Overview, Sections I, II, & XI

Sandy Talbert-Jackson, OST-FHWA Resource Center
OVERVIEW

EEO Contractor Compliance Program

Objective

To ensure that contractors and subcontractors performing work on Federal and Federal-aid highway contracts comply with the EEO and affirmative action requirements set forth in their construction contracts.
OVERVIEW

FHWA Authorities and Regulations

- 23 U.S.C. §140
- State EEO Assurances
- 23 CFR Part 230 (Subparts A and D)
- Contract Provisions
- FHWA Notice 4720.7
OVERVIEW
FHWA-1273
Contract Provision - Revised

• Final notice was published in the June 25, 2012 Federal Register.
• States started using the new 1273 (5/1/2012) in new contracts.
• States incorporated the new 1273 in new contract bids after 8/9/2012.
• The requirement does not apply to existing contracts.
GENERAL

• Physically incorporated in each construction contract funded under Title 23, regardless of tier.
• Applicable requirements can be incorporated by reference for work done.
• Prime responsible for compliance regardless of tier.
• Included in Federal-aid design build contracts.

GENERAL

• May reference FHWA-1273 in bid proposals or request for proposal documents.
• Exclusion of physically incorporating the 1273: purchase orders, rental agreements and other supply/service agreements.
• Noncompliance and Sanctions.
• Selection of Labor (Convict Labor).
Appendix A – EEO Requirements

• **Applies to:** Federal-aid construction contracts.
• **Contracts and subcontracts of $10,000 or more.**
• **Not Applicable to:** material supply, engineering, or architectural service contracts.
Nondiscrimination

23 CFR 230

Appendix A – EEO Requirements

- Contractors/subcontractors compliance with EEO policies.
- Compliance with Department of Labor’s policies.
- Outlines specific requirement activities for EEO.

Establishes the contractor’s nondiscrimination and affirmative action responsibilities.
Certification Regarding Use of Contract Funds for Lobbying:

- Applies to all Federal-aid construction and subcontracts of $100,000.
- Ensures federal funds are not spent to influence, attempt to influence, a Federal agency or Congress in connections with an awarding of any Federal contract or grant.
Certification Regarding Use of Contract Funds for Lobbying:

Guidance:

• The State must submit to FHWA Division Office a certification that it has not and will not make prohibited payments for lobbying.

• The State signs the project agreement form agreeing to comply with the lobbying restrictions (49 CFR Part 20 and 23 CFR 630.307 (c)(5)).

• Local agencies, subrecipients, contractors, subcontractors, and consultants are required to make a lobbying certification.