

CONTRACT COMPLIANCE:

**What the Contractor
Needs to Know to Work
on Federally Funded Highway Construction Projects**



TEST YOUR
KNOWLEDGE

WHEN DOES THE JOBSITE BULLETIN BOARD HAVE TO BE IN PLACE ON THE PROJECT?

On or before the first day
of work.

WHAT IS THE PURPOSE OF A CUF REPORT?

To verify that a DBE is performing their own work, supervising their own employees and purchasing their own materials.

WHAT 3 CONDITIONS MUST BE MET BEFORE OJT TRAINEES ARE REQUIRED?

1. Must have Federal funds
2. Must be 275 days or more
3. Must be \$3 million or
more

WHAT ARE THE 4 TYPES OF WAGE DETERMINATIONS?

1. Highway
2. Heavy
3. Building
4. Residential

WHAT PERCENTAGE OF
WORK MUST THE PRIME
COMPLETE WITH ITS
OWN WORKFORCE?

30%

WHO IS RESPONSIBLE FOR SUBCONTRACTOR COMPLIANCE?

The Prime



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**

**One penny can
federalize an entire
project.**



What is FHWA-1273?

- A compilation of Federal provisions that are required to be inserted into federally funded contracts and subcontracts.
- Includes contract provisions and proposal notices required by regulations handed down by FHWA or other Federal agencies.

APPLICABILITY of FHWA- 1273

- In accordance with 23 CFR 633.102(d): required contract provisions apply to ALL WORK performed on the contract by the PRIME contractor's own organization and by ALL WORK of the Prime's SUBCONTRACTORS.

**REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS**

- I. General
- II. Nondiscrimination
- III. Non-segregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
- XI. Certification Regarding Use of Contract Funds for Lobbying
- XII. Use of United States-Flag Vessels:

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under title 23, United States Code, as required in 23 CFR 633.102(b) (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements,

performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract. 23 CFR 633.102(d).

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. 23 U.S.C. 114(b). The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors. 23 U.S.C. 101(a).

II. NONDISCRIMINATION (23 CFR 230.107(a); 23 CFR Part 230, Subpart A, Appendix A; EO 11246)

The provisions of this section related to 23 CFR Part 230, Subpart A, Appendix A are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

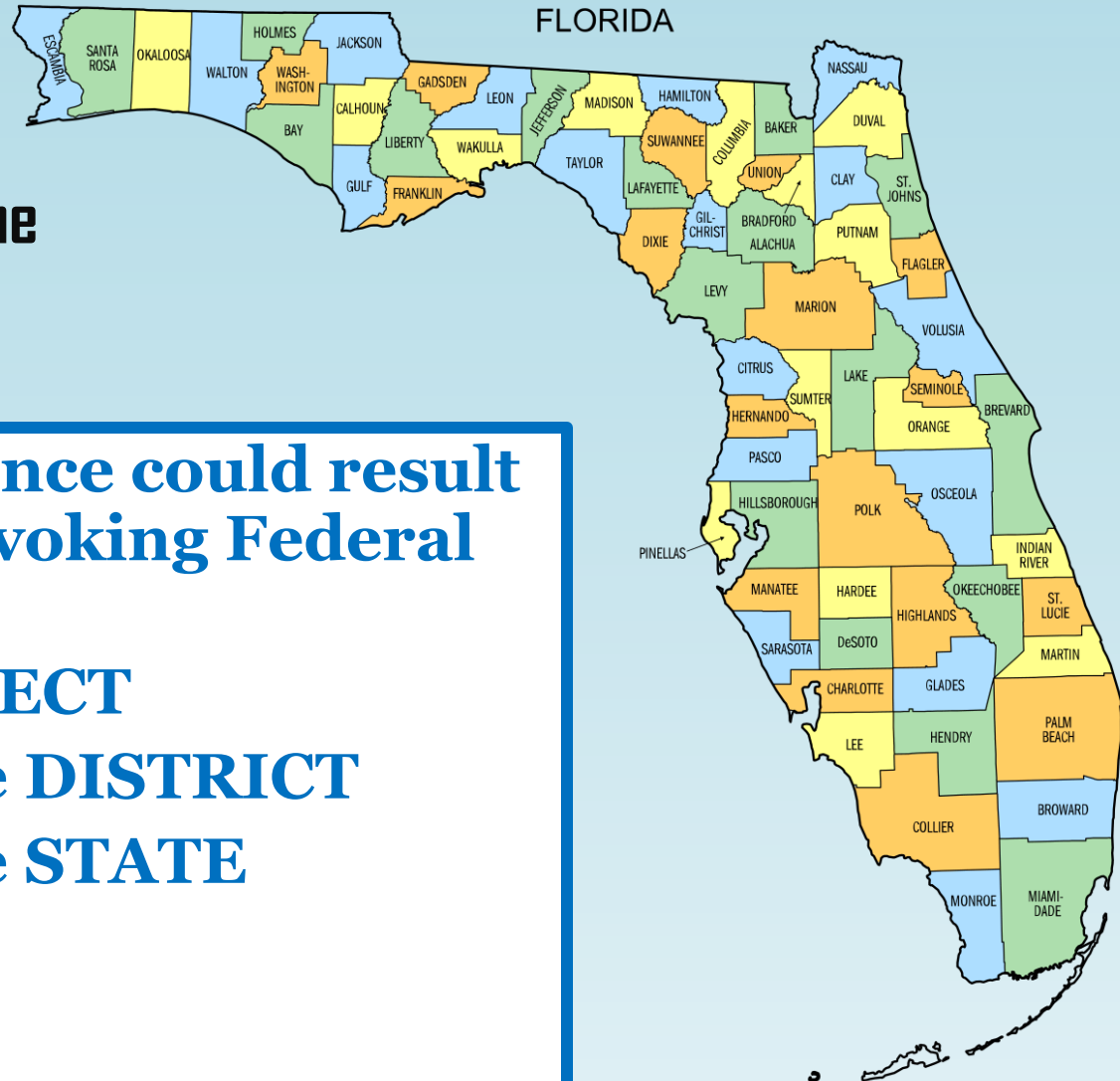
In addition, the contractor and all subcontractors must comply

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**



THE FAB FOUR

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

Resident Compliance Specialist

- RCSs have many responsibilities and manage multiple areas of compliance.
- RCS can provide assistance to District staff and contractors in matters re: Federal regulation on highway construction projects.



GOVERNANCE



EEO:
FHWA-1273

GOVERNANCE

• DBE & 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

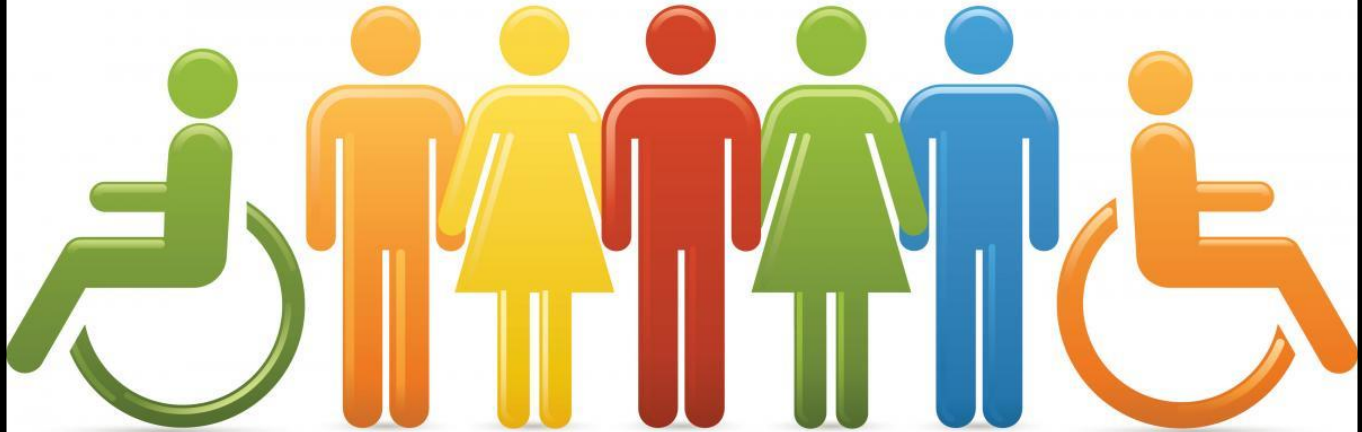
- Applicable to all contractors/subs on federal projects
- State developed (FDOT) program determines the number of required trainees

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*

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?

- FDOT required posters- 6
- USDOL required posters- 6
- Wage Decision (ALL pages clearly displayed)
- Additional Wage Classifications
- EEO Officers (Prime and ALL subs over \$10,000)

<https://www.fdot.gov/equalopportunity/ccposters.shtm>

POSTERS

- [FHWA Notice Posters \(with boxes pre-filled\) \(English\)](#)
- [FHWA Notice Posters \(with boxes pre-filled\) \(Spanish\)](#)
- [Wage Appeals](#)
- [E-Verify Poster](#)
- [Florida Law Prohibits Discrimination \(English and Spanish\)](#)
- [Employee Rights Under the Davis-Bacon Act \(with boxes pre-filled\) \(English\)](#)
- [Employee Rights Under the Davis-Bacon Act \(with boxes pre-filled\) \(Spanish\)](#)
- [EEOC Know Your Rights \(English\)](#)
- [EEOC Know Your Rights \(Spanish\)](#)
- [Pay Transparency Nondiscrimination \(English\)](#)
- [Pay Transparency Nondiscrimination \(Spanish\)](#)
- [Family and Medical Leave Act \(English\)](#)
- [Family and Medical Leave Act \(Spanish\)](#)
- [OSHA \(English\)](#)
- [OSHA \(Spanish\)](#)
- [Employee Polygraph Protection Act \(English\)](#)
- [Employee Polygraph Protection Act \(Spanish\)](#)
- [USERRA \(English\)](#)
- [Employee Rights Under the Fair Labor Standards Act \(English\)](#)
- [Employee Rights Under the Fair Labor Standards Act \(Spanish\)](#)





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.



- FDOT has a race-neutral DBE Program = creates a level playing field on which a DBEs 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 10.54%

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 scopes 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

The screenshot shows the FDOT Equal Opportunity Compliance (EOC) system interface. At the top left is the FDOT logo, and at the top right is the EOC logo featuring a scale of justice. The main heading is 'EQUAL OPPORTUNITY COMPLIANCE'. Below this is a 'FDOT Disclaimer' box containing text about system usage and privacy. Underneath is an 'Account Information' section with a 'Help' link. There are two links: 'I do not have a User Id' and 'Change Password'. Below these are input fields for 'User ID:' and 'Password:', followed by a green 'Login' button. The footer contains the FDOT Office of Information Systems logo, contact information for reporting EOC questions and technical problems, and the MyFlorida.com logo.

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

Florida Department of Transportation, Office of Information Systems
Report EOC questions to 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
my

- Assists the Department in tracking and reporting anticipated DBE utilization.
- Commitment is submitted into the EOC prior to the Pre-Construction Meeting.
- Revisions must be entered into the EOC system on a regular basis.

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).

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

CUF – *Commercially Useful Function*

- **Observation validates that the DBE:**
 - **PERFORMS WORK (no assistance)**
 - **OVERSEES DBE's WORKFORCE**
 - **UTILIZES DBE's EQUIPMENT**
 - **PROVIDES OWN MATERIALS/SUPPLIES**

CUF – *Commercially Useful Function*

- **Furnish & Install– (100% credit)**
- **Labor Only- (100 % credit) no materials counted**
- **Sold materials - DEALER (60% credit)**
- **Produced materials - MANUFACTURER (100% credit)**

Incentive for Achieving DBE Goal

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



Contracts – Sublets – Rental Agreements

- Compliance utilizes Sublets to determine what type of work is performed; complete CUF [contract amount; type of work; if a Partial (Labor Only) or Full (Furnish & Install); whether a DBE has subcontracted work; etc.]
- Contracts between Prime, Subs (ALL tiers) – are audited to ensure FHWA-1273 is included properly
- Rental Agreements vs Sublets



ON THE JOB TRAINING (OJT)

Purpose of the OJT Program

The primary objective of this program is to train and upgrade minorities, women and disadvantaged persons toward journey level status

It also addresses the historical under-representation of members of these groups in highway construction skilled crafts.

OJT Criteria

When is it required?

Construction dollar amount is equal to or above \$3 million - *AND* -
Contract time is 275+ calendar days



OJT Evaluation Meeting

- Meeting is coordinated by the RCS
- Occurs prior to the first day of work

I'm Attending!

Required attendees:

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



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
- Trainee Enrollment
- Discuss Proficiencies
- Trainee Interview
- Monthly Time Reports
(MTR)



OJT MOBILITY PILOT

(now allowed per 2021 CCM)

- 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



OJT Enrollments 126



OJT Graduations 61



OJT Terminations 34



Good Faith Effort 9



Banking 9

OJT Data for 2024



Wages Contractor & Subcontractor Payrolls



Submittal of Payrolls

- All contractors on a project are required to pay **no less than weekly**.
- Weekly certified payroll is due to the RCS **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	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

• Payrolls must include:

- Employee Name
- 4 digit ID number
- Classification worked
- Hours worked
- Rate paid
- Fringe Benefits if applicable
- Any deductions must be identified

Labor Interviews

Employee Interview Form – Labor
(FDOT Form No. 700-010-63)

Provides for monitoring of:

- **Proper classification**
- **Wage payment**
- **Employee 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 and inspectors

RCS responsibility?

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

Timeframe?

- Within 5 business days of completion



Interviews are
CONFIDENTIAL!



- **No other employees or supervisors should be within listening distance**
- **Do not send interviews to contractor**

What can you do as Project Oversight to assist in ensuring Contract Compliance Requirements are met?

- Ensure RCS has all information needed to complete their job
- Ensure that Inspection Staff is aware of Contract Compliance needs – conducting interviews, JSBB Inspections, CUFs, Trainee Interviews
- Respond timely to any questions/RFI, whether this is yourself or Inspection Staff
- Sign DWL Letters and send when needed
- Timely submittal
- Attend any trainings offered by the DCCO

DCCMs:

D1 ~ Diosmara Williams	863-519-2222
D2 ~ Brenda Crews	386-943-5367
D3 ~ Briana Mitchell	850-330-1259
D4 ~ Sharon Singh-Hagyan	954-777-4190
D5 ~ Angela Mann	386-943-5369
D6 ~ Stan Ford	305-640-7459
D7 ~ Stephanie Galvan	813-975-6746



**We're here
to help.**

Important Links

- **FDOT Equal Opportunity Office**

- <https://www.fdot.gov/equalopportunity/default.shtml>

- **FDOT Contract Compliance**

- <https://www.fdot.gov/equalopportunity/contractcompliance.shtm>

- **FDOT EEO Contract Compliance Manual**

- <https://www.fdot.gov/equalopportunity/contractcompliancemanual.shtm>

- **FDOT State Construction Office**

- <https://www.fdot.gov/construction/>

ANY
QUESTIONS?

*Thank
you!*

