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Approved:

Effective: August 17, 2016  
Review: June 15, 2016  
Office: Equal Opportunity  
Topic No.: 275-020-005

  
Department of Transportation

## CHAPTER 1: INTRODUCTION & GENERAL INFORMATION

### PURPOSE:

The ***Equal Opportunity Construction Contract Compliance Manual (CCM)*** contains instructions needed to establish requirements for the Florida Department of Transportation (FDOT) to administer the Equal Employment Opportunity (EEO), Disadvantaged Business Enterprise (DBE), and On-the-Job Training (OJT) contract requirements set by the inclusion of contract provisions incorporated into each construction contract funded under ***Title 23, Code of Federal Regulations (C.F.R.) Part 230***. The CCM will also provide a uniform process for addressing the requirements set forth by the **Davis-Bacon** labor standards and **Contract Work Hours and Safety Standards Act (CWHSSA)**. The Department of Labor (DOL) regulation in 29 C.F.R. Parts 1, 3 and 5 provides the policy for implementation, while 23 U.S.C. 113 serves as the source statute for applicability determinations in the Federal-aid highway program. This procedure applies to all offices that hold responsibility for administering the Equal Opportunity and Prevailing Wage Provisions in construction contracts and to contractors of highway and bridge construction contracts.

### AUTHORITY:

Sections 20.23(3)(a) and 334.048(3), Florida Statutes

- **Sections 20.23(3)(a)(F.S.)** The Central Office (CO) shall establish Departmental policies, rules, procedures, and standards and shall monitor the implementation of such policies, rules, procedures, and standards in order to ensure uniform compliance and quality performance by the Districts and CO units that implement transportation programs. Submit major transportation policy initiatives or revisions to the Commission for review.
- **Sections 334.048(3)(F.S.)** The CO shall adopt policies, rules, procedures, and standards that are necessary for the FDOT to function properly, including establishing accountability for all aspects of the Department's operations.

### SCOPE:

This CCM shall be used by FDOT staff, contractors, subcontractors, consultants, local agencies, and all personnel involved in the administration of construction contract compliance.

## REFERENCES:

- **23 C.F.R. 230** Prescribes the policies, procedures, and guidance for equal opportunity on federal construction contracts.
- **23 C.F.R. 230.111** Prescribes State agency requirements for an On-the-Job Training program for all Federal Aid Highway construction contracts.
- **23 C.F.R. 230.407** This is a list of definitions for the federal regulation used and referenced in carrying out the FDOT's compliance program.
- **29 C.F.R. 1, 3, 5, 6, 7** United States Department of Labor (USDOL) procedures for predetermination of wage rates and labor standard provisions.
- **23 C.F.R. 230.409** Prescribes the policies, procedures, and guidance of the contract compliance review process.
- **FDOT Standard Specifications for Road and Bridge Construction**, Section 7-1 Laws to be Observed; 7-16 Wage Rates; 7-24 DBE; 7-25 OJT; 9 Measurement and Payment.
- **FHWA-1273** Federal Aid Required Contract Provisions.
- **49 C.F.R. 26** Authorizes FDOT to issue sanctions for the condition and state of noncompliance in the DBE Program.
- **23 C.F.R. 230**: Prescribes the policies, procedures, and guidance to develop, conduct, and administer supportive services assistance programs for minority, disadvantaged, and women business enterprises.
- **28 C.F.R. 35**: Prohibits discrimination based on disability by public entities.
- **29 C.F.R. 1630**: Regulates implementation of the Equal Employment provisions of ADA.
- **29 C.F.R. 3 (Copeland "Anti-Kickback" Law) Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 276c)**: All contracts in excess of \$2,000 shall comply with the provision for compliance with the **Copeland "Anti-Kickback" Act (18 U.S.C. 874)**, as supplemented by **Department of Labor regulations (29 C.F.R. Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States")**. The **Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 276c)** provides that each contractor or subcontractor shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

- **40 U.S.C. 3141-4147 (Davis-Bacon Act of 1931 and as amended):** Under the provisions of this Act, contractors or their subcontractors are to pay workers employed directly upon the site of the work no less than the local prevailing wages and fringe benefits paid on projects of a similar character. *The Davis-Bacon Act* directs the Secretary of Labor to determine such local prevailing wage rates that can be found in a document titled **“General Decision Number.”**
- **40 U.S.C. Chapter 37, Sections 3701-3708 (Contract Work Hours and Safety Standards Act):** Where applicable, all contracts awarded in excess of \$2,000 for construction contracts that involve the employment of mechanics or laborers shall include a provision for compliance with **Subparts 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 C.F.R. Part 5).** Under **Subsection 102** of the **Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333)**, each contractor shall be required to compute the wages of every mechanic and laborer based on a standard workweek of 40 hours. Work in excess of the standard workweek is permissible provided that the worker is compensated at a rate of not less than 1.5 times the basic rate of pay for all hours worked in excess of 40 hours in the workweek. **Subpart 107** of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions, which are unsanitary, hazardous or dangerous.
- **41 C.F.R. 60:** The purpose of the regulations in this part is to achieve the aims of **Parts II, III, and IV of Executive Order 11246** for the promotion and ensuring of equal opportunity for all persons, without regard to race, color, religion, sex, or national origin, employed or seeking employment with government contractors or with contractors performing under federally assisted construction contracts.
- **41 C.F.R. 60.1:** Clarifies the existing requirement that a nonexempt construction contractor’s total construction workforce is covered under **41 C.F.R. 60** even though some employees may perform work on non-federal assisted contracts.
- **42 USC 12101:** Regulates Equal Opportunity for individuals with disabilities.
- **49 C.F.R. 23 and 26:** Regulates participation by Disadvantaged Business Enterprises in Department of Transportation programs.
- **Equal Pay Act of 1963:** A law that requires equal pay between the sexes on jobs that require equal skill, effort, and responsibility.
- **Equal Pay Act of 1976 (EPA):** This legislation prohibits discrimination based on sex in the payment of wages by employers engaged in commerce or in the production of goods for commerce.
- **Executive Order 11246:** This legislation bans discrimination and requires contractors and subcontractors to take affirmative action to ensure that all individuals have an equal

opportunity for employment, without regard to race, color, religion, sex, national origin, disability or status as a Vietnam era or special disabled veteran.

- **Rehabilitation Act of 1973:** Prohibits job discrimination because of disabilities and requires affirmative action to employ and advance in the employment of qualified individuals with disabilities who with reasonable accommodation can perform the essentials of a job.
- **Title I of the Americans with Disabilities Act (ADA) of 1990:** Prohibits employment discrimination against qualified individuals with disabilities.
- **Title VI of the Civil Rights Act Of 1964:** Prohibits discrimination based on race, color, or national origin in all programs or activities receiving federal funding.
- **Title VII of the Civil Rights Act of 1964 (and as amended):** Prohibits employment discrimination based on race, color, religion, sex and national origin.
- **Title VIII of the Civil Rights Act of 1964 (and as amended):** The portion of the *Civil Rights Act of 1968 (also known as the Fair Housing Act), as amended by the Housing and Community Development Act of 1974 and the Fair Housing Amendments Act of 1988*, which prohibits discrimination in the sale, lease, rental, advertising, financing, and brokerage services of housing and real property based on race, color, religion, sex, national origin, disability, or familial status.
- **Vietnam Era Veterans Readjustment Assistance Act of 1972, (38 U.S.C. 4212):** Prohibits discrimination and requires affirmative action to employ and advance in the employment of qualified Vietnam-era veterans and qualified disabled veterans.
- **Other regulations** governing State compliance programs include: **Title VI of the Civil Rights Act of 1964**, and the **Davis-Bacon Act**, the **Copeland Act** and the **Contract Work Hours and Safety Standards Act**.

## DEFINITIONS:

**Adverse Impact:** The selection of members of a protected-class, at a rate lower than that of other groups. A selection rate for any race, sex, or ethnic group which is less than four-fifths (4/5 or 80%) of the rate for the group with the highest rate will generally be regarded by the enforcement agencies as evidence of adverse impact.

**Affected Class:** A group of individuals who have been denied equal employment opportunities or benefits, as a result of discriminatory practices or policies. Evidence of the existence of an affected class requires identification of the discriminatory practices, identification of the effects of the discrimination, and identification of those suffering from the effects of the discrimination.

**Affirmative Action:** Specific actions in recruitment, hiring, upgrading, and other areas designed and taken for the purpose of eliminating the present effects of past discrimination, or to prevent discrimination. Affirmative action achieves, maintains or leads to equal employment opportunity.

**Affirmative Action Program (AAP):** A written positive management tool of a total equal opportunity program indicating the action steps for all organizational levels of a contractor to initiate and measure equal opportunity program progress and effectiveness.

**Affirmative Recruitment:** Special targeted and focused recruitment efforts undertaken to assure that qualified minorities and females are well represented in the applicant pool for positions to be filled.

**Age Discrimination In Employment Act of 1967 (ADEA):** Protects individuals forty years of age or older except where age is a bona fide occupational qualification or where the person is a key executive or policy-maker and meets other criteria.

**Agency for Workforce Innovation (AWI):** The agency formerly used to administer a wide variety of labor services including statewide operation of One Stop Centers where employers can electronically post job openings for review by the public. See also, "One Stop Centers" or "Florida Jobs & Benefits."

**American Indian or Alaskan Native (not Hispanic or Latino):** A person having origins in any of the original peoples of North and South America (including Central America) and who maintain tribal affiliation or community attachment.

**Applicant:** A person who is seeking work and conforms to the employer's policy definition of an "applicant." An employer's definition of applicant, for example, may be limited to include only those who submit a completed company employment application.

**Applicant Log:** A record of applicants for employment detailing each applicant's name, date of application, referral source, and position applied for, race and sex. The status of the applicant is also recorded.

**Applicant Flow:** The number of applicants for employment for a given job over a stated period of time.

**Applicant Pool:** The collection of candidates from which an employer selects persons to fill available positions.

**Apprentice:** A person employed and individually registered in a bona fide apprenticeship program registered with the U. S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with the State Apprenticeship Agency, recognized by the Bureau, or a person in the 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.

**Asian (not Hispanic or Latino):** A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian Subcontinent including, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand and Vietnam.

**Banking:** Trainees completed in excess of contract requirements in which the contractor wishes to hold in reserve for utilization and credit on another project. Training may occur on state funded projects for banking purposes.

**Banking Certificate of Training:** Certificate issued as verification that the contractor has banked credit for completion of training in excess of contract requirements.

**Black or African American (not Hispanic or Latino):** Persons having origins in any of the Black racial groups of Africa.

**Bona Fide Occupational Qualification (BFOQ):** A qualification established by the employer that is required in order to be able to perform the duties of a particular job.

**Calendar Day:** Every day shown on the calendar, ending and beginning at midnight.

**Certification:** The contractor's sworn statement that the company has complied with the Equal Opportunity Special Provisions Requirements for Federal Aid Construction Projects.

**Certificate of Training:** Certificate issued as verification of the trainee's successful completion of the training requirements for the classification in which training occurred. This is also known as a graduation certificate.

**Certified Payrolls:** The **weekly payrolls are called certified** because each payroll is signed and contains language certifying that the information is true and correct. The payroll certification language is on the reverse side of the WH-347. If you are using another type of payroll format you may attach the certification from the back of the WH-347, or any other format that contains the same certification language on the WH-347 (reverse).

**Civil Rights Act of 1964:** The nation's first comprehensive law making it illegal to discriminate based on race, color, religion, sex, and national origin. **Title VII** of that law, which is enforced by the Equal Employment Opportunity Commission, is specifically aimed at preventing discrimination in employment.

**Classification:** A craft in which a trainee receives On-the-Job training, whether through an apprenticeship program or other programs approved or accepted by the FHWA.

**Clerical:** A job category on the FDOT EEO Report, which includes personnel performing all clerical/administrative type work regardless of level of difficulty, and regardless of where the

activities are performed (field-site or office). Job classifications typically included are bookkeepers, typists, clerks, accounts receivables/ payables, etc.

**Collective Bargaining Agreement:** A written contract between an employer and a labor union, for a definitive period of time, spelling out conditions of employment, wages, hours of work, rights of employees, rights of the union, and procedures to be followed in settling disputes.

**Commercially Useful Function (CUF):** A determination of a CUF correlates to the proper reporting of work for Disadvantaged Business Enterprise (DBE) utilization purposes. A DBE performs a CUF when it is (1) responsible for execution of the work of the contract; (2) carries out its responsibilities by actually performing, managing, and supervising the work involved; and, (3) is responsible, with respect to materials and supplies used on the contract, for negotiating price directly with the supplier, determining quality and quantity, ordering material, and installing (where applicable) and paying for the material itself.

**Complainant:** The person(s) who files a complaint.

**Complaint:** A formal (written) employment discrimination charge filed in accordance with the company policy or Equal Employment Opportunity Commission (EEOC) guidelines or Florida Commission on Human Relations (FCHR) guidelines, which allege a violation of state and/or civil rights laws.

**Compliance:** A contractor's status when fully meeting the requirements and obligations imposed by the contract provisions and the State Highway Department pertaining to Equal Employment Opportunity, Disadvantaged Business Enterprise, On-the-Job Training, Wages and Payrolls and their implementing laws and regulations.

**Concentration:** Preponderance of persons by race, sex and/or race and sex combination.

**Contract:** A legally binding agreement between the parties (FDOT and the prime contractor).

**Contract Time:** The number of calendar days allowed for completion of the contract work, including authorized time extensions.

**Contractor:** The individual, firm, joint venture, or company contracting with the FDOT to perform the work.

1. Prime Contractor: A company having a contract with the FDOT.
2. Subcontractor: A company having a contract with a prime contractor or subcontractor regardless of tier.
3. Tier: indicates that a company is subordinate to another company on the contract. A subcontractor is first tier to the prime. A company that subcontractor engages is "Second tier", and if they in turn engage another company, that company is "Third Tier."

**Corrective Action Plan:** A contractor's unequivocal written and signed commitment outlining actions taken or proposed, with time limits and goals, where appropriate to correct, compensate

for, and remedy each violation of the equal opportunity requirements as specified in a list of deficiencies. (This is sometimes called a conciliation agreement or a letter of commitment).

**Craft Workers:** Hourly paid workers exercising independent judgment and performing jobs of relatively high skill level based on extensive training. This includes all those in the construction trades, as well as hourly paid supervisors and lead operators. The EEO Categories included in Craft Workers are Equipment Operators, Mechanics, Truck Drivers, Ironworkers, Carpenters, Cement Masons, Electricians, Pipe Fitters, Pipe Layers, Painters, and Semi-Skilled Laborers.

**Culture:** The customs, skills, arts, language, and other related behaviors of a people that set them apart as a distinct group or society.

**Day Labor Agencies:** A staffing agency that employs and places workers in day-to-day jobs at client sites.

**Deficiency:** A shortfall, insufficiency, lack or void regarding the equal opportunity requirements of the contract and/or the FDOT Construction Compliance Program.

**Department:** The State Highway Agency (Florida Department of Transportation) charged by its laws with the responsibility for highway construction. The term "State" is considered equivalent to State Highway Agency.

**DEO:** The Department of Economic Opportunity promotes economic prosperity for all Floridians and businesses through successful workforce, community, and economic development strategies.

**Disadvantaged Business Enterprise (DBE):** A for-profit small business concern (1) that is at least 51% owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51% of the stock is owned by one or more such individuals and (2) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

**Discrimination:** A distinction in treatment based on race, color, religion, sex, national origin or disability.

**Disparity:** Inadequate representation of minorities and/or women in a workforce or applicant pool.

**Diversity:** The employment of women and minorities in each job category and in classifications typical of the workforce.

**DUNS Number:** The Data Universal Numbering System (DUNS) used to keep track of how federal grant money is dispensed. The DUNS number is also used in ARRA project reporting.

**Economically Disadvantaged:** Individual participating in the FDOT's On-the-Job Training program determined to be below or at poverty level as determined by the following: (1)

Certification from the Florida State Employment Service and/or Joint Training Partnership Act Program or (2) Prior year unemployment verification using a W-2 or other income tax data reflecting the person's economic status; or AFDC (Aid for Families with Dependent Children) Recipient Verification; or other public services established to enhance family economics verification.

**Electronic Payrolls:** Certified payrolls submitted by electronic mail (email, facsimile, FTP sites, diskettes or USB drives) or any method of submittal that is not by hard copy, hand delivered, and U.S. mail.

**Employ Florida Marketplace:** Florida's public referral source that offers a multitude of resources to help employers find the perfect candidate and to create job listings. The Employ Florida Marketplace is **a one-stop online resource** for job listings, education and training opportunities, career building assistance and much more.

**Employment Discrimination:** Any action associated with employment, which denies equal treatment or opportunity to an individual, or group of individuals, as compared to others similarly situated, based on race, color, disability, sex or other protections.

**Employment Practice:** Recruitment, hiring, and selection practices, transfer or promotion policies, and other provisions or functions associated with the employer's employment or selection process, which contributes, intentionally or not to the analysis, screening hiring and/or upgrading of employees.

**Equal Employment Opportunity (EEO):** The absence of partiality or distinction in employment treatment so that the right of all persons to work and advance based on merit, ability, and potential is maintained.

**Equal Employment Opportunity Commission (EEOC):** An independent commission created by the Civil Rights Acts of 1964, as amended, which is responsible for enforcing Title VII. The EEOC may bring suit, subpoena witnesses, issue guidelines which have the force of law, render decisions, and provide technical assistance to employers and legal assistance to Complainants.

**Equal Employment Opportunity Officer (EEO Officer):** The person appointed the responsibility for effectively administering and promoting a company's active Equal Employment Opportunity Program and ensuring that the company's policy, plan and program are being carried out.

**Ethnic Group:** A group identified based on religion, color, or national origin.

**FDOT:** The Florida Department of Transportation or Department.

**Employer Identification Number or FEID Number:** This is a nine-digit number the Internal Revenue Service assigns to legal entities (e.g. a corporation, partnership, or sole proprietorship). This number is used by that entity to identify itself in reporting to the IRS, the Social Security Administration and to the FDOT EOC System.

**Federally Assisted Construction Contract:** Any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the government or borrowed on the credit of the government pursuant to any program involving a grant, contract, loan, insurance or guarantee under which the applicant itself participates in the construction work.

**FHWA:** The Federal Highway Administration is a division of the U.S. Department of Transportation and is responsible for setting policies, writing procedures, and providing oversight, guidance and direction to State Departments of Transportation receiving funds.

**Florida Commission on Human Relations (FCHR):** The state commission responsible for investigating employment discrimination charges filed in accordance with **Chapter 760, F. S.**

**Florida Jobs and Benefits:** The free reemployment services and assistance provided by the State of Florida to unemployed workers, recent graduates, and those entering the job market for the first time. See Employ Florida Marketplace.

**Foremen/Forewomen:** A job category on the FDOT EEO Report that includes salaried or hourly paid employees primarily responsible for the work of craft and/or laborer personnel on construction projects.

**Fringe benefits:** Include health insurance premiums, retirement contributions, life insurance, vacation and other paid leave as well as some contributions to training funds. Fringe benefits do not include employer payments or contributions required by other Federal, State or local laws, such as the employer's contribution to Social Security or some disability insurance payments.

**Good-Faith Efforts:** Affirmative action measures designed to implement the established objectives of an affirmative action plan.

**Graduation:** Action requested by the prime contractor when a trainee completes all training requirements. Graduation is based upon satisfactory completion of proficiency demonstrations set up as milestones in each specific training classification, completion of the minimum hours in a training classification range and the employer's satisfaction that the trainee does meet journeyman status in the classification of training.

**Handicapped or Disabled Individual(s):** Any person who: (a) has a physical or mental impairment which substantially limits one or more of such person's major life activities; (b) has a record of such an impairment; or (c) is regarded as having such an impairment. Persons with certain drug and/or alcohol abuse situations are excluded from this definition.

**Hispanic or Latino:** A person of Cuban, Mexican, Puerto Rican, South or Central American or other Spanish culture or origin regardless of race.

**Inspector:** An authorized representative of the engineer, assigned to make official inspections of the materials furnished and of the work performed by the contractor.

**Job Category (or EEO Job Category):** Broad categories to which individual job classifications are assigned for reporting purposes.

**Journeyman/Journeywoman:** One who is able to perform all of the tasks of their trade or occupation. This includes those who have graduated from formal apprenticeship or formal On-the-Job training programs such as the FDOT/FTBA program.

**Lack of Diversity:** Homogeneous grouping void of persons reflective of the available workforce.

**Local Agency:** A unit of government with less than statewide jurisdiction or any officially designated public agency or authority of such a unit of government that has responsibility for planning, construction, operation or maintenance of, or jurisdiction over a transportation facility. The term includes, but is not limited to, a county, an incorporated municipality, a metropolitan planning organization (MPO), an expressway or transportation authority, a road and bridge district, a special road and bridge district, or a regional governmental unit.

**Local Agency Program:** The Local Agency Program or “LAP” is a procurement process where local towns, cities and counties develop, design, and construct transportation facilities with federal funds. FDOT is the steward of the federal funds and is responsible for oversight of funded projects on behalf of the [Federal Highway Administration \(FHWA\)](#). The LAP program is administered by a State LAP Administrator in Central Office. The LAP is administered in each District by a District LAP Administrator designated by the District Secretary.

**Minority (or Minorities):** Persons of Black, Hispanic, Asian or Pacific Islander, American Indian or Alaskan Native races. The term may mean these groups in the aggregate or an individual group.

**National Origin:** Pertains to one’s origin based on birthplace, ancestry, culture or linguistic characteristics common to a specific ethnic group. National origin may be expressed as a country (e.g. Nigeria, China, Jamaica or as a continent or geographical area (e.g. African, Asian, Caribbean).

**NAICS Code:** (pronounced “nakes”) North American Industry Classification System (NAICS) a five to six digit numerical coding system classifying businesses by industry, (not product).

**Native Hawaiian or Other Pacific Islander (not Hispanic or Latino):** Persons having origins in any of the peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

**Noncompliance (or Violation):** Failure to (a) conform to compliance related requirements of the contract and/or (b) failure to meet the requirements of the FDOT Compliance program in the time period(s) required; and/or (c) timely submittals, which, upon review, evidence a lack of conformity with program requirements. Noncompliance pertains to EEO, DBE, OJT and payrolls/wages.

**Office of Federal Contract Compliance Programs (OFCCP):** OFCCP has the responsibility of assuring that employers doing business with the Government comply with the equal employment opportunity (EEO) and affirmative action provisions of their contracts. OFCCP is part of the U.S. Department of Labor’s Employment Standards Administration.

**Officials (Managers):** A job category on the FDOT EEO Report which includes personnel who set broad policies, exercise overall responsibility for the execution of these policies and direct individual departments or sections of a business' operations. Typically includes, but may not be limited to officers of the company, executives, middle managers, FDOT managers, etc.

**One Stop Center:** A unit within the Department of Economic Opportunity (DEO) providing free job announcement and applicant screening services to employers and placement services to job seekers. See also Employ Florida Marketplace.

**Parity:** The percentage of minorities and women in the workplace mirrors the percentages of minorities and women in the available workforce for the county the project is being built as stated on the contract bid blank.

**Proficiency Demonstration:** The actual performance of work by a trainee in the presence of an FDOT/CEI observer and contractor's representative prior to graduation. Upon determination by the contractor that the trainee has reached journeyman/journeywoman status, the trainee should demonstrate a minimum of three (3) pre-established essential proficiencies for the classification in which training has occurred. The proficiency demonstration must occur prior to graduation and be evaluated at a single demonstration.

**Promotion:** A personnel action, which results in an employee moving to a position requiring higher skill, knowledge, or ability and usually involving greater pay or title.

**Project Workforce:** Employees working at the physical location of a construction project; employees working "on the site of work."

**Race:** A group of people united or classified together based on history, nationality, or geographical distribution.

**Recruitment Source:** Any person, organization, or agency used to refer or provide workers for employment consideration.

**Rehire:** Hiring an individual who was previously employed by the employer.

**Retaliation:** The act of discriminating against a person due to their filing of an employment discrimination charge or testifying, assisting, or participating in any manner in such a charge.

**Segregated Facilities:** These are facilities belonging to or used in the course of business by an employer which provide different or separate accommodations for members of one race or sex than those provided others. Separate lavatories, lockers, showers, and other personal facilities for men and for women are not considered segregated facilities.

**Sex Discrimination:** This is a type of discriminatory or disparate treatment of an individual based on gender.

**Sexual Harassment:** Unwelcome sexual advances, requests for sexual favors, and other written, verbal or physical conduct of a sexual nature constitute sexual harassment when: 1) submission to such conduct is made either explicitly or implicitly a term or condition of employment; 2) submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual; 3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment. Sexual Harassment is inclusive of unwelcome heterosexual and homosexual advances.

**Show Cause Notice:** A written notification based on a determination of non-compliance with equal opportunity requirements as determined by the reviewer or other higher level authority. The notice informs the contractor the specific basis for the determination and provides the opportunity, within 30 days from receipt, to present an explanation why sanctions should not be imposed.

**Special Provision:** Specific clauses adding to or revising the Standard Specifications, setting forth conditions varying from or additional to the Standard Specifications for a specific project.

**Supervisors:** Employees primarily responsible for the work of other employees.

**Supportive Services:** Those services provided in connection with approved On-the-Job training programs for highway construction workers and highway contractors that are designed to increase the overall effectiveness of training programs through the performance of functions that are not generally considered as part of actual On-the-Job craft training.

**Temporary Employment Agency (TEA):** A staffing agency that employs and places workers in temporary jobs at client work sites for a limited period of time.

**Termination:** When an employee leaves employment voluntarily or involuntarily.

**Terms and Conditions of Employment:** This phrase includes all aspects of the employment relationship between an employee and their employer including, but not limited to, compensation, fringe benefits, leave policies, job placement, physical environment, work-related rules, work assignments, training and education, opportunities for promotion, etc. and maintenance of a non-discriminatory working environment.

**Timetable:** A specified time frame, required in all affirmative action plans and programs within which an employer seeks to achieve specific commitments.

**Trainee:** A trainee is one who has not previously worked in or been paid as a journeyman in the classification for which they are to be trained and has not previously completed such a program.

**Training Classification:** A craft in which a trainee receives On-The-Job training, whether through an apprenticeship program or other programs approved or accepted by the FHWA.

**Training Completion:** A trainee enrolled in the On-the-Job training program who has achieved no less than the specified minimum hours of training in the classification enrolled, has demonstrated proficiency in the standards established for the classification, and where the contractor has requested graduation in a timely manner.

**Two or More Races (not Hispanic or Latino)** A person who identifies with more than one of the other races i.e., white, black, American Indian or Alaskan Native, Native Hawaiian or other Pacific Islander, and/or Asian.

**Unskilled Laborers:** An employee who works under close supervision and performs basic tasks that are learned in a few days or hours. Unskilled laborers lift, dig, load, pull etc., and do not operate equipment, and use no tools.

**USDOL (United States Department of Labor):** A department of the Federal Government responsible for promoting the working conditions of wage earners in the United States; USDOL issues Wage Determinations, responds to Additional Wage Requests and issues regulations, mandates and interpretive memorandum pertaining to the 180 federal wage related laws it administers.

**Wage Rate Decision:** Minimum hourly rate and fringe benefit rate for individual job classifications for a specified type of work.

**White (Not of Hispanic or Latino):** Person having origins in any of the original peoples of Europe, North Africa or the Middle East.

**Workforce:** The total number of people employed in a company.

**Working Day:** The period of time in a day during which the contractor is expected to work.

**Workplace:** A place where work is performed, may include, work sites, properties, buildings, offices, structures, automobiles, trucks, trailers or other means of conveyance (private or public, while engaged in performance of duties), and parking areas, whether owned, leased or rented.

## **COMMENTS OR SUGGESTIONS FOR CCM REVISIONS:**

Any comments or suggestions on the **CCM** should be sent to the District CCM Coordinator. Comments from District personnel will be routed through the DCE for concurrence/comments before forwarding to the SCO-EOO CCM Coordinators in Tallahassee. CCM holders in the CO may send their comments directly to the SCO-EOO CCM Coordinators. Suggestions may also be emailed to the appropriate CCM Coordinator or submitted directly to the comments section of the SCO or EOO Website. As comments and suggestions are received at the SCO or EOO, they will be assigned for action by the SCO-EOO CCM Coordinators to the appropriate staff person.

New chapters or sections will be circulated for preliminary and executive review in accordance with **Section 5** of the FDOT's **Standard Operating System, Procedure No. 025-020-002**, and approved by the Executive Staff.

## **REVIEW:**

The **CCM** is a dynamic document that will require periodic review. Each section of the CCM will be reviewed every two (2) years. This review will be conducted by the staff person assigned to be the contact person for the section in review. The SCO-EOO CCM Coordinators will route any comments received during the prior 24 months to the appropriate section contact person for the bi-yearly section review. Each section will contain the original draft, final adopted copy, revisions, comments received, and history of any changes made to the section. The SCO-EOO CCM Coordinators or staff person assigned as the section contact person will ensure that all comments received during the prior 24 months are reviewed responded to and if appropriate, incorporated into any revision of the section. The SCO-EOO CCM Coordinators will also make sure that any revisions involving substantive content changes to an existing section are reviewed by all District Contract Compliance Managers.

## **TRAINING:**

Training in the use of this CCM is not required. Courses are available within the FDOT in individual subject areas. Contact the SCO or the EOO should more information about training be needed.

## **FORMS:**

Forms will be listed on a chapter-by-chapter basis, with accessibility identified if not available from the [Department's Forms Library](#).

## CHAPTER 1: INTRODUCTION & GENERAL INFORMATION

### 1.1 OVERVIEW

#### 1.1.1 Government Agency Responsibilities

Multiple government agencies have responsibilities for and an interest in the various elements of the Construction Contract Compliance Program.

The Federal Highway Administration (FHWA) approves the FDOT's compliance program, reviews overall compliance activity through specified periodic reports, and reviews individual contracts and/or contractors as deemed appropriate. The U.S. Equal Employment Opportunity Commission (EEOC) investigates charges of discrimination or harassment filed by project workers.

#### 1.1.2 Nondiscrimination Assurance Required of Primes, Subcontractors, Rental Companies and Material Suppliers

As a recipient of federal funds, each contract FDOT executes with a prime contractor (and each subcontract the prime contractor signs with a subcontractor), must include the exact wording of the nondiscrimination assurance shown in **Example 1.1.2.1**.

**Example 1.1.2.1**  
**Nondiscrimination Assurance**  
**Required in Each Contract & Subcontract**  
**(49 C.F.R. 26.13)**

"The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of **49 C.F.R. Part 26** in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate."

#### 1.1.3 Contract Documents and the Equal Opportunity Construction Contract Compliance Manual (CCM)

Each executed FDOT construction contract contains multiple specifications and those vary depending on many factors including the contract's federal funding or nonfederal funding. Many specifications pertain specifically to the Construction Contract Compliance program and outline the contractor's general compliance requirements for that contract.

The **CCM** describes FDOT's approved program for contractor compliance reporting and monitoring to achieve a consistent, predictable, and repeatable (CPR) compliance program. It provides a detailed explanation of the general compliance requirements, forms, record keeping,

and analytical tools for reporting and monitoring compliance on Florida’s construction and design build contracts.

**This *Manual* reflects the compliance monitoring program approved by the Federal Highway Administration (FHWA) for FDOT. Any deviation from the policy outlined in the CCM including additional requirements requires prior approval from the State Construction Office and the Equal Opportunity Office. The request must include a compelling justification by the District Construction Engineer.**

Chapters One through Six (1-6) of the **CCM** describe the compliance program requirements. Throughout the manual, there is reference to the [EOO Form Library](#), **Section 1.4**, and the **CCM Reference Guide**. The **CCM Reference Guide** is a collection site for information, tables, and other references regarding this CCM.

Contract specifications are regularly revised for incorporation in newly executed contracts and this CCM is periodically updated to support those and other changes. **Table 1.1.3.1** summarizes the contract compliance specifications.

**Table 1.1.3.1  
 Compliance Related Documents Included in  
 FDOT Construction and Design Build contracts**

Documents	Included If federally funded	Included if Non-FAP/State funded
3-8 Audit of Contractor’s Records	Yes	Yes
7-1.1 Laws to Be Observed	Yes	Yes
7-1.1.1 Compliance with American Recovery & Reinvestment Act of 2009	Yes if ARRA contracts; otherwise No	No
7-16 Wage Rates for Federal Aid projects	Yes	No
7-24 DBE Program (including Nondiscrimination Assurance)	Yes	Yes
7-25 OJT Requirements	Yes	Yes (applies only in the event the contractor initiates voluntary OJT)
7-26 Equal Employment Opportunity Requirements	No	Yes
7-28 E-Verify	Yes	Yes
FHWA 1273 Required Contract Provisions Federal Aid construction	Yes	No
9-5.3.2 Payment-withholding payment	Yes	Yes
CCM	Yes	Yes

### 1.1.4 E-Verify

FDOT requires utilization of the [U.S. Department of Homeland Security's E-Verify system](#) to confirm the employment eligibility of all persons who perform employment duties or work pursuant to any FDOT contract within Florida. This requirement extends to all agreements entered into under an FDOT contract and all parties are advised to maintain records evidencing compliance with E-Verify.

### 1.1.5 FHWA 1273 Required Contract Provisions Federal Aid Construction

**FHWA 1273** (available in the **CCM Reference Guide**) is a collection of laws and regulations pertaining only to federally funded construction contracts. This CCM reflects Florida's specific compliance expectations regarding **FHWA 1273**.

There are currently two unique versions of **FHWA 1273** and the letting date of the contract directs which version is applied; refer to **Table 1.1.5.1**. The compliance obligations contained in these versions vary and they are summarized in **Table 1.1.5.2** and **1.1.5.3**. These tables are available in the **CCM Reference Guide** and they summarize the Contract Compliance changes associated with the two **FHWA 1273** versions. The version of **FHWA 1273** contained in the prime's contract with the FDOT determines which version applies to all tiers of that contract. **Table 1.1.5.3** compares the provisions of the two versions (see **CCM Reference Guide**).

### 1.1.6 Audit of Subordinate Agreements

Within ninety (90) days of a federal aid construction contract execution, the districts will issue to the prime a memorandum ("**Subject: Audit of Subordinate Agreements for FHWA 1273**") requesting complete copies of selected subcontracts and purchase orders for the purpose of verifying proper inclusion and/or reference to **FHWA 1273**. For Design Build contracts, this initial request will be made within ninety (90) days of the begin construction date. Regardless of execution date, all federal aid construction and design build contracts are subject to this audit

**Table 1.1.5.1 which version of FHWA 1273 Applies**

Contract letting date	FHWA 1273 version dated
Prior to and including Aug. 9, 2012	March 10, 1994
Aug 10, 2012 and thereafter	May 1, 2012

including those past their initial ninety (90) days.

**Table 1.1.5.3** in the **CCM Reference Guide** describes what (full inclusion or reference) will be audited based on the version of **FHWA 1273** included in the prime's contract.

The requirement to include **FHWA 1273** in contracts Let August 10, 2012 and after, "in its entirety" is fulfilled by physically incorporating (not referencing) the full and complete document at any place in the agreement. It may not be shortened nor abbreviated. The **Required Contract Provisions** shall not be incorporated by reference in any case. **FHWA 1273** is available as a

PDF file on the FHWA website or it may be used in another file format provided the text is verbatim and complete.

The requirement to reference **FHWA 1273** is fulfilled by including verbiage such as the following at any place in the agreement:

Note: This is for contracts Let prior to and including August 9, 2012 or for contracts for design services; purchase orders; rental agreements and other agreements for supplies or services.

“The contractor is advised of their obligation to comply with the requirements of **FHWA 1273, Required Contract Provisions, Federal-Aid Construction Contracts.**”

The contractor may submit the requested data electronically or by hard copy. Proprietary data may be redacted provided there is no impact on the ability to determine compliance for the specific contract.

In the event **FHWA 1273** is not appropriately reflected in the collected document(s) the noncompliance communications described in **CCM Section 1.6** will be initiated in the timeframes specified and requests to review additional agreements will be issued.

The prime may resolve this noncompliance by providing the RCS a full and complete copy of an executed agreement(s) reflecting the necessary correction(s).

### **1.1.7 Prime Contractor Responsibilities**

The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor.

All contractors are to implement and maintain, throughout the course of a contract, actions which comply with their contractual obligations. Records evidencing each aspect of required compliance are to be developed and maintained by all contractors for a minimum period of three years following the date of final payment of the contract for all work regardless if such records are or are not routinely collected by the FDOT during the contract.

### **1.1.8 Prime Contractor Compliance Process**

The prime is responsible for compliance on the contract. Implementation of the prime's compliance responsibility requires development of a process for reviewing and confirming their contractors' compliance with all aspects of EEO, DBE, OJT, and Wages.

A prime's process may entail any one of a multitude of approaches including, but not limited to: requiring documentation submissions, verification of data, etc. Relying solely on a subcontractor's affirmation of compliance may not be adequate.

The prime's compliance process should include a series of actions and sanctions aimed at overcoming subcontractor noncompliance and timeframes for taking such action.

Noncompliance communications may include a series of verbal and written notices; sanctions may include the withholding of subcontractor progress payments, contract termination and/or denial of subsequent subcontracts.

The prime contractor, at the time of executing subcontracts, should discuss/review their compliance process. The prime's process should include communications to the subcontractor regarding record keeping, record submission, and timeframe requirements and a definition of how and when incidents of subcontractor noncompliance will be addressed by the prime. The FDOT is available to assist contractors in the development of their compliance process.

Prime contractors are encouraged to remain cognizant that subcontractors work for a variety of primes and, accordingly, may be subjected to multiple individual compliance processes. The collection of document copies versus originals should be allowed; primes can always ask a subcontractor for additional data if compliance appears questionable based on such documents.

When a prime has a recurring contractual relationship with a subcontractor, the prime may wish to establish subcontractor compliance files in order to reduce duplication of subcontractor submissions.

### **1.1.9 Prime Contractor Compliance Records and FDOT Review**

Prime contractors are to ensure that records are developed, collected and maintained to retain compliance with requirements for a minimum period of three (3) years following the date of final payment. These records are to be made available for inspection by FDOT and FHWA representatives when requested.

### **1.1.10 Default of the Prime Contractor**

In the event a prime contractor defaults on a contract and their contract compliance data is incomplete or incorrect, the Resident Compliance Specialist (RCS) will proceed with all noncompliance communications and actions such that the surety company and/or the successor contractor are fully aware of the conditions. A surety company is exempt from contract compliance reporting requirements but is responsible for ensuring that the successor contractor carries out the requirements.

### **1.1.11 Compliance Training and Technical Assistance**

The District Contract Compliance Managers and the Equal Opportunity Office provide training to contractor personnel as well as compliance staff regarding the requirements of the FDOT Construction Compliance Program.

## **1.2 FDOT RESPONSIBILITIES**

### **1.2.1 Equal Opportunity Office (EOO)**

The EOO has the responsibility for setting policy, issuing guidance, providing training and technical assistance, and monitoring District compliance through District visits and **Quality**

**Assurance Reviews.** In addition, the EOO will initiate all required reporting to FHWA. While the District offices will be required to provide information to the EOO for reporting, the Districts will not provide reports to FHWA.

The EOO will perform other specific activities, including setting the Department's DBE goal, maintaining the Equal Opportunity Compliance System, DBE outreach initiatives and supportive services, **Title VI**, and various other programs.

### **1.2.2 State Construction Office (SCO)**

The SCO is responsible for the administration of the **Davis-Bacon Act** requirements relating to wage rates, payrolls, and prompt payment. The SCO Prevailing Wage Rate Coordinator establishes policies and procedures pertaining to requirements relating to wages; RCSs are responsible for the day-to-day project administration of wages. (See **Construction Project Administration Manual, Topic No. 7000-000-000** for additional information).

### **1.2.3 District Construction Office**

Under each District Construction Compliance Office (DCCO), a District Contract Compliance Manager (DCCM) is responsible for the day-to-day administration of the contract compliance program. The RCSs monitor contract compliance at the project level.

The District Contract Compliance Manager is responsible for monitoring the contractor's EEO, DBE and OJT activities, providing training to Resident Compliance Specialists (RCS), local agencies, contractors, construction engineering and inspection firms, and providing annual and special purpose reporting to the EOO. It is recommended that each DCCO have a DCCM and one or two RCS who are responsible for the activities of the DCCO.

Each DCCM schedules, conducts, and prepares compliance reviews of contractors as prescribed in Section 4.5. Each District is required to complete eight reviews annually. The DCCM shall also update and keep current the EOO SharePoint site of planned and completed contract compliance reviews. The review period is based on the federal fiscal year (October 1 to September 30) and the planned list of compliance reviews shall be entered into the SharePoint site by October 15<sup>th</sup>. The District is not limited to eight compliance reviews and is encouraged to exceed the required number of reviews. If there is reason to suspect that a contractor is noncompliant with **FHWA 1273, 23 Code of Federal Regulations**, or other federal authorities, the District should conduct a compliance review to assess compliance with federal provisions, even if the District has completed the required number of reviews. Each company reviewed, prime or subcontractor, is considered as one review. Reviews can be a mixture of project and area reviews, depending on the work program mix of the district. Follow-up reviews are generally not included in the required number of reviews. However if a follow-up review requires an extensive amount of work and oversight, the follow-up review will be calculated in the overall number of required reviews and requires prior approval from the EOO. The project review will cover the workforce for the entire contract and will include the prime contractor and all applicable subcontractors active on the project. In an area wide review, the contractor's entire workforce in a geographical area is reviewed. The geographical area is determined by the DCCM and should be clearly identified to the contractor.

The DCCM will perform the following functions:

1. Conduct eight (8) contract compliance reviews per federal fiscal year, by October 1<sup>st</sup> of each year.
2. Review and submit/reject DBE commitments and payments through EOC.
3. Provide technical assistance and training to local agencies and contractors regarding **FHWA 1273** and other federal authorities.
4. Conduct Construction Contract Compliance Administration Field Office Reviews of RCSs.
5. Provide training and review of compliance staff/consultants in monitoring responsibilities as identified in the EEO Construction Contract Compliance Workbook.
6. Conduct and participate in investigations, reviews and audits as necessary.
7. Complete annual FHWA reports and special reporting.
8. Ensure retention of project records.
9. Coordinate with LAP Administrators to verify that Local Agency contracts have an assigned RCS who is trained in monitoring federally funded contracts.
10. Provide technical assistance to the District LAP Administrators regarding the Equal Employment Opportunity Contract Compliance Program.

Every six (6) months, or as often as necessary, the DCCO will conduct a **Construction Contract Compliance Field Office Review** of no less than 20% of the RCS' projects to determine if the EEO procedures are being followed. Project records (files) will be reviewed for accuracy and content to ensure contract compliance with EEO, OJT and DBE contract clauses and contract activities. The review and the closeout should be completed within seven (7) days.

A written report will be prepared and review findings and recommendations will be forwarded to the Resident Engineer within seven (7) days of the closeout for further handling and/or distribution. Any deficiencies noted in the report should be corrected within fourteen (14) days of the dated formal report. If the District is unable to resolve any issues arising from the cited deficiency and the deficiency cannot be resolved, the issue will be forwarded to the EOO for resolution. The District Compliance Manager will provide a quarterly schedule of offices to be reviewed by the 15th day of the month preceding the scheduled quarter to the EOO. The final reports shall be kept at the DCCO and made available to the EOO upon request.

#### **1.2.4 Resident Construction Office**

Resident Construction Offices have the responsibility of supporting the Contract Compliance Program through Resident Compliance Specialists (RCS). Duties vary by District based on organizational preference. The Resident Construction Office is responsible for reviewing, evaluating, ensuring the completion and review of certain workforce interviews and job site inspections, and assisting project administrators and the DCCOs as required.

When the Department contracts with a consultant to manage a construction project, the consultant will have the responsibilities for all actions of the Resident Compliance Specialist. Depending on the experience of the consultant, the DCCO will be required to train the consultant's employees to perform the required compliance functions.

The Resident Compliance Specialist will:

1. Provide technical assistance to contractors and subcontractors.
2. Ensure contractors are entering DBE commitments and payments through EOC; submit/reject DBE commitments and payments through EOC; and monitor the progress of the contract and DBE participation.
3. Maintain the official compliance records for the project.
4. Assist the DCCO in compliance review activities.
5. Determine if DBEs are performing CUF.
6. Maintain all documents, conduct interviews, and monitor the contractors compliance related to the OJT Program.
7. Notify the DCCO of specific concerns or issues regarding contractors' compliance with **FHWA 1273** and other federal authorities.

### **1.2.5 Preconstruction Conference**

The RCS will ensure that information is presented regarding DBE participation, OJT, payroll, wage rates, bulletin board, payments to subcontractors, retainage, subcontract rental agreements, and labor compliance as well as verify submittal of DBE commitments in the EOC before the preconstruction conference.

The contractor will be advised of the responsibility for monitoring the EEO compliance of their subcontractors. The RCS will also discuss sanctions for noncompliance if reporting requirements are not fulfilled (see **Construction Project Administration Manual, Topic No. 700-00-000**).

The District will conduct a Post Preconstruction Training Meeting with contractors and EEO Officers that are new to the FDOT and other contractors/EEO Officers as deemed necessary to discuss the EEO, DBE and OJT requirements.

### **1.2.6 Complaint Investigation**

When a contractor's employee files a complaint of discrimination or harassment to the Department's personnel alleging discriminatory practices by the contractor, the complaint should be referred to the contractor for investigation. If requested by the contractor, the District Contract Compliance Manager with the knowledge of the EEO may assist the contractor with the investigation and resolution of a complaint.

The District Contract Compliance Manager must ensure that:

1. A prompt internal investigation is made by the contractor and documented.
2. A follow-up inquiry is made with the contractor to determine the outcome of the investigation. If the contractor's investigation determines that discrimination has taken place, appropriate corrective action within a reasonable time frame should occur. If the inquiry indicates that persons other than the complainant have been affected, corrective action should include such other persons.

3. The matter has been resolved. If the complaint has not been resolved the DCCM will notify the EOO and a decision will be made based on the information gathered during the follow-up inquiry. If unlawful discrimination has occurred, the Manager of the EOO will be responsible for bringing the matter to the attention of the FHWA.
4. The complainant is informed of their right to file a complaint with the FCHR or U.S. EEOC.

## 1.3 EQUAL OPPORTUNITY COMPLIANCE SYSTEM

### 1.3.1 Purpose

To provide a centralized reporting system for contractors and consultants to report and monitor payments and commitments made to Disadvantaged Business Enterprises (DBEs) and Minority Business Enterprises (MBEs) subcontractors and material suppliers.

### 1.3.2 Overview of the EOC System

The Equal Opportunity Compliance (EOC) system is an internet based system. The EOC System currently supports the FDOTs' Disadvantaged Business Enterprise (DBE) data collection and reporting requirement.

This is a statewide password secured application used by FDOT prime contractors and consultants to log in and submit Bidder Opportunity, DBE commitments, and DBE monthly payment data electronically.

### 1.3.3 Accessing the EOC System, Addressing System Problems, Technical Assistance and Training

The EOC System serves FDOT employees, consultants and contractors. The role played by a user and their business association determines how an individual user can obtain access to the EOC System. Refer to **Manual section 1.4** for additional information.

## 1.4 DIRECTORY OF COMPLIANCE WEBSITES & ADDRESSES

WEBSITES	
<a href="http://www.floridajobs.org/">Florida Dept. of Economic Opportunity</a>	<a href="http://www.floridajobs.org/">http://www.floridajobs.org/</a>
<a href="http://careersourceflorida.com/">Career Source Florida</a>	<a href="http://careersourceflorida.com/">http://careersourceflorida.com/</a>
<b>FDOT</b>	
Construction Compliance Manual Reference Guide by Chapter	<a href="http://www.dot.state.fl.us/equalopportunityoffice/ContractComplianceWorkbook.shtm">http://www.dot.state.fl.us/equalopportunityoffice/ContractComplianceWorkbook.shtm</a>
<a href="http://www3b.dot.state.fl.us/EqualOpportunityOfficeBusinessDirectory/">DBE Directory</a>	<a href="http://www3b.dot.state.fl.us/EqualOpportunityOfficeBusinessDirectory/">http://www3b.dot.state.fl.us/EqualOpportunityOfficeBusinessDirectory/</a>
DBE Payment Reporting	<a href="https://www3.dot.state.fl.us/EqualOpportunityCompliance/Account.aspx/LogIn?ReturnUrl=%2fEqualOpportunityCompliance%2f">https://www3.dot.state.fl.us/EqualOpportunityCompliance/Account.aspx/LogIn?ReturnUrl=%2fEqualOpportunityCompliance%2f</a>
<a href="http://www.dot.state.fl.us/equalopportunityoffice/">Equal Opportunity Office</a>	<a href="http://www.dot.state.fl.us/equalopportunityoffice/">http://www.dot.state.fl.us/equalopportunityoffice/</a>
EOC System: } EOC Access information } EOC system training	<a href="http://www.dot.state.fl.us/equalopportunityoffice/eoc.shtm">http://www.dot.state.fl.us/equalopportunityoffice/eoc.shtm</a>

<a href="http://www.dot.state.fl.us/equalopportunityoffice/Contract%20Compliance/dbepplan.pdf">Sample DBE/AA Plan</a>		<a href="http://www.dot.state.fl.us/equalopportunityoffice/Contract%20Compliance/dbepplan.pdf">http://www.dot.state.fl.us/equalopportunityoffice/Contract%20Compliance/dbepplan.pdf</a>
<a href="http://www2.dot.state.fl.us/proceduraldocuments/forms/byoffice/detail.asp?office=EQUAL+OPPORTUNITY+OFFICE">Forms &amp; Procedures</a>		<a href="http://www2.dot.state.fl.us/proceduraldocuments/forms/byoffice/detail.asp?office=EQUAL+OPPORTUNITY+OFFICE">http://www2.dot.state.fl.us/proceduraldocuments/forms/byoffice/detail.asp?office=EQUAL+OPPORTUNITY+OFFICE</a>
<a href="http://www.fhwa.dot.gov/programadmin/contracts/poster.cfm">Posters</a>		<a href="http://www.fhwa.dot.gov/programadmin/contracts/poster.cfm">http://www.fhwa.dot.gov/programadmin/contracts/poster.cfm</a>
<a href="http://www.dot.state.fl.us/specificationsoffice/">FDOT Specifications</a>		<a href="http://www.dot.state.fl.us/specificationsoffice/">http://www.dot.state.fl.us/specificationsoffice/</a>
<a href="http://www.dot.state.fl.us/construction/">State Construction Office</a>		<a href="http://www.dot.state.fl.us/construction/">http://www.dot.state.fl.us/construction/</a>
<a href="http://www.dot.state.fl.us/construction/Wage.shtm">Wage Information</a>		<a href="http://www.dot.state.fl.us/construction/Wage.shtm">http://www.dot.state.fl.us/construction/Wage.shtm</a>
<b>FHWA</b>		<a href="http://www.fhwa.dot.gov/">http://www.fhwa.dot.gov/</a>
U.S. Dept. of Labor	<a href="http://www.dol.gov/">USDOL Main Website</a>	<a href="http://www.dol.gov/">http://www.dol.gov/</a>
	Wage Tables/Determinations	<a href="http://www.dol.gov/whd/regs/compliance/web/SCA_FAQ.htm">http://www.dol.gov/whd/regs/compliance/web/SCA_FAQ.htm</a>
<b>U.S. MAIL ADDRESSES</b>		
FDOT Equal Opportunity Office 605 Suwannee St., MS 65 Tallahassee, FL 32399		FDOT State Construction Office 605 Suwannee St. MS 31 Tallahassee, FL 32399
<b>E-MAIL ADDRESSES</b>		
EOC System Assistance		<a href="mailto:eoohelp@dot.state.fl.us">eoohelp@dot.state.fl.us</a>
Prevailing Wage Coordinator		<a href="mailto:Wd.conformance@dot.state.fl.us">Wd.conformance@dot.state.fl.us</a>
Contractor Submittals for Approval of <ul style="list-style-type: none"> <li>➤ DBE AA Plans</li> <li>➤ Notification to FDOT of EEO Officer (275-021-13)</li> </ul>		<a href="mailto:EEOforms@dot.state.fl.us">EEOforms@dot.state.fl.us</a>

## 1.5 CONTRACTOR COMPLIANCE REGISTER

### 1.5.1 Purpose

The Equal Opportunity Reporting System stores the basic identification and EEO compliance data of contractors in a file referred to as the “Contractor Compliance Register.” Compliance staff (District and project) may read data stored in the Register. Prime contractors and subcontractors are included in the Compliance Register.

### 1.5.2 How a Contractor is added to the Register

A company’s name and their Identification Number (FEID) may be added to the register by any of the following:

1. The FDOT Transport System
2. Contractor’s submission of **“Notification to FDOT of EEO Officer” (Form 275-021-13)** to FDOT Equal Opportunity Office, Tallahassee.
3. Contractors submission of company’s DBE AA Plan to FDOT Equal Opportunity Office, Tallahassee

[Quick links](#) to a full listing of [EEO Officers](#) and [approved DBE/AA Plans](#) can be found on line at the [FDOT EEO website](#).

### 1.5.3 Data Reported in the Register

The data reported in the register and the source of that data is shown in **Table 1.5.3.1**.

**Table 1.5.3.1  
 Data Reported in the Register**

Section	Data	Where Data is Obtained
<b>Contractor</b>	Name of Company FEID number	Automatically supplied by the FDOT Transport System -or- input by EOO
<b>Summary of Deduction Authorization</b>	Uniform Authorization Expiration Date and Other Authorized Deductions: Type of Deduction and Expiration Date	Updated by Prevailing Wage Rate Coordinator, Tallahassee, upon receipt of Authorization approval letter
<b>EEO Officer</b>	Last name, first name, Title Phone/Fax numbers Email address	Notification to FDOT of EEO Officer (Form 275-021-13). Prime can update their EEO Officer Information. EEO Officer of others is updated by EO Office
<b>Corporate Official</b>	Last name, first name, Title Phone/Fax numbers, Email address	Notification to FDOT of EEO Officer (Form 275-021-13)
<b>DBE AA Liaison Officer</b>	Last name, first name, Title Phone/Fax numbers Email address	Contractor's DBE AA Plan. Prime can update their Officer information. DBE AA Officer of others is updated by EO Office
<b>DBE AA Plan</b>	Expiration Date	Set by Equal Opportunity Office

## 1.6 PERFORMANCE DEFICIENCY COMMUNICATIONS AND ACTIONS

### 1.6.1 Purpose

Describes the FDOT's sanctions, communications, and timeframes for informing prime contractors of instances where the prime contractor and/or subcontractor(s) do not fulfill compliance requirements and/or meet timeframe requirements.

### 1.6.2 Noncompliance; Consideration of Good Faith Efforts

Deficiency communications shall be issued to the prime from the DCCO, for the prime and/or subcontractor's noncompliance with compliance program requirements including the submission of required data in any element of the program:

1. Disadvantaged Business Enterprise (DBE)
2. Equal Employment Opportunity/Affirmative Action (EEO/AA)
3. On-the-Job Training (OJT)
4. Wage Rates and Payrolls.

A review of the contractor's good faith efforts to achieve compliance in any of the compliance areas (DBE, EEO, OJT and Wages) should be considered prior to issuance of noncompliance communications. Verifiable good faith efforts by the contractor which may include formal corrective action plans and evidence of efforts made to fulfill requirements and timeframes demonstrate a contractor's good faith efforts. Actual good faith efforts vary from situation to situation. Characteristics of good faith efforts are summarized in **Table 1.6.2.1**, Characteristics of Good Faith Efforts.

**Table 1.6.2.1 Characteristics of Good Faith Efforts**

<b>Good Faith Efforts are not:</b>	<b>Good Faith Efforts are:</b>
A single action or “a hit and run effort”	Integrated activities designed to achieve objectives
Put in place and then abandoned	Evaluated and redefined to obtain better results, continuous effort and follow through
Unverifiable	Documented and verifiable actions
A haphazard collection of voluminous documents	Evidenced by organized documentation
Random	Planned and thought out to achieve objective(s)
Static	Redirected by an analysis of results being obtained
A gamble; a long-shot	Sincere and designed to achieve results

If the contractor requests that deficiency communications be waived due to their good faith efforts to achieve compliance, the written concurrence of the District Contract Compliance Manager is required.

### 1.6.3 Noncompliance Sanctions

Two (2) sanctions are concurrently applied when a performance deficiency exists:

1. Withholding of **Monthly Progress Estimate(s)**
2. Issuance of a **Performance Deficiency Letter(s)**

A project’s **Monthly Progress Estimate** is withheld in its entirety for a performance deficiency. Subsequent **Monthly Progress Estimate(s)** are also withheld until the performance deficiency is satisfactorily resolved.

Upon the FDOT’s receipt and verification of compliance with outstanding requirements, the withheld **Monthly Progress Estimate(s)** is released for payment processing. The FDOT’s receipt and verification of compliance with outstanding performance deficiency requirements does not eradicate the Performance Deficiency. Continued performance warnings of performance deficiency may adversely affect the Contractors Performance Rating on the project.

### 1.6.4 Contractor’s Past Performance Rating and Report

Performance Deficiency warnings and notices are included in the FDOT’s Contractor Performance Rating program. Refer to **Form No. 700-010-25, Contractor’s Past Performance Report** for complete information. The following Performance Category is most applicable to the Construction Contract Compliance Program:

Category 3: Timely and Complete Submittal of Documents

The following Performance Categories may be cited for certain aspects of noncompliance:

- Category 5: Coordination/Cooperation with CEI Personnel, Property Owners and Utilities
- Category 8: Conformance with Contract Documents

### **1.6.5 Noncompliance Communications**

All communications regarding performance deficiency are addressed with the Prime Contractor for resolution. Communications may be via traditional mail or electronically via email. **Table 1.6.5.1** “Summary of Noncompliance Communications” identifies the Basis of Noncompliance Communications issued for each of the program areas (DBE, EEO, OJT, and Wages). A **Notification of Payroll Violation, Form # 700-010-59**, shall be issued for noncompliance issues for the program area of wages.

A single Deficiency Warning and/or single Performance Deficiency letter addresses all deficiency conditions pertaining to all contractors on a project for one specific timeframe. Letters may include multiple performance rating categories and/or for multiple contractors.

One Notice of Noncompliance letter may be issued monthly summarizing noncompliance related to Disadvantaged Business Enterprises, Equal Employment Opportunity and On-the-Job Training. Initial communication of non-receipt of payroll or a payroll violation is communicated immediately; they are not grouped into the monthly Notice of Noncompliance letters.

Non-receipt of Payroll is cited in a Notice of Noncompliance letter which may be issued any day of the month and as many times as necessary; notification that payroll has not been received shall not wait and must be issued immediately. Likewise, **Payroll Violations (FDOT Form 700-010-59)** are issued throughout the month following each occurrence of a payroll violation.

In cases of blatant or severe noncompliance, a Performance Deficiency letter may be issued without a Notice of Noncompliance and/or without a Deficiency Warning letter.

**Table 1.6.5.2** “Issuance of Performance Deficiency Communications” summarizes the four levels of progressive written communication that are available. Distribution of those communications is not limited to those listed. **Chapter 1: CCM Reference Guide** provides examples of citing for noncompliance communications.

For format and content for each letter refer to the **Chapter 1 CCM Reference Guide** for each of the following:

- Example Letter A - Notice of Noncompliance**
- Example Letter B - Performance Deficiency Warning Letter for Contract Noncompliance**

***Example Letter C - Performance Deficiency Letter for Contract  
Noncompliance***

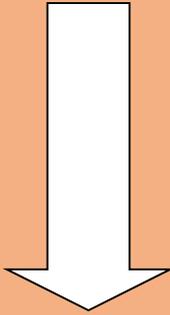
***Example D - Examples of Citing for Noncompliance  
Notification of Payroll Violation, Form # 700-010-59***

### **1.6.6 Recurring Notices of Noncompliance**

The Notice of Noncompliance, no receipt of payroll, or the payroll violation letters are the initial steps in the sanction process; it is not a routine reminder of compliance requirements.

Following consultation with the District Contract Compliance Manager, a performance deficiency letter may be issued due to recurring issuance of the notice of noncompliance letters and/or recurring issuance of payroll violations.

**Table 1.6.5.1 Summary of Noncompliance Communications**

		Basis of Noncompliance		
		column X	column Y	column Z
		DBE-EEO-OJT: Noncompliance With Requirements	Non-Receipt Of Payroll	Payroll Violation
Row A	<b>Issue What?</b>	Notice of Noncompliance Letter	Non-Receipt of Payroll Letter	Payroll Violation Form (#700-010-59) Including Notice and Intent to Withhold
B	<b>What is the Issue Date</b>	One Per Month (end of month suggested)	Any Day in the Month	Any Day in the Month
C	<b>Issue How Many Each Month?</b>	One	Any Number	Any Number
D	<b>What is the Due Date?</b>	Seven (7) Business days after Issue Date <b>(B)</b>	Seven (7) Business Days after Issue Date <b>(B)</b>	Twenty days following contractor's receipt of Payroll Violation
E	<b>Continued Non-Compliance</b>			
F	<b>Issue What?</b>	Performance Deficiency Warning Letter Including Notice of Intent to Withhold Monthly Progress Estimate		
G	<b>What is the Issue Date?</b>	First Business Day after "Due Date"(D)		
H	<b>Issue How Many Each Month?</b>	One		
I	<b>When is the "Due date?"</b>	Seven (7) Business days after "Issue Date" (G)		
J	<b>Continued Non-Compliance</b>			
K	<b>Issue What?</b>	Performance Deficiency Letter for Contract Noncompliance		
L	<b>Issue When?</b>	First Business Day after "Data Due Date"(K)		
M	<b>Issue How Many Each Month?</b>	One		
N	<b>When is the data due?</b>	Contractor's discretion		
O	<b>When is Payment Released</b>	Upon receipt and verification of data		

**Table 1.6.5.2  
 Issuance of Performance Deficiency Communications**

<b>PROGRESSIVE WRITTEN COMMUNICATIONS</b>				
	             			
	<b>Notice of Noncompliance or Non-Receipt of Payroll or Payroll Violation</b>	<b>Performance Deficiency Warning Letter Including Notice of Intent to Withhold Monthly Progress Estimate</b>	<b>Performance Deficiency Letter Including Notice of Withholding of Monthly Progress Estimate</b>	<b>Release of Withheld Monthly Progress Estimate</b>
	<b>(Notice)</b>	<b>(WDL)</b>	<b>(DL)</b>	<b>(Release)</b>
Signed By:	Project RCS	Project Administrator	Resident Engineer	Resident Engineer
Addressed To:	Prime Contractor's Superintendent (When payroll is involved the contractor/subcontractor that is in violation should also be copied)	Prime Contractor's Superintendent	Prime Contractor's Superintendent	Prime Contractor's Superintendent
Distribute to Addressee by:	Fax or E-mail	Certified Mail with Return Receipt or via e-mail with electronic return receipt	Certified Mail with Return Receipt or via e-mail with electronic return receipt	Certified Mail with Return Receipt or via e-mail with electronic return receipt
Issue official copies to:	Project Administrator		Project Administrator	Project Administrator
	Resident Engineer	Resident Engineer		
		Prime's Corporate Official	Prime's Corporate Official	Prime's Corporate Official
	Prime's EEO Officer	Prime's EEO Officer	Prime's EEO Officer	Prime's EEO Officer
		Project RCS	Project RCS	Project RCS
	DCCM	DCCM	DCCM	DCCM
		District Construction Engineer	District Construction Engineer	District Construction Engineer
Distribute copies by:	Fax or E-mail	Fax or E-mail	Fax or E-mail	Fax of E-mail

## 1.7 COMPLIANCE REQUIREMENT SUMMARY

### 1.7.1 Purpose

The contract compliance program for FDOT construction contracts consists of four program areas:

1. Disadvantaged Business Enterprises (DBE)
2. Equal Employment Opportunity/Affirmative Action (EEO/AA)
3. On-the-Job Training (OJT)
4. Wages and Payrolls (WAGES)

Two offices in the FDOT, the EEO and the SCO, administer details pertinent to application of the Equal Opportunity Construction Contract Compliance program.

The following requirements administered by EEO and SCO impact the specific application of the Equal Opportunity Construction Contract Compliance program:

***Equal Opportunity Construction Contract Compliance Manual***  
FDOT DBE Program  
***Standard Specifications for Bridge and Road Work (“Specifications”)***  
***Construction Program Administration Manual (“CPAM”)***

There are other FDOT offices, at the State and District level, with responsibility regarding the execution and content of construction contracts including, but not limited to:

- Contract Administration Office(s): construction contracts administration including advertisement, bid opening and review, award and execution.
- Specification and Design Office(s): technical content of the construction contract.

### 1.7.2 Reference Statement

This section of the ***Construction Contract Compliance Manual*** is intended to serve as a summary to contractors and compliance personnel regarding the specific compliance program requirements.

The procedures and practices of multiple FDOT offices impact each construction contract and various special circumstances impact these procedures and practices on a temporary or permanent basis.

### 1.7.3 Construction Contract Characteristics Directing Compliance Requirements

The specific characteristics of an individual construction contract determining which of the contract compliance program areas apply include:

- Type of Work
- Contract Funding
- Original Contract Days
- Original Contract Dollars

These characteristics can be identified by reviewing the contract's Bid Blank and the contract's Specifications Package (which includes Standard Specifications, Special Provisions, and Technical Special Provisions).

When a project is funded with both Federal Aid Project funds and state funds, the entire construction project is administered wholly under federally funded compliance requirements.

FDOT may on occasion, award emergency contracts for construction work related to government declared emergencies. Compliance reporting requirements on an emergency contract are determined at the time each contract is awarded.

#### **1.7.4 Subcontracts**

The prime contractor is responsible for assuring that all subcontractors are in compliance with the required Equal Employment Opportunity Special Provisions of the contract.

Prime contractors may accomplish the work of a project by entering into subcontract arrangements with written agreements ("subcontracts") containing the requirements and pertinent provisions of the prime's contract. Subcontractors may further subordinate their contract and such relationships are known as second tier, third tier, etc., subcontracts.

Subcontract documentation submitted to FDOT by the prime includes a ***Certification of Sublet Work (Form 700-010-36)*** and a ***Schedule A*** indicating the sublet items and contract amount. The Subcontract is furnished to FDOT upon request.

For further reference see ***Table 1.7.4.1 Subcontract and Rental Agreement Summary*** in the CCM reference guide.

#### **1.7.5 Agencies Supplying Craft and Labor Workers**

Prime contractors and subcontractors may elect to staff their project workforce with persons provided by staffing agencies. Staffing agencies that employ and place workers in temporary jobs at client work sites for a limited period of time are often referred to as Temporary Employment Agencies. Staffing agencies that employ and place workers in day to day jobs at client sites are often referred to as Day Labor Agencies.

At the job site, the contractor typically exercises supervisory control over agency workers. The contractor and the agency are joint employers of the temporary workers.

Agencies are typically responsible for all personnel and payroll administration of the worker, including recruitment, hiring, payment of wages, payroll withholding, workers' compensation, etc.

The contractor or subcontractor using a staffing agency issues written communication to FDOT outlining their use of an agency prior to any of their temporary workers appearing on the project. **FDOT form number 275-021-15, Notification for Use of Temporary Employment Agency/Day Laborers** is used by prime contractors and subcontractors to communicate to Resident Compliance Specialists their use of Temporary or Day Labor workers. **Form number 275-021-15** is available in the [FDOT Forms Library](#) on our website.

The contractor or subcontractor using a staffing agency is encouraged to provide copies of the following documents to the staffing agency prior to use of their personnel on a project:

1. **Notification for Use of Temporary Employment Agency/Day Laborers, FDOT Form number 275-021-15**
2. Contractor's EEO/AA Policy and Plan including EEO Officer
3. Project's Wage Table(s).

***FHWA 1273, Required Contract Provisions, Federal Aid Construction***

### **1.7.6 Summary of Contract Compliance Reporting Requirements by Program Area**

The following tables summarize the requirements of each area of the compliance program:

- **Table 1.7.6.1 Summary of DBE Requirements**
- **Table 1.7.6.2 Summary of Company EEO Requirements**
- **Table 1.7.6.3 Summary of Project EEO Requirements**
- **Table 1.7.6.4 Summary of On-the-Job Training Requirements**
- **Table 1.7.6.5 Summary of Payroll and Wage Requirements**

Refer to individual Compliance Manual Chapters for comprehensive information on these requirements.

**Table 1.7.6.1**

<b>Summary of DBE Requirements</b>		<b>FEDERALLY FUNDED</b>		<b>STATE FUNDED</b>	
		<b>P R I M E</b>	<b>Sub-contract (\$10,000+) Rental (\$10,000 + )with operator Suppliers or Subs (under \$10k) or Rental w/out operator Agencies supplying job site workers</b>	<b>P R I M E</b>	<b>Subcontract (\$10,000+) Rental (\$10,000 + )with operator Suppliers or Subs (under \$10k) or Rental w/out operator Agencies supplying job site workers</b>
<b>PROGRAM ELEMENT</b>	<b>TIME FRAME</b>				
<b>DBE /AA Plan</b>	Initial submission before submission of bid	<b>Y E S</b>	<b>NO</b>	<b>Y E S</b>	<b>NO</b>
<b>DBE Liaison Officer</b>	Initial appointment at time of DBE/AA Plan adoption and throughout the term of the contract	<b>Y E S</b>	<b>NO</b>	<b>Y E S</b>	<b>NO</b>
<b>Bid Opportunity List</b>	Submitted using the EOC System.	<b>Y E S</b>	<b>NO</b>	<b>Y E S</b>	<b>NO</b>
<b>DBE Commitments</b>	Initially submitted in the EOC System before the Preconstruction Conference. Maintained throughout the contract. Updates will automatically occur in the EOC system.	<b>Y E S</b>	<b>NO</b>	<b>Y E S</b>	<b>NO</b>
<b>Actual Payments to DBE's</b>	Monthly entry of payments to DBEs in the EOC System	<b>Y E S</b>	<b>NO</b>	<b>Y E S</b>	<b>NO</b>
<b>Footnotes:</b>					
<b>Y E S</b>	Data is submitted in timeframe specified				

**Table 1.7.6.2**

<b>Summary of Company EEO Requirements</b>		<b>FEDERALLY FUNDED</b>				<b>STATE FUNDED</b>		
		<b>P R I M E</b>	Sub Contractor (\$10,000+)	Supplier	Agencies supplying job site workers	<b>P R I M E</b>	Subcontractor (\$10,000+)	Supplier
Rental Agreement (\$10,000 +) with operator	Sub Contractor (under \$10,000)		Subcontractor (under \$10,000)	Rental w/out operators			Agencies supplying job site workers	
<b>EEO/ AA Policy &amp; Plan</b>	Comply as Required by FHWA- 1273	<b>Y E S</b>	<b>Y E S</b>	<b>NO</b>	<b>NO*</b>	<b>NO</b>	<b>NO</b>	<b>NO</b>
<b>EEO Officer</b>	Initial appointment before 1 <sup>st</sup> work day	<b>Y E S</b>	<b>Y E S</b>	<b>NO</b>	<b>NO*</b>	<b>Y E S</b>	<b>Y E S</b>	<b>NO</b>
<b>Supervisory and Personnel Office EEO Meetings</b>	Initial Meeting prior to 1 <sup>st</sup> workday. Subsequent meetings at 6 month Intervals; new appointees within 30 days	<b>Y E S</b>	<b>Y E S</b>	<b>NO</b>	<b>NO*</b>	<b>NO</b>	<b>NO</b>	<b>NO</b>
<b>Company Wide EEO Report</b>	To be made available upon request for a compliance review or determination of OJT.	<b>Y E S</b>	<b>Y E S</b>	<b>NO</b>	<b>NO*</b>	<b>NO</b>	<b>NO</b>	<b>NO</b>
<b>Contractor Recruitment Program</b>	Initiate before 1 <sup>st</sup> workday. Records to be made available upon request of FDOT or FHWA.	<b>Y E S</b>	<b>Y E S</b>	<b>NO</b>	<b>NO</b>	<b>NO</b>	<b>NO</b>	<b>NO</b>
<b>Non-segregated facilities</b>	Throughout the term of the contract(s)	<b>Y E S</b>	<b>Y E S</b>	<b>NO</b>	<b>Y E S</b>	<b>NO</b>	<b>NO</b>	<b>NO</b>
<b>Analysis for Non-discrimination</b>	Throughout the term of the contract(s)	<b>Y E S</b>	<b>Y E S</b>	<b>NO</b>	<b>NO*</b>	<b>NO</b>	<b>NO</b>	<b>NO</b>
<b>Footnotes:</b>								
<b>Y E S</b>	Data is submitted in timeframe specified							
<b>Y E S</b>	Data is not routinely submitted to FDOT but records reflecting compliance are required.							
*	Covered under data of employing contractor							

**Table 1.7.6.3**

<b>Summary of Project EEO Requirements</b>		<b>FEDERALLY FUNDED</b>				<b>STATE FUNDED</b>		
		<b>P R I M E</b>	Sub Contractor (\$10,000+)	Supplier	Agencies supplying job site workers	<b>P R I M E</b>	Sub Contractor (\$10,000+)	Supplier
Rental Agreement (\$10,000 +) with operator	Subs (under \$10,000)		Rental w/out operator	Subcontractor (under \$10,000)			Rental w/out operators	Agencies supplying job site workers
<b>Job Site Bulletin Board</b>	In place on or before workers first appear on the project; removed when workers are no longer on the project.	<b>Y E S</b>	<b>Y E S</b>	<b>NO</b>	<b>NO*</b>	<b>NO</b>	<b>NO</b>	
<b>Annual July EEO Report</b>	Due by August 20 <sup>th</sup>	<b>Y E S</b>	<b>Y E S</b>	<b>NO</b>	Included on Report of employing contractor if On-the-Job the week reported	<b>NO</b>	<b>NO</b>	
<b>EEO Information to Project Personnel</b>	Routinely inform employees of EEO; no specified interval;	<b>Y E S</b>	<b>Y E S</b>	<b>NO</b>	Included in communications of employing contractor	<b>NO</b>	<b>NO</b>	
<b>Project EEO Report(s)</b>	To be made available upon request.	<b>Y E S</b>	<b>Y E S</b>	<b>NO</b>	Included on Report of employing contractor if On-the-Job the week reported	<b>NO</b>	<b>NO</b>	
<u>Footnotes:</u>								
<b>YES</b>	Data is submitted in timeframe specified							
<b>YES</b>	Data is not routinely submitted for contracts let Jan. 2005 - August 2012 (i.e. Element is included in Certification of Compliance).							

**Table 1.7.6.4**

<b>Summary of On-the-Job Training Requirements</b>		<b>FEDERALLY FUNDED</b> (Contract of at least \$2 million and 275 days)		<b>STATE FUNDED</b> OJT may be authorized on a voluntary basis for banking purposes provided the Contract is at least \$2 million and 275 days and an RCS is avail. To monitor	
		<b>P R I M E</b>	<b>Sub- contractor Enrolling &amp; Instructing a Trainee</b>	<b>P R I M E</b>	<b>Sub-contractor Enrolling &amp; Instructing a Trainee</b>
<b>PROGRAM ELEMENT</b>	<b>TIME FRAME</b>				
<b>Company Wide EEO Report</b>	Due as requested and/or at or before Training Evaluation Meeting	<b>Y E S</b>	<b>Y E S</b>	<b>Y E S</b>	<b>Y E S</b>
<b>Post Pre-Construction Training Evaluation Meeting</b>	Conducted no more than 30 days prior to beginning construction or at another date agreeable to attendees.  Meeting minutes are distributed with 14 days of their finalization with initial minutes issued as soon as practical and 14 days provided for requests to revise	<b>Y E S</b>	<b>Y E S</b>	<b>Y E S</b>	<b>Y E S</b>
<b>On-the-Job Training Schedule</b>	Due or developed at or within ten days of the Training Evaluation Meeting. Schedule Revisions are due when events are missed by 14 or more days, the use of additional classifications is requested or trainees terminate.	<b>Y E S</b>	<b>Y E S</b>	<b>Y E S</b>	<b>Y E S</b>
<b>Proficiency Statements for each Training Classification on the OJT Schedule</b>	Due or developed at or within ten days of the Training Evaluation Meeting for each training classification listed on the Schedule.  Proficiency statements for additional classifications accompany OJT Schedule Revisions.	<b>Y E S</b>	<b>Y E S</b>	<b>Y E S</b>	<b>Y E S</b>
<b>Notification of Trainee Personnel Action</b>	Due within seven days of proposed effective date; Request to Graduate is due once minimum hours are accumulated and satisfactory observation occurs.	<b>Y E S</b>	<b>Y E S</b>	<b>Y E S</b>	<b>Y E S</b>
<b>Request for Proficiency Observation</b>	First and second observation request may be submitted based on trainee readiness and accumulation of at least minimum hours. Third and subsequent observation request require accumulation of maximum hours.	<b>Y E S</b>	<b>Y E S</b>	<b>Y E S</b>	<b>Y E S</b>
<b>Trainee Monthly Time Reports</b>	Due on the 10 <sup>th</sup> day of the month for each month following enrollment of the trainee up to graduation of trainee	<b>Y E S</b>	<b>Y E S</b>	<b>Y E S</b>	<b>Y E S</b>
Footnotes:					
<b>Y E S</b>	Data is submitted in timeframe specified				

**Table 1.7.6.5**

<b>Summary of Payroll &amp; Wage EEO Requirements</b>		<b>FEDERALLY FUNDED</b>				<b>STATE FUNDED</b>		
		<b>P R I M E</b>	Sub Contractor (all dollar amounts)	Supplier	Agencies supplying job site workers	<b>P R I M E</b>	Sub Contractor (all dollar amounts)	Supplier
<b>TIME FRAME</b>	Rental Agreement with operator (all dollar amounts)		Rental w/out operators	<b>Rental Agreement with operator (all dollar amounts)</b>			Rental w/out operators Agencies supplying job site workers	
<b>Labor/EEO Compliance Interview of craft and laborer Workers</b>	Conducted each month. This form is completed by FDOT	<b>Y E S</b>	<b>Y E S</b>	<b>NO</b>	<b>Y E S</b>	<b>NO</b>	<b>NO</b>	
<b>Certified Payrolls</b>	Due 7 days after regular pay day for each week in which any contract work is performed	<b>Y E S</b>	<b>Y E S</b>	<b>NO</b>	<b>Y E S</b>	<b>NO</b>	<b>NO</b>	
<b>Additional classification Request</b>	As needed during the term of the contract and after contract award	<b>Y E S</b>	<b>Y E S</b>	<b>NO</b>	<b>Y E S</b>	<b>NO</b>	<b>NO</b>	
<b>Request to USDOL for Authorization of Payroll Deductions</b>	Prior to employing workers on the project and as needed to ensure continuity of authorization.	<b>Y E S</b>	<b>Y E S</b>	<b>NO</b>	<b>Y E S</b>	<b>NO</b>	<b>NO</b>	
<b>Supplemental Certified Payrolls submitted to resolve Payroll Violation(s)</b>	Due within twenty (20) calendar days following receipt of payroll violation notification (FDOT form 700-010-59)	<b>Y E S</b>	<b>Y E S</b>	<b>NO</b>	<b>Y E S</b>	<b>NO</b>	<b>NO</b>	
Footnotes:								
<b>Y E S</b>	Data is submitted in timeframe specified							

### 1.7.7 Local Agency Program

FDOT has legislative authority to contract with Florida's Local Agencies to plan, develop, design, acquire right-of-way, and construct transportation facilities. FDOT reimburses these Local Agencies for services provided to the public. The formal name given to this program is the Local Agency Program (LAP). Authority for LAP is provided in **Sections 20.23(3)(a), 334.044(7), 339.05, and 339.12 of the Florida Statutes.**

A Local Agency is defined as a unit of government with less than statewide jurisdiction or any officially designated public agency or authority of such a unit of government that has responsibility for planning, construction, operation or maintenance of, or jurisdiction over, a transportation facility. The term includes, but is not limited to, a county, an incorporated municipality, a metropolitan planning organization (MPO), an expressway or transportation authority, a road and bridge district, a special road and bridge district, or a regional governmental unit.

FDOT's LAP and ARRA projects are federally funded and therefore are, required to conform to **FHWA 1273, Required Contract Provisions of Federal Aid Construction Contracts.**

The work of a LAP project may not include Federal Aid Highway, the National Highway System or the State Highway System funding. In such cases there is no requirement to be in compliance with the **Davis-Bacon and Copeland Acts**, however there are certain exceptions.

Projects of the following types are subject to **Davis-Bacon and Copeland Act** prevailing wage requirements, notwithstanding that they may be located "off-system":

- Safe Routes to Schools projects;
- Non-motorized Transportation Pilot Projects; and
- High priority and other congressionally designated projects (unless the requirement is specifically waived in legislation).

The FDOT District LAP Administrator, District Contract Compliance Manager, or Prevailing Wage Coordinator should be consulted prior to the start of construction in order to obtain written confirmation that a LAP or ARRA project is exempt from **Davis-Bacon and Copeland Act** payroll and reporting requirements.

Contractors of LAP projects may demonstrate compliance with **FHWA 1273 and Davis-Bacon and Copeland Acts** by adhering to either the forms and reporting requirements of the specific local agency or by conforming to the forms and requirements of the FDOT EEO Construction Contract Compliance Manual. The Local Agency informs contractors of the requirements to be followed.

The applicability of the DBE, EEO, Wages and OJT compliance for LAP projects is summarized in **Table 1.7.7.1.**

**Table 1.7.7.1  
 EEO Construction Contract Compliance Requirements for  
 Local Area Program (“LAP”)**

Contract Compliance Program Area	Project On State Highway System including <b>Federal Aid Highways, National Highway System, State Highway System</b>	Project on all other roads including <b>Rural Minor Collector Rural Local Urban Local Roads</b>
<b>DBE</b>	Yes *	Yes
<b>EEO</b>	Yes **	Yes
<b>Certified Payrolls/Wages</b>	Yes ***	Check with Prevailing Wage rate Coordinator
<b>OJT</b>	Yes **** if 275 or more days and \$2M or more and not an enhancement project No if enhancement project (regardless of contract days and/or dollars) No if less than 275 days and/or under \$2M	No
<u>Footnotes:</u>		
*	See Federally Funded columns on Table 1.7.6.1, Summary of DBE Requirements	
**	See Federally Funded columns on Table 1.7.6.2, Summary of Company EEO Requirements, and See Federally Funded columns on Table 1.7.6.3, Summary of Project EEO Requirements	
***	See Federally Funded columns on Table 1.7.6.5, Summary of Payroll & Wage Requirements	
****	See Federally Funded columns on Table 1.7.6.4, Summary of On-the-Job Training Requirements	

## 1.8 GENERAL PROGRAM FORMS & DOCUMENTS

This is list of forms and documents referenced in this chapter. All forms may be accessed through the [FDOT Forms Library](#) and/or the Chapter One Reference Guide.

### NUMERICAL SEQUENCE

FDOT Form No.	Document Title	Manual Section
<i>275-021-13</i>	<i>Notification to FDOT of EEO Officer</i>	<i>1.5.3</i>
<i>275-021-15</i>	<i>Contractor Notification for Use of Temporary Employment Agency/Day Laborers</i>	<i>1.7.5</i>
<i>700-010-25</i>	<i>Contractor's Past Performance Rating</i>	<i>1.6.4</i>
<i>700-010-59</i>	<i>Notification of Payroll Violation</i>	<i>1.6.5</i>
<i>n-a</i>	<i>FHWA 1273, Required Contract Provisions, Federal Aid Construction, May 1, 2012</i>	<i>1.1.8</i>

### ALPHABETICAL SEQUENCE

Document Title	FDOT Form No.	Manual Section
<i>Contractor's Past Performance Rating</i>	<i>700-010-25</i>	<i>1.6.4</i>
<i>FHWA 1273, Required Contract Provisions, Federal Aid Construction, May 1, 2012</i>	<i>n-a</i>	<i>1.1.8</i>
<i>Contractor Notification for Use of Temporary Employment Agency/Day Laborers</i>	<i>275-021-15</i>	<i>1.7.5</i>
<i>Notification of Payroll Violation</i>	<i>700-010-59</i>	<i>1.6.5</i>
<i>Notification to FDOT of EEO Officer</i>	<i>275-021-13</i>	<i>1.5.3</i>