

# CONTRACT COMPLIANCE

*What the Contractor  
Needs to Know*





FHWA 1273

## FDOT Compliance Implementation

To take advantage of FHWA funding, the State of Florida must develop and enforce a construction contract compliance program in accordance with FHWA 1273.

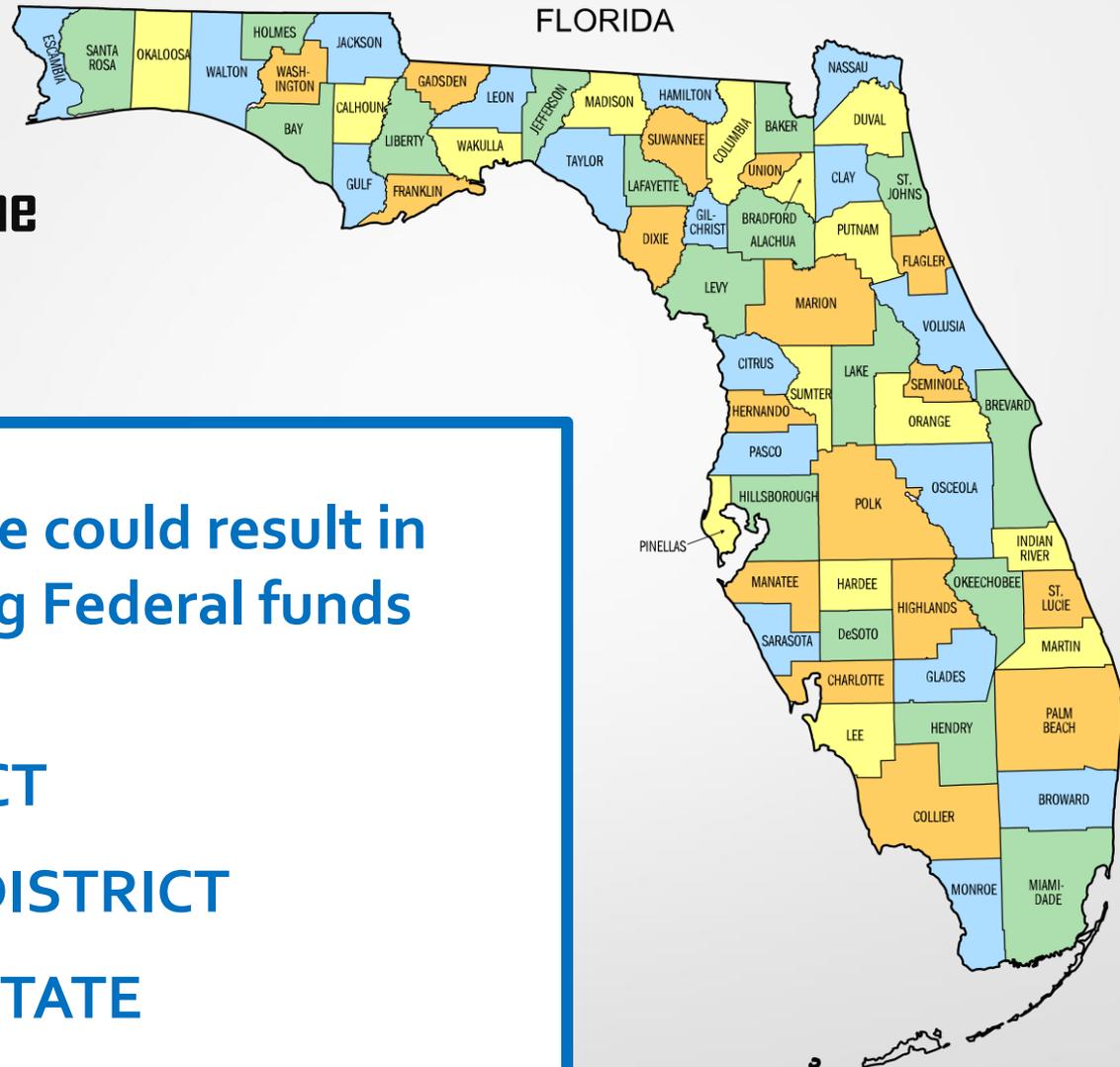
Florida's program is outlined in FDOT Procedure 275-020-005-b:  
*Construction Contract Compliance Workbook*



# FHWA 1273 Requirements for the State of Florida

Noncompliance could result in  
FHWA revoking Federal funds  
from:

- The PROJECT
- The entire DISTRICT
- The entire STATE



# GOVERNANCE

EEO:

***FHWA 1273***



# GOVERNANCE

## DBE and Non-Discrimination

### *49 CFR*

- **Part 12:** Prohibits discrimination in the USDOT federally assisted programs
- **Parts 23 & 26:** Regulates participation by DBEs in state departments of transportation programs
- **Part 26:** Authorizes FDOT to issue sanctions for the condition and state of noncompliance in the DBE Program

# GOVERNANCE

- On-the-Job Training (OJT):

*23 CFR Part 230 Appendix B to Subpart A*

- Applicable to all contractors/subs on federal projects
- State program determines the number of required trainees

# GOVERNANCE

- WAGES: *Davis-Bacon Act & Related Acts; 29 CFR Parts 1,3, and 5*
  - Applicable to all contractors/subs on federal projects in excess of \$2,000
  - Pay laborers/mechanics on a weekly basis
  - Pay laborers/mechanics prevailing wage rates (+ fringes if applicable) in the correct classification
  - Pay OT hours in excess of 40-hours/week
  - *Copeland Act (aka Anti-Kickback Act)*

# ***QUESTIONS: FHWA 1273***



# THE FAB FOUR

- **EEO** – Equal Employment Opportunity
- **DBE** – Disadvantaged Business Enterprise
- **OJT** – On the Job Training
- **Wages** – Payrolls



Each District has a **District Contract Compliance Office (DCCO)** which monitors compliance with FHWA 1273 and ensures it is implemented on all Federally funded projects.

District Contract Compliance Manager (DCCM)  
Resident Compliance Specialist (RCS)

# Equal Employment Opportunity (EEO)





# Project EEO Requirements

- Jobsite Bulletin Board
- EEO Officer
- EEO Project Personnel Meetings
- Annual July EEO Report
- Training Assessments

*All monitored by the Resident Compliance Specialist (RCS)*

# Job Site Bulletin Board

## What must be on the board?

- (5) FDOT required posters
- (3) USDOL required posters
- Wage Decision (ALL pages clearly displayed)
- Additional Wage Classifications
- EEO Officers (Prime and ALL subs over \$10,000)

*All monitored by the Resident Compliance Specialist (RCS)*



Photos submitted with the Jobsite Bulletin Inspection form are extremely helpful in determining the boards compliance. Photos may also be taken to follow-up to noncompliance conditions previously reported.

# Disadvantaged Business Enterprise (DBE)



# DBE - DEFINITION

**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.

# Disadvantaged Business Enterprise

- FDOT has a race-neutral DBE Program creating a level playing field on which a DBE can compete fairly for FDOT contracts.
- FDOT believes the overall goal can be achieved through the normal competitive procurement process.
- The current statewide goal for Florida is **10.65%**



# DBE Forms

- **Bid Blank** (form #375-020-17) - states the DBE availability goal assigned to the contract. The DBE availability goal is the DBE percentage that the Department believes can be realistically achieved on the project based on the number of DBEs associated with the scope of work that will be performed on the project.
- **Bidders Opportunity List** – list that is entered into the EOC (Equal Opportunity Compliance) system by **ALL** bidders which lists all companies that were solicited or submitted quotes to work on the project.



# DBE Commitments

**FDOT** **EQUAL OPPORTUNITY COMPLIANCE** **EOC**

**FDOT Disclaimer**

By logging on to a FDOT system, you acknowledge your responsibility to comply with all laws, rules, directives, policies, and procedures related to the use and security of information technology resources. Unauthorized use is strictly prohibited. You are hereby on notice that you should have no expectation of privacy as to your use of Department information technology resources as all data is potentially subject to Florida's public records law.

**Account Information**

For more information about EOC  
[Help](#)

[I do not have a User Id](#) [Change Password](#)

User ID:

Password:

**Login**

**FDOT** Office of Information Systems

Florida Department of Transportation, Office of Information Systems  
Report EOC questions to [EOOHelp@dot.state.fl.us](mailto:EOOHelp@dot.state.fl.us) or call 850-414-4747  
Report Technical Problems to [Email Service Desk](#) or call 1-866-955-4357(HELP)  
[Internet Privacy Policy, Disclaimers & Credits](#)

**MyFlorida.com**

- Assists the Department in tracking and reporting the planned DBE utilization.
- Commitments are submitted into the EOC prior to the Pre-Construction Meeting.
- Revisions must be entered into the EOC system on a regular basis – at least monthly as necessary.

# DBE Payments

- Contractors are required to pay and enter the payments made to DBEs monthly into the Equal Opportunity Compliance System (EOC).
- DBE payments entered into the EOC will be totaled to determine the DBE's final participation percentage (utilization).

# CUF – *Commercially Useful Function*

- New CUF Form implemented October 2021
- Validates that DBE providing materials, sold materials (60% credit) or manufactured or supplied materials (100% credit)

275-021-18  
EQUAL OPPORTUNITY OFFICE  
10/21

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

**COMMERCIALLY USEFUL FUNCTION (CUF) DBE MONITORING REPORT**

**SECTION 1: PROJECT IDENTIFICATION**

1. Prime Contractor	2. Fin Project No.	3. F.A.P. No.	4. Contract No.	5. District

Section 1: Project Identification – is completed by the RCS.

**SECTION 2: DBE IDENTIFICATION**

1. DBE Firm Name			2. DBE begin date		3. NAICS Code		4. Work Type	
5. DBE functioning as	Subcontractor to prime <input type="checkbox"/>	Lower Tier Subcontractor <input type="checkbox"/>	6. Contracted to whom				Supplier/Regular Dealer <input type="checkbox"/>	Manufacturer <input type="checkbox"/>
7. Type of arrangement	Furnish & Install <input type="checkbox"/>	Labor Only <input type="checkbox"/>	8. Attachments				Daily Work Report	<input type="checkbox"/>
9. DBE Contract amount	10. DBE Commitment	11. DBE CUF = 30% Commitment	12. DBE Payments				Certification of Sublet & Schedule 'A'	<input type="checkbox"/>
		\$0.00					DBE Profile	<input type="checkbox"/>

Section 2: DBE Identification – is completed by the RCS.

**SECTION 3: SUBCONTRACTOR**

<b>1. Date Observed</b>			<b>2. Observer's Name (first &amp; last)</b>											
<b>YES</b>	<b>NO</b>	<b>N/A</b>	<b>A.</b>	<b>MANAGEMENT</b>			<b>YES</b>	<b>NO</b>	<b>N/A</b>	<b>B.</b>	<b>PERFORMANCE</b>			
			1. It appears the DBE firm controls/supervises work performed by the DBE firm's workers/foremen.						1. Did the DBE firm subcontract any portion of the work to another contractor?					
			2. At least one (1) worker was asked if DBE Manager/Foreman controls/supervises the DBEs work.						2. If '1' is 'yes', was the original commitment reduced accordingly?					
<b>YES</b>	<b>NO</b>	<b>N/A</b>	<b>C.</b>	<b>WORKFORCE</b>			<b>YES</b>	<b>NO</b>	<b>N/A</b>	<b>D.</b>	<b>EQUIPMENT</b>			
			1. Did the Resident Compliance Specialist (RCS) recognize any of the DBE firm's employees as appearing on payrolls of other contractors?						1. DBE firm appears to be using their own equipment.					
			2. Does the information on the Daily Work Reports (DWR) appear consistent with the information on the DBE's payroll?						If no, identify which piece(s) of equipment:					
			3. Is the person who signs the DBE's certified payrolls an employee of the DBE and not the prime or hiring contractor?						2. Is all equipment being operated by DBE firm's employees?					

Section 3: Subcontractor – highlighted cells are completed by the observer/Inspector in the field. Area addressing Workforce is completed by the RCS.

YES	NO	N/A	E.	MATERIALS				
				1. Was the material shipped to the DBE?	<input type="checkbox"/>	Documentation reviewed/attached	<input type="checkbox"/>	Other verification (explain):
				2. Was the material purchased from a source other than the prime or any affiliate of the prime?	<input type="checkbox"/>	Documentation reviewed/attached	<input type="checkbox"/>	Other verification (explain):
				3. Was the material billed to the DBE/DBE Owner/representative?	<input type="checkbox"/>	Documentation reviewed/attached	<input type="checkbox"/>	Other verification (explain):
				4. Did the DBE firm pay for the material?	<input type="checkbox"/>	Documentation reviewed/attached	<input type="checkbox"/>	Other verification (explain):
3: Comments								
None				<input type="checkbox"/>				

Section 3: Materials – RCS will address questions concerning materials to the prime contractor/DBE.

Observer/Inspector is encouraged to leave any comments that may be useful in RCS review of the CUF report.

**SECTION 4: MANUFACTURERS and REGULAR DEALERS**

YES	NO	N/A	A.	MANUFACTURERS		
			1. Were the products the type and quantity as described/listed? If 'no' re-evaluate eligible DBE participation before proceeding.	<input type="checkbox"/>	Documentation reviewed/attached	<input type="checkbox"/> Other verification (explain):
			2. Were the products manufactured at a facility maintained or operated by the DBE? If 'no', DBE is not acting as a manufacturer.	<input type="checkbox"/>	Documentation reviewed/attached	<input type="checkbox"/> Other verification (explain):
YES	NO	N/A	B.	REGULAR DEALERS		
			1. Were the products the type and quantity as described/listed? If 'no' re-evaluate eligible DBE participation before proceeding.	<input type="checkbox"/>	Documentation reviewed/attached	<input type="checkbox"/> Other verification (explain):
			2. Did the DBE Dealer own/have physical possession of the products prior to delivery?	<input type="checkbox"/>	In-stock inventory	<input type="checkbox"/> Other verification (explain):
			3. For Bulk Supply, the DBE firm.	<input type="checkbox"/>	Maintains a warehouse for the supplies	<input type="checkbox"/> Operates a long-term lease for housing/delivering supplies

Section 4: Manufacturers and Regular Dealers – RCS will address questions with prime contractor/DBE.

Reminder: 60% DBE credit for suppliers, 100% DBE credit for manufacturers.

**SECTION 5: CUF DETERMINATION**

Based upon the observations and review of relevant supporting documentation, I recommend the Department certify commercial useful function (CUF).

<input type="checkbox"/>	NO-more investigation required
<input type="checkbox"/>	YES

1. Date:	Completed by (print)	2. Name	4. Signature
		3. Title Resident Compliance Specialist (RCS)	5. Comment

Based upon the observations reported and review of relevant supporting documentation, FDOT certifies the monitoring of DBE participation for compliance consistent with 49 CFR 26.37 and the commitments/payments have been accurately counted and are reflected in the FDOT reporting system in accordance with 49 CFR 26.55 and the approved FDOT DBE Program Plan.

6. Date:	Reviewed by (print)	7. Name	9. Signature
		8. Title District Contract Compliance Manager or Designee	10. Comment

RCS will complete preliminary review of the CUF report attaching required documents and submit to District office for final review. DCCM will determine whether the CUF is acceptable or requires more investigation.

# What can you do as Project Oversight to assist in determining CUF?

- Assist with documentation to answers regarding materials when possible
- Take photos when to support observation
- Timely submittal to RCS within 5-business days of completing in the field

# Contracts – Sublets – Rental Agreements

- Compliance looks at sublets to determine what type of work is performed; complete CUF [contract amount; type of work; if Partial (Labor Only) or Full (Furnish & Install)]
- Contracts – Audited to ensure FHWA 1273 is included properly
  - Rental Agreements (referenced)
  - Sublets (attached to subcontracts in its entirety)

# Incentive for Achieving DBE Goal

If the contractor meets or exceeds the DBE percentage for their contract and records the payments and credits to all DBEs into EOC on a monthly basis, they will earn **Bonus Points** on the final CPPR.



# On the Job Training (OJT)



# OJT Criteria

## *WHEN IS OJT REQUIRED?*

- Contract includes federal dollars
- Contract amount is \$2-million or more
- Contract time is 275+ calendar days or more



# OJT Evaluation Meeting

- Meeting is coordinated by the RCS
- Occurs no less than 30-days prior to anticipated start date

## Required Attendees:

- Prime Contractor's Project Manager
- Project Administrator
- RCS
- DCCM

*I'm Attending!*



## Recommended Attendees:

- Prime Contractor's EEO Officer
- Subcontractors' Project Manager and/or staff who will enroll trainees

# OJT Evaluation Meeting (cont.)

## OJT Required Actions / Forms:

- Training Evaluation Meeting
- Discuss OJT Schedule
- Discuss Proficiencies
- Trainee Enrollment
- Trainee Interview
- Monthly Time Reports (MTR)



# PILOT OJT

(Now allowed per 2021 CCCM)

- ABILITY TO MOVE CREWS FROM PROJECT TO PROJECT TO TRAIN
- REQUIRES COMMUNICATION TO OUR OFFICE FOR APPROVAL
- DCCO COMMUNICATES WITH PROJECT STAFF TO VALIDATE TRAINING HOURS

# Wages (Contractor & Subcontractor Payrolls)



# Submittal of Payrolls

All contractors on a project are required to pay workers no less than weekly.

Weekly certified payrolls are due to the RCS within **7-calendar days** after the contractor's regular payment date.

MAY						
SUN	MON	TUE	WED	THU	FRI	SAT
			1	2	3	4
5	6	7	8	9	10	11
12	13	<del>14</del>	<del>15</del>	<del>16</del>	<del>17</del>	<del>18</del>
<del>19</del>	<del>20</del>	21	22	23	24	25
26	27	28	29	30	31	

# Labor Interviews

**Employee Interview Report (*FDOT Form No. 700-010-63*)**

**Provides for monitoring of:**

- **Proper classification of worker(s)**
- **Wages are appropriate for type of work observed**
- **Workers knowledge of EEO Officer and job site bulletin board**

# Labor Interviews(cont.)

## Required Minimum Number of Monthly Interviews

- Table 6.4.3 - based on the original contract amount
- Conducted on a random basis
- Cross section of active contractors and different demographics of workers
- All workers are subject to an interview (except for surveyors, supervisors, QA/QC testing, etc.)

# Labor Interviews (cont.)

## Performed for whom?

Employees of both prime and subcontractors

## Performed by whom?

RCS / Inspectors

## RCS responsibility?

- Ensure appropriate number of interviews are conducted monthly
- Review interview data for compliance

## Timeframe?

- Provide to RCS within 5-business days of completion

# Labor Interviews (cont.)



**INTERVIEWS ARE CONFIDENTIAL!**

- No other employees or supervisors within listening distance
- Do not send interviews to contractor when you have a discrepancy

# What can you do as Project Oversight to assist in the Labor Interview process?

- Emphasize to inspection staff the importance of Labor Interviews
- Respond promptly to any discrepancy questions
- Timely submittal to RCS (5-business days)

# KNOW YOUR CONTACTS FOR COMPLIANCE

- D1 ~ District Contract Compliance Manager –  
Diosmara “Dee” Williams 863-519-2222
- D7 ~ District Contract Compliance Manager –  
Mary Blasewitz 813-975-6707
- Resident Compliance Specialists – assigned per  
area/project

*It's easy to reach us anytime.*

**WE'RE HERE  
FOR YOU.**

**LET US KNOW HOW WE CAN HELP.**

# Important Links

- **FDOT Equal Opportunity Office**
  - <https://www.fdot.gov/equalopportunity/default.shtml>
- **FDOT EEO Contract Compliance Manual**
  - <https://www.fdot.gov/equalopportunity/contractcompliancemanual.shtml>
- **FDOT State Construction Office**
  - <https://www.fdot.gov/construction/>

# Q & A

