
CHAPTER 3: COMPANY EEO/AA REQUIREMENTS

3.1 GENERAL INFORMATION

3.1.1 Purpose

Companies serving as contractors on FDOT contracts are required to comply with **FHWA 1273** “Required Contract Provisions Federal-Aid Construction Contracts.” This Chapter explains the requirements that apply to a company’s commitment to Equal Employment Opportunity and Affirmative Action (EEO/AA) and provides suggestions on how to comply.

3.1.2 Scope

All primes and/or subcontractors, active on FDOT construction contracts are to conform to company EEO/AA requirements. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractors or service provider.

Refer to Table 1.7.6.2 “Summary of Company EEO Requirements” for an overview of company EEO/AA requirements.

3.2 EEO POLICY AND OFFICER NOTICE

3.2.1 Purpose

ALPHABETICAL SEQUENCE

Document Title	FDOT Form	Manual Section
CUF DBE Monitoring Report	275-021-18	2.7
DBE Affirmative Action Plan	275-030-11B	2.3
DBE Bid Package Information	275-030-11	2.0
DBE Trucking Certification	275-030-14	2.7
Trucker Observation and Verification	700-010-61	2.7

Contractors must establish and implement a company policy and procedure containing specified minimum commitments pertaining to nondiscrimination, Equal Employment Opportunity and Affirmative Action (EEO/AA) and designate an EEO Officer.

3.2.2 Overview

At a minimum, contractors are required to implement the following:

WRITTEN EEO POLICY & PROCEDURE

Document and implement, through signature of company officer, an EEO Policy and Procedure and adhere to its requirements.

SELECTION AND ANNOUNCEMENT OF EEO OFFICER

Ensure continuous appointment of an EEO Officer and disseminate the officer's name and contact data to FDOT.

COMMUNICATION OF EEO POLICY, PROCEDURE AND OFFICER

The EEO Officer will meet with supervisory and personnel office employees. The EEO policy and procedure must be brought to the attention of employees.

RECORD KEEPING

Maintain a continuous written record documenting policy, procedure, officer designations, programs, communications, disseminations, analysis, effectiveness assessments, etc.

3.2.3 EEO Policy and Procedure

Typically, the duties of the EEO Officer are included in the EEO Policy and Procedure, but the actual name and contact information of the appointee is omitted. Contractors must notify FDOT of EEO Officer appointments and changes using *Form 275-021-13 Notification to FDOT of EEO Officer*. Contractors **do not** send their EEO Policy and Procedure to the Equal Opportunity Office; however, it shall be kept in the company EEO/AA file for review.

Contractors may adopt the model ***EEO Policy*** located on the ***FDOT EEO Website***.

The completed model may be considered an official contractor policy and officer notice. These may be copied or otherwise duplicated for dissemination and communication, internally and externally. See referenced link in **Section 1.4** for an example of how a contractor documents adoption of the model EEO Policy Notice and Designation of EEO Officer.

Contractors do not send their EEO Policy and Procedure to the Equal Opportunity Office.

All contractors are to ensure that only current information regarding their EEO Officer is disseminated with their EEO Policy and Procedure. When changes occur to the EEO Officer and/or their contact information, contractors must complete a new Officer Designation page (last page in model EEO Policy and Procedure) for use in dissemination of their policy. See **Section 3.2.5** for information on how to officially communicate EEO Officer changes to FDOT.

3.2.4 Selection of EEO Officer

The EEO Officer will have the responsibility for and must be capable of effectively administering and promoting an active EEO Program and be assigned adequate authority and responsibility to do so.

When selecting employees to serve as EEO Officer, contractors should consider

several factors. Those appointed to serve should have knowledge and authority to effectively perform and:

- Be considered an official of the company (but not necessarily be an officer of the company).
- Have meaningful interaction with principals of the company.
- Have authority and responsibility for evaluating, recommending and implementing an effective program.
- Be accountable for the on-going execution, evaluation and re-direction of this area.
- Be capable of and willing to effectively administer and promote an active EEO/AA Program.

3.2.5 Communicating EEO Officer Designation to FDOT

Contractors must notify the FDOT Equal Opportunity Office of their EEO Officer by email submission of the ***Notification to FDOT of EEO Officer Form 275-021-13*** to: eeoforms@dot.state.fl.us. This form is used by prime contractors and subcontractors to communicate to FDOT the appointment of an EEO Officer and to provide EEO Officer contact information. The form is also used to update that information in the event of new appointees, name changes or contact changes. The contractor will receive an email acknowledging that the EEO Officer information has been inputted into the Equal Opportunity Gateway System (EOG); a copy of the form will not be returned to the contractor.

This form and its directions are located in ***EOO Forms & Procedures (For Website address see Manual Section 1.4)***

The Equal Opportunity Office will enter the contractor's EEO Officer in the EOG computer system and will make this information available on the EEO Website.

3.2.6 Communication of EEO Policy and Procedure

Communication and dissemination of the EEO Policy and Procedure is required as follows:

1. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.
2. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.
3. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and woman.

4. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

Communication used for employees should be broad based and verifiable and the methods may include meetings, employee handbooks, company newsletters, notices, bulletin board postings, websites, payroll stuffers, solicitations for employment and other appropriate means.

3.2.7 Record Keeping

Contractors are to maintain and make available a written record documenting their EEO/AA Program and all activities associated with it. The model EEO Policy and Procedure plus contract document ***FHWA-1273*** delineates documentation requirements. The Equal Opportunity Office State Contract Compliance Manager and/ or a District Contract Compliance Manager may require additional documents on a case-by-case basis in order to confirm contractor compliance.

3.3 SUPERVISORY AND PERSONNEL OFFICE EEO MEETINGS

3.3.1 Purpose

Contract provisions and laws require that contractors routinely inform supervisory personnel and others involved in personnel matters of all aspects of their equal employment opportunity (EEO) obligations as a contractor on FDOT highway and bridge construction projects. This information is typically presented in group meetings and individual orientations.

3.3.2 Attendees

Two groups are targeted for attendance:

- Supervisory employees
- Personnel Office employees (other employees influencing personnel actions may also attend)

The supervisory group includes employees or agents of the contractor, working at project sites as well as in the offices, who are authorized to initiate, approve or otherwise influence one or more of the following types of personnel actions on any employee of the company:

- Hire
- Promote
- Supervise
- Discharge

Examples of persons typically included in the supervisory group are officers of the

corporation, officials, directors, managers, supervisors, superintendents, and foremen/women.

The office group includes employees or agents of the contractor working in offices or at project sites who may influence personnel actions. Persons in this group may not be directly authorized to initiate or approve the personnel actions listed above. The duties of persons in this group may none the less influence, officially or unofficially, the personnel actions of one or more in the supervisory group. An example of one who is typically included in this group is the employee who has one or more of the following employment related duties: greet applicants, distribute applications, maintain the log of applicants, call applicants to schedule interviews, etc.

3.3.3 Timeframes

Within thirty (30) days of hire or appointment, supervisory personnel and others involved in personnel matters are to be oriented in the required major topics and a record of that orientation (date, topics, etc.) is to be maintained. At six-month (6) intervals, meetings are to be held with all employees in the supervisory and office groups addressing required major topics. One or more meetings may be required in each time frame in order to include all who must attend. The company EEO Officer conducts this meeting.

3.3.4 Content

Each of the following major topics may be addressed during individual orientations and EEO meetings:

- EEO Policy and Procedure
- Interviews by State /Federal Representatives
- Identification of EEO Officer
- Training Opportunities Workforce Diversity and Recruitment
- Wages and Payrolls
- Bulletin Boards
- Utilization of Disadvantaged Businesses

An outline of subjects that will typically be covered in each of the topics should be developed and used as the foundation for the contractor's development of full meeting scripts and individual orientation programs.

3.3.5 Record Keeping

Form 275-021-05, "Record of Supervisory and Personnel Office EEO Meeting or Individual Orientation" can be used to document compliance.

This form and its directions are located on the ***EEO Website***. Refer to ***Section 1.4 Forms & Procedures***.

3.4 COMPANY-WIDE EEO REPORTS

3.4.1 Purpose

Chapter 4 of this CCM lists information that is needed during a Contract Compliance Review. A Contract Compliance Review involves reviewing the reasonable representation and utilization of minorities and women in each craft, classification or occupation for a project or projects in a specific area. If there is not a reasonable representation of minorities and women for the project, then a company-wide EEO report may be requested as evidence that the company's workforce is reasonably represented.

3.4.2 Reported Workforce

Data is recorded in the format shown on the ***Contractor's Company-Wide EEO Report Form 275-021-07***. All full-time and part-time employees who were employed in Florida during the specified payroll period must be accounted for by sex and race for each of the fifteen (15) job categories. The workforce reported includes those assigned to FDOT federally and non-federally funded highway and bridge construction projects.

3.4.3 Report Timeframes

Reports should be based upon the pay period specified by FDOT or FHWA at the time of request.

3.4.4 FDOT Adoption of U.S. Equal Employment Opportunity Commission (EEOC) Race Codes and Job Categories

FDOT has adopted, effective July 2009, the seven (7) category race codes and revised job categories developed by the ***EEOC***.

Race codes include the following:

- Two or More Races.
- Asians.
- Pacific Islanders
- Black or African American.
- Hispanic or Latino.

The Job Category "Clerical" has been renamed "Administrative Support Workers" on all related reports:

- ***Contractor Company- Wide EEO Report, Form 275-021-07***
- ***Contractor's Project EEO Report, Form 275-010-12***
- ***FHWA 1391 (Contractor's July Report)***
- ***Federal-Aid Highway Construction Summary, Form 275-020-01***

3.4.5 EEO Job Category of Classifications

Example 3.4.5 in the CCM Reference Guide lists craft and labor classifications typical in highway and bridge construction. Not all of the classifications listed are routinely shown on published Wage Determinations (wage tables); many require submission of an **Additional Classification Request**.

Contractors report their workforce to FDOT on EEO Reports (**Company-wide EEO Report (275-021-07)**, **Project EEO Report (275-010-12)** and the **FHWA 1391**).

On these EEO reports, the individual classifications of employees are assigned to broad EEO Job Categories. **Refer to Section 1.4, “Directory of Compliance Related Websites”** for the Forms and Procedures link to access the forms and their instructions.

The EEO category of a classification is the same regardless if the employee is a journeyman/woman, apprentice or an OJT Trainee. For example, a Rough Roller Trainee and a Rough Roller Operator would each be included in the job category of Equipment Operator.

3.5 CONTRACTOR RECRUITMENT PROGRAM

3.5.1 Purpose

FHWA 1273 specifies the recruitment activities required of contractors.

Contractors operating under valid collective bargaining agreement(s) should contact the District Contract Compliance Manager(s) for guidance regarding the application of these recruitment requirements to that environment.

No provision may be included in any FDOT or Local Agency FHWA funded contract that encourages or mandates the use of local employment or local contracting. Such preferences are not allowable in contracts funded by FHWA.

3.5.2 Scope of Recruitment Activities

A contractor’s collective and on-going fulfillment of the required recruitment activities is intended to produce a flow of qualified applicants of all races and sexes for employment consideration.

In addition to the recruitment related commitments contained in the adopted EEO Policy and Procedure, the following recruitment activities are required by contract:

- Announcement of Equal Opportunity
- Advertise in publications with a large minority circulation in the area where project work force is drawn
- Training of personnel involved in recruitment
- Direct and systematic recruitment programs
- Recruit through public and private referral sources

- Encourage referrals from current employees
- Analysis and updating
- Record Keeping (applicant logs)

3.5.3 Good Faith Efforts Required

Compliance with the recruitment activities is evidenced by a contractor's "good faith efforts" to fulfill the contract and policy recruitment requirements and achieve the stated purpose. A contractor's total efforts, including taking corrective actions, add up to requirements for a good faith effort. Characteristics of good faith efforts include sincere, meaningful, and results oriented actions, evaluation, and redirection of redundant efforts to improve results.

3.5.4 Announce Equal Opportunity

All advertisements for employment will include the announcement that the company is an "Equal Opportunity Employer." This requirement applies to broad employment advertisements as well as specific job announcements. All methods by which the contractor solicits applicants are subject to this requirement, including activities such as:

- Banners, boards or posters positioned on company vehicles, at job sites, at office locations, on billboards, bulletin boards, etc.
- Classified advertisements placed in newspapers, journals or other publications
- Job openings registered with "Employ Florida Marketplace"
- Radio and television advertisements and speeches pertaining to employment
- Written or verbal announcement of job opportunities to current employees
- Recruitment literature and fliers
- Internet communications pertaining to employment
- Business correspondence pertaining to employment opportunities

There are various styles for this required announcement; the one chosen should be the one considered most understandable to the targeted audience. Styles include full statements (e.g. Equal Opportunity Employer, Equal Employment Opportunities, Equal Employment Opportunity/Affirmative Action Employer, Equal Opportunity/ Affirmative Action Employer) or abbreviations (e.g. EOE, EEO, EEO/AA, and EO/AA). Workforce pictures or visualizations announce equal opportunity by depicting both female and male workers of various races.

Advertisements for employment are to be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

3.5.5 Train Personnel Involved in Recruitment

The contractor must ensure that personnel who are engaged in direct recruitment for the project are instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

3.5.6 Conduct Systematic and Direct Recruitment

The Contractor will:

- Conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women.
- Identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and woman applicants may be referred to the contractor for employment consideration.

A systematic recruitment program is orderly, arranged, regular, and methodical. It is not hit-or-miss, haphazard, irregular or erratic. A Direct Recruitment program is straightforward and immediate, occurring without intervening persons/parties. It is not evasive or nonspecific in content, nor seeking unstated results in distant or vague timeframes.

3.5.7 Use Public Employee Referral Source(s)

Public referral sources announce job opportunities to everyone; their announcements of employment opportunities are not private, secret or available only to select persons. The Employ Florida Marketplace is part of the State of Florida Agency known as the “The Florida Department of Economic Opportunity.” The Employ Florida Marketplace links all of Florida’s state and local workforce services and resources through partnership with the Florida Dept. of Economic Opportunity and Workforce Development. Public referral services can be found at employflorida.com

Also, refer to **Section 1.4, Directory of Compliance Websites** for the address containing detailed information regarding the Employ Florida Marketplace.

Contractors are encouraged to consult the website regularly for updated information regarding that Agency and its services and to also establish business relationships with Career Source Florida and staff.

Compliance with use of public referral sources can reflect at least the following:

- Issuance of Job Orders stating informative data for each classification for which the contractor is hiring and/or seeking applicants. (e.g. Job Title, minimum pay rate, job site location, candidate requirements, work place conditions such as drug free, how and where to apply, announcement of EEO, etc.)
- Placement of Job Orders at Career Source locations where candidates may likely be found
- Ensuring that Job Orders are open (active) during periods in which applicants are sought
- Periodic follow up with Career Source staff regarding the referrals such as suitability, availability, volume of candidates, etc.

3.5.8 Development of Private Employee Referral Sources Likely To Yield Qualified Applicants

Private employment referral sources announce job opportunities to a selected or targeted segment of the population. Private referral sources are often associated with nonprofit, social service, religious or special purpose organizations. For example, a religious organization operating a food bank for needy persons may also communicate employment opportunities to those recipients. Classified advertisements, employment agencies, and other for-profit companies, which charge candidates and/or employers a fee, are also considered private referral sources.

The employment referral methods of a private source may range from simple posting of job openings to a more comprehensive matching of constituent's abilities and needs to the specific requirements of an employer. Some private sources offer job readiness programs or other services designed to assist those they seek to serve securing employment.

Contractors identify and update private employee referral sources through an ongoing process of research and inquiry aimed at identifying those sources most likely to assist in the referral of candidates who meet hiring requirements.

While any one private referral source may yield candidates of one race and or sex, a cumulative review of referrals from private sources should reflect diversity of races and sexes.

Compliance with development of private referral sources can reflect at least the following:

- Contact and follow up with a variety of sources in various locations where the Company accepts applications and where candidates may likely be found
- Development of referral process for getting each source's referrals into the contractor's employment process
- Timely issuance of informative and specific job opening data for each classification for which the contractor is hiring and/or seeking applicants. (e.g. Job Title, minimum pay rate, job site location, candidate requirements, work place conditions such as drug free, how and where to apply, announcement of EEO, etc.)
- Ensuring that job announcements are open (active) during periods in which applicants are sought
- Regular review of results obtained from sources; addition, deletion, modification of sources and job communication methods in order to improve flow of qualified applicants

3.5.9 Establish Source Procedures for Referring Candidates

Contact is to be made with public and private referral sources and effective communication methods established announcing job openings and receiving specific referrals. The mere listing of a source or mere issuance of job announcements to them does not suffice.

3.5.10 Encourage Referrals from Current Employees

A contractor's current workforce is to be encouraged to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees. Referrals can be a topic in the Project EEO Meeting and it may also be communicated through bulletin board posters, payroll stuffers, special incentive programs, newsletter articles, etc.

3.5.11 Contractor's Recruitment Report

Contractors can document and summarize construction craft and laborer hiring activity for one or more months on **Form 275-021-21 Contractor's Recruitment Report**. The Report is designed to facilitate auditing a contractor's recruitment program for compliance with **FHWA 1273** requirements. Primes and subcontractors are encouraged to use the form for self-assessment and redirection of their recruitment program prior to official department reviews (contract compliance reviews) where the report will also be collected.

Directions for Completing and the **Contractor's Recruitment Report Form 275-021-21** can be found in **Section 1.4 Forms & Procedures**.

3.5.12 Record Keeping

Contractors are to maintain, retain, and make readily available records documenting all recruitment activities at all company locations where recruitment or hiring occurs for the Florida construction workforce. The contractor's recruitment records and associated analysis are to be well organized and ready for presentation in a manner that reflects compliance with all elements of the required compliance program.

3.6 NONSEGREGATED FACILITIES

3.6.1 Purpose

Contractors are to ensure that working conditions and facilities used or provided in association with employment are not discriminatory.

3.6.2 Scope

Segregated facilities, as used in this clause, includes any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms, other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, or national origin because of policies, written or oral, or employee custom.

Separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes are not deemed segregated facilities in this context.

Segregated working conditions may be evidenced by both their physical appearance and

by non-observable conditions such as values, judgments, or beliefs.

An example of physical appearance in working conditions is a sign on a break-room restricting its use to employees of a certain race.

An example of non-observable working conditions is the supervisory sharing of a value system whereby the hardest and/or most distasteful tasks of any job are assigned to employees of one race.

The voluntary association of employees should be analyzed to ensure that they do not result in segregated facilities, patterns of segregated use, or segregated access.

3.6.3 Inspection

Periodic inspections of project sites are to be conducted by contractors to ensure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

Contractors are to affirm that they do not and will not maintain or provide for their employees any segregated facilities at any of their establishments, and that they do not and will not permit their employees to perform their services at any location under their control where segregated facilities are maintained.

3.6.4 Record Keeping

Form 275-030-13, Certification of Non-segregation and Non-discrimination may be used to document compliance for this purpose.

3.7 ANALYSIS FOR NONDISCRIMINATION

3.7.1 Purpose

Contractors are to evaluate recruiting, hiring, interviewing, placement, promotion, termination, and compensation practices continually for potential violation of equal opportunity and affirmative action requirements.

Routine analysis is undertaken by the contractor to ensure a lack of discriminatory practices, confirm evidence of equal opportunity and ensure adequate and effective implementation of affirmative action.

3.7.2 Scope

Each aspect of the contractor's EEO/AA Policy and Plan, including the contractor's program, has been put in place to implement that policy and plan and are to be routinely reviewed and analyzed for effectiveness and their impact on their achievement of equal opportunity and affirmative action.

This includes each element in the four parts of the compliance program (Disadvantaged Business Enterprise utilization, Equal Employment Opportunity (Company and Project),

OJT Training, and Wages).

Various analytical techniques, some of which are statistical, may be appropriate. Topics pertinent to a contractor's operation should be identified and included in Nondiscrimination analyses. Suggestions include but are not limited to:

- Attendance at supervisory EEO/AA meetings and related training
- Recruitment and placement practices; review and monitor to assure no discrimination practices exist
- Applicant flow, selection of applicants, placement into positions, starting pay
- Interviewing, selection criteria and reasons actual applicants are selected or rejected for employment
- Criteria and timing of promotions and pay actions; criteria for merit basis and absence of factors which may lead to the "selection out" of employees, applicants, particular minorities or women who traditionally lack access to better jobs
- Placement of employees and crew assignments to ensure nondiscriminatory assignment of work and assembly of diverse crews
- Criteria for deciding when an employee shall be terminated demoted, disciplined, laid off or recalled; review for like treatment among all employees
- The effect of "neutral" personnel decision making criteria to determine if they have a disparate effect on minorities or females (for example if more minorities or females are being laid off because they were the last hired, then adjustments should be made to ensure that minority and female ratios do not decrease because of these actions), transportation to the job site, assignment of safety devices and tools; ensuring that employees are not intentionally or unintentionally segregated or treated differently due to race
- Performance appraisals and merit pay; review and monitor for objectivity and effectiveness
- Processing and reviewing of complaints, including discrimination; ensuring that reviews are adequate, timely and unbiased and absent of retaliation
- Employee benefits including payroll loans; review for equal availability of benefits to all employees
- Training and career development opportunities; review for like treatment of all employees
- Analysis of career development plans for employees in lower classifications who demonstrate potential for advancement

3.7.3 Record Keeping

Contractors are to maintain and make available written records documenting their analysis for nondiscrimination and the good faith actions they are taking to overcome any unfavorable findings. **Form 275-030-13, Certification of Non-segregation and Non-discrimination** may be used to record a contractor's commitment to non-segregation and non-discrimination. The contractor should maintain additional records evidencing actions, inspections, reviews etc. undertaken to implement their commitment to non-segregation

and nondiscrimination. The Certification of Non-segregation and Nondiscrimination is only required for contracts that include the version of ***FHWA 1273 Required Contract Provisions Federal-Aid Construction Contracts*** dated March 10, 1994. This certification is not required in contracts that contain the ***FHWA 1273 Required Contract Provisions Federal-Aid Construction Contracts*** dated May 1, 2012.

3.8 COMPANY EEO/AA FORMS & DOCUMENTS

This is a list of forms and documents referenced in this chapter. Refer to ***Section 1.4 Directory of Compliance Websites & Address.***

NUMERICAL SEQUENCE

FDOT Form No. Forms Link	Document Title	Manual Section
275-021-05	Record of Supervisory and Office Personnel EEO	3.3
275-021-07	Contractor's Company Wide EEO Report	3.4
275-021-13	Notification to FDOT of EEO Officer	3.2.5
275-021-21	Contractor's Recruitment Report	3.5
275-030-13	Certification of Non-Segregation and Non-Discrimination	3.6, 3.7
FDOT Equal Opportunity Office Website	EEO/AA Policy	3.2

ALPHABETCAL SEQUENCE

Document Title	FDOT Form No. Forms Link	Manual Section
Certification of Non-Segregation and Non-Discrimination	275-030-13	3.6, 3.7
Contractor's Company Wide EEO Report	275-021-07	3.4
Contractor's Recruitment Report	275-021-21	3.5
EEO/AA Policy and Plan	FDOT Equal Opportunity Office Website	3.2
Notification to FDOT of EEO Officer	275-021-13	3.2.5
Record of Supervisory and Office Personnel EEO Meeting	275-021-05	3.3