard to find, will disappear, quits early, consistently late from breaks/lunch, needs to improve.</p>

# Equal Opportunity Manual

<p><b>SAFETY</b></p> <p>1. # Accidents: _____</p> <p>2. Workers' Compensation Case(s): ____ Yes ____ No</p> <p>3. Property Damage: ____ Yes Amount (estimated): _____</p> <p>Did "accident investigation" confirm employee negligence and/or fault? ____ Yes ____ No</p>	<p>____ <b>Excellent:</b> Knows safety rules, obeys rules, makes suggestions for improvement, actively participates in safety meetings/activities, watches out for others, and does NOT take safety short-cuts—NO ACCIDENTS.</p> <p>____ <b>Good:</b> Knows rules, usually watches out for others, average safety participation, usually no accidents.</p> <p>____ <b>Fair:</b> Could have better knowledge of rules, has had accidents and near misses, could improve attitude about and performance of safety practices.</p> <p>____ <b>Poor:</b> Has history of safety violations, pattern of accidents or near misses, considered by other employees as disinterested about safety and dangerous to work around, needs improvement.</p>
<p><b>WORK ATTITUDE</b></p> <p>Example(s):</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>	<p>____ <b>Excellent:</b> Goes out of way to do a good job, will do extra things to complete job, looks for ways to do job better, will work extra hours when needed without complaint, maintains high standards.</p> <p>____ <b>Good:</b> Generally does what is needed to do job, dependable, will generally do extra if asked.</p> <p>____ <b>Fair:</b> Does job but needs pushing or reminding, will not do anything extra.</p> <p>____ <b>Poor:</b> Does only the minimum to get by, needs to improve.</p>

**OVERALL RATING:** \_\_\_\_\_ Excellent \_\_\_\_\_ Good \_\_\_\_\_ Fair \_\_\_\_\_ Poor

Education: \_\_\_\_\_ Race/Sex: \_\_\_\_\_ Veteran Status: \_\_\_\_\_ Handicap: \_\_\_\_\_

**SKILLS SUMMARY:**

Summary of Qualifications	Development Needs

**ADDITIONAL COMMENTS:**

\_\_\_\_\_

\_\_\_\_\_

Current pay rate: \_\_\_\_\_ Recommended pay rate: \_\_\_\_\_

**EMPLOYEE COMMENTS:**

Employee Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Rater's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Supervisor's Supervisor: \_\_\_\_\_ Date: \_\_\_\_\_

*(Once completed, place a copy in employee's personnel file and provide a copy to employee)*

**PERFORMANCE EVALUATION**

<b>Name</b>	<b>Review Beginning Date</b>	<b>Review Ending Date</b>
-------------	------------------------------	---------------------------

**Instructions:** Evaluate job performance for this time period and mark the appropriate box. Use the definitions below to assist you in your decision-making. If an employee did not perform a certain task because he/she was not expected to do so, then mark the "N/A" (not applicable) box.

**Definitions:**

- O = Outstanding = the person **CONSISTENTLY** performs far above the normal expectations
- E = Excellent = the person **OFTEN** exceeds normal standards of satisfactory performance
- G = Good = the person **SOMETIMES** exceeds normal standards of satisfactory performance
- S = Satisfactory = the person is fulfilling the requirements of this position
- M = Marginal = the person is performing only the minimum expected or below what is expected
- N/A= Not applicable = the person was not expected to do this task

GENERAL WORK CRITERIA	O	E	G	S	M	JOB FUNCTION RATING	O	E	G	S	M	N/A
1. Comprehends instructions	<input type="checkbox"/>	1. Operated designated equipment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
2. Organized job efforts	<input type="checkbox"/>	2. Maintains quality control of work being done	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
3. Understands job	<input type="checkbox"/>	3. Maintains assigned trucks and equipment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
4. Accuracy	<input type="checkbox"/>	4. Maintains job safety according to safety policy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
5. Performance dependability	<input type="checkbox"/>	5. Checks truck for proper loading	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
6. Completes work assignments	<input type="checkbox"/>	6. Substitutes for superintendent when required	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
7. Attitude towards job	<input type="checkbox"/>	7. Assists superintendent with training	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
8. Personal appearance	<input type="checkbox"/>	<b>OVERALL PERFORMANCE</b>										
9. Punctuality	<input type="checkbox"/>	O <input type="checkbox"/>	E <input type="checkbox"/>	G <input type="checkbox"/>	S <input type="checkbox"/>	M <input type="checkbox"/>						
10. Work attendance	<input type="checkbox"/>											
11. Communicates w/ supervisors	<input type="checkbox"/>											
12. Integration with peers	<input type="checkbox"/>											
13. Interaction w/ management	<input type="checkbox"/>											
14. Cooperation	<input type="checkbox"/>											
15. Follows company policies	<input type="checkbox"/>											
16. Follows safety rules	<input type="checkbox"/>											

**SUPERVISOR'S COMMENTS** on overall performance, strengths and weaknesses in any of the above areas and plans for improvement.

**WORK GOALS** for next rating period (list in order of importance the areas to be acted on)

**Rated By:** \_\_\_\_\_ **Date Rated:** \_\_\_\_\_

**EMPLOYEE COMMENTS**  I agree  I do NOT agree with this evaluation for the following reasons:

**Employee Signature:** \_\_\_\_\_ **Date Signed:** \_\_\_\_\_



### **Subcontractors/Vendors/Material Suppliers Information**

#### **Selection of Subcontractors, Procurement of Materials, and Leasing of Equipment**

- 1) The contractor shall notify all potential subcontractors and suppliers of their EEO obligations by providing them with a copy of the FHWA 1273.
- 2) Disadvantage Business Enterprises (DBEs), as defined in 49 CFR 23, shall have equal opportunity to compete for and perform subcontracts that the contractor enters into pursuant to this contract. The contractor will use his best efforts to solicit bids from and to utilize DBE subcontractors or subcontractors with meaningful minority group and female representation among their employees. Contractors shall obtain a list of DBE construction firms from the State Highway Administration personnel.
- 3) The contractor will use his best efforts to ensure subcontractor compliance with their EEO obligations.
- 4) The contractor will maintain records indicating progress and efforts being made in securing the services of DBE subcontractors or subcontractors with meaningful minority and female representation.
- 5) FHWA 1273 – Supplemental Specifications: Required Contract Provisions – Federal-Aid Construction Contracts– Supplemental Specifications: Standard Federal Equal Employment Opportunity Construction Contract Specifications should be included in all subcontracts and purchase agreements with a contract value of \$10,000 or more, as well as instructions that these documents must be incorporated in any lower-tier subcontracts that are arranged.

#### **Definition of Form**

- ❖ Cover Letter to Subcontractors – letter accompanying subcontract agreements specifying the inclusion of FHWA 1273.

**Sample Cover Letter to Subcontractors**

**DATE**

**SUBCONTRACTOR'S CONTACT NAME**

**TITLE**

**SUBCONTRACTOR'S NAME**

**ADDRESS**

**CITY, STATE, ZIP**

Re: SC FILE #\_\_\_\_\_ - FAP #\_\_\_\_\_ - COUNTY NAME  
Subcontract Agreement

Dear **CONTACT NAME**:

Enclosed please find two (2) copies of the subcontract agreement on the above project, along with the following documents:

- FHWA 1273 – Supplemental Specifications: Required Contract Provisions – Federal-Aid Construction Contracts
- **ANY OTHER APPLICABLE DOCUMENTS**

Please sign and have both copies of the subcontract agreement witnessed. Once appropriate signatures are complete, please return one (1) copy to our office by **DEADLINE**.

If you have any questions, please do not hesitate to contact **PRIME CONTRACTOR'S CONTACT NAME AND NUMBER**.

Sincerely,

**CONTRACTOR'S CONTACT NAME,**

**TITLE**

Enclosures

### Construction Site

- 1) Notices and posters setting forth the contractor's EEO Policy must be placed in areas readily accessible to employees, applicants for employment, and potential employees.
- 2) Post the following information in an externally visible, conspicuous place on the project site.
  - a. Secure the following posters from the Resident Construction Engineer (RCE):
    - "EEO is The Law" – English version **and** Spanish version
    - "Employee Rights (FLSA)" – English version **and** Spanish version
    - "Important Wage Rate Info." – English version **and** Spanish version
    - "Polygraph Protection Act" – English version **and** Spanish version
    - "Notice" (Title 18, U. S. Code, Section 1020) – English version only
    - "Federal Minimum Wage" – English version **and** Spanish version
    - "OSHA Job Safety and Health" – English version **and** Spanish version
    - "Employee Rights under FMLA" – English version **and** Spanish version
    - "Employee Rights – Davis Bacon Act" – English version **and** Spanish version
  - b. Display the "General Decision" page from the contract, which records the minimum wage regulations.
- 3) Post the EEO Policy for each relevant firm working on the project.
- 4) Prime contractors are responsible for posting the information listed above.
- 5) Subcontractors should make sure all required posters and a copy of the subcontractor's EEO policy are posted onsite by the prime contractor before construction begins on the project.
- 6) Even for very short projects, all of this information must be displayed in an external location on the construction site that is available to the project employees and to walk-in applicants.
- 7) Conduct periodic inspections of the site to insure that working conditions and employee facilities do not display any evidence of discrimination.

### Definition of Form

- ❖ Construction Site Inspection Form – form used by contractor to document site inspections conducted on federal-aid projects. SCDOT recommends that site inspections be conducted on a monthly basis.

**Construction Site Inspection**

Date of visit \_\_\_\_\_ Signature of Inspector \_\_\_\_\_

SC File No. \_\_\_\_\_ Title of Inspector \_\_\_\_\_

\_\_\_ Yes \_\_\_ No 1. Are all seventeen (17) posters listed below and a copy of the minimum wage rates displayed in an externally visible place on the job site?

If "No," state action taken

- |  |                          |   |                          |
|--|--------------------------|---|--------------------------|
| EEO is The Law – English & Spanish           | <input type="checkbox"/> | Federal Minimum Wage – Eng & Spanish                  | <input type="checkbox"/> |
| Employee Rights (FLSA) – English & Spanish   | <input type="checkbox"/> | OSHA Job Safety and Health – English & Spanish        | <input type="checkbox"/> |
| Important Wage Rate Info – English & Spanish | <input type="checkbox"/> | Employee Rights Under FMLA – English & Spanish        | <input type="checkbox"/> |
| Polygraph Protection Act – English & Spanish | <input type="checkbox"/> | Employee Rights – Davis Bacon Act – English & Spanish | <input type="checkbox"/> |
| Notice (Title 18, U. S. Code)                | <input type="checkbox"/> | Minimum Wage Regulations (from original contract)     | <input type="checkbox"/> |

\_\_\_ Yes \_\_\_ No 2. **FOR PRIME CONTRACTOR ONLY:** EEO Policies for ALL subcontractors are displayed in an externally visible place on the job site. (List each subcontractor)

If "No," state action taken

- |       |                          |       |                          |
|-------|--------------------------|-------|--------------------------|
| _____ | <input type="checkbox"/> | _____ | <input type="checkbox"/> |
| _____ | <input type="checkbox"/> | _____ | <input type="checkbox"/> |
| _____ | <input type="checkbox"/> | _____ | <input type="checkbox"/> |

\_\_\_ Yes \_\_\_ No 3. **FOR ALL CONTRACTORS:** Our firm's EEO Policy is displayed in an externally visible place on the job site. If "No," state action taken

\_\_\_ Yes \_\_\_ No 4. I found no segregated areas on this job site. If "No," state action taken

\_\_\_ Yes \_\_\_ No 5. I found no racially or sexually discriminating signs, words, or drawings on this jobsite, including recreational areas, break areas, or restroom facilities, if they apply. If "No," state action taken

\_\_\_ Yes \_\_\_ No 6. The restrooms and changing areas have no "peepholes" and can be locked from the inside. If "No," state action taken

\_\_\_ Yes \_\_\_ No 7. I saw no visible evidence that employee working conditions or facilities demonstrate discriminatory treatment of jobsite personnel. If "No," state action taken

\_\_\_ Yes \_\_\_ No 8. I have asked employees if they have any discrimination complaints, and they have all answered "no." If "No," state action taken

\_\_\_ Yes \_\_\_ No 9. I have discussed with the Project Manager any EEO concerns that were raised as a result of this inspection. If "Yes," explain results