



Equal Employment Opportunity

Construction Contract
Compliance Manual

EEO-DBE-OJT-WAGES

TABLE OF CONTENTS

Introduction

Chapter 1 General Information

1.1 Overview

- 1.1.1 Government Agency Responsibilities
- 1.1.2 Nondiscrimination Assurance Required of Prime Contractors, Subcontractors, Rental Agreements and Material Suppliers
 - Example 1.1.2.1 Nondiscrimination Assurance
- 1.1.3 Contract Documents and the Equal Employment Opportunity (EEO) Construction Contract Compliance Manual
 - Table 1.1.3.1 Compliance Related Specifications
- 1.1.4 E-Verify
- 1.1.5 Federal Highway Administration (FHWA) 1273 Required Contract Provisions Federal Aid Construction
 - Table 1.1.5.1 Which Version of FHWA 1273 Applies
- 1.1.6 Audit of Subordinate Agreements
 - Table 1.1.6.1 Minimum FHWA 1273 Verification Audits
- 1.1.7 Prime Contractors Responsibilities
- 1.1.8 Prime Contractor Compliance Process
- 1.1.9 Prime Contractor Compliance Records and the Florida Department of Transportation (FDOT) Review
- 1.1.10 Default of the Prime Contractor
- 1.1.11 Compliance Training and Technical Assistance

1.2 FDOT Responsibilities

- 1.2.1 Equal Opportunity Office (EOO)
- 1.2.2 State Construction Office
- 1.2.3 District Construction Office
- 1.2.4 Resident Construction Office
- 1.2.5 Preconstruction Conference
- 1.2.6 EEO Complaint Investigation

1.3 Equal Opportunity Compliance (EOC) System

- 1.3.1 Purpose
- 1.3.2 Overview of the EOC System
- 1.3.3 Accessing the EOC System, Addressing System Problems, Technical Assistance and Training

1.4 Directory of Compliance Websites & Addresses

1.5 Contractors Compliance Register

- 1.5.1 Purpose

- 1.5.2 How a Contractor is Added to the Register
- 1.5.3 Data Reported in the Register
 - Table 1.5.3.1 Data Reported in the Register

1.6 Performance Deficiency Communications and Actions

- 1.6.1 Purpose
- 1.6.2 Noncompliance; Consideration of Good Faith Efforts
 - Table 1.6.2.1 Characteristics of Good Faith Efforts
- 1.6.3 Noncompliance Sanctions
- 1.6.4 Contractor's Past Performance Rating and Report
- 1.6.5 Noncompliance Communications
 - Table 1.6.5.1 Summary of Noncompliance Communications
 - Table 1.6.5.2 Issuance of Performance Deficiency Communications
- 1.6.6 Recurring Notices of Noncompliance

1.7 Compliance Requirement Summary

- 1.7.1 Purpose
- 1.7.2 Reference Statement
- 1.7.3 Construction Contract Characteristics Directing Compliance Requirements
- 1.7.4 Subcontracts
- 1.7.5 Agencies Supplying Craft and Labor Workers
- 1.7.6 Summary of Contract Compliance Requirements by Program Area
 - Table 1.7.6.1 Summary of Disadvantaged Business Enterprise (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
- 1.7.7 Local Agency Program
 - Table 1.7.7.1 EEO Contract Compliance Requirements for Local Agency Program (LAP)

1.8 General Program Forms & Documents

Chapter 2 Disadvantaged Business Enterprises

2.1 Overview

- 2.1.1 Purpose
- 2.1.2 Scope
- 2.1.3 Training

2.2 Certification of DBEs

- 2.2.1 General
- 2.2.2 Florida United Certification Program (UCP) DBE Directory

2.3 DBE Affirmative Action (AA) Plan

- 2.3.1 General
- 2.3.2 DBE AA Policy and Plan
- 2.3.3 DBE Liaison Officer
- 2.3.4 Submission, Expiration, and Renewal of DBE AA Plan
- 2.3.5 Review and Compliance with DBE AA Plan

2.4 Bid Opportunity Reporting

- 2.4.1 General Information
- 2.4.2 Bid Opportunity Data and Submission

2.5 DBE Participation Commitments

- 2.5.1 Purpose
- 2.5.2 DBE Participation Commitments: Initial Submission and Revisions
- 2.5.3 Counting a DBE's Participation
 - Table 2.5.3.1 Determining What Portion of a DBE's Work May be Counted toward the Goal

2.6 Reporting Actual Payments

- 2.6.1 General
- 2.6.2 Payment Reporting

2.7 Monitoring

- 2.7.1 General
- 2.7.2 District Responsibilities
- 2.7.3 Counting the Value of Work
- 2.7.4 Considerations in Determining Commercially Useful Function
- 2.7.5 DBEs Subcontracting Work to Others and Joint Ventures
- 2.7.6 Commercially Useful Function of DBE Trucking Companies
- 2.7.7 Calculating DBE Utilization for Truckers
 - 2.7.7.1 DBE Trucking Certification
- 2.7.8 DBE Manufacturers and Suppliers
- 2.7.9 Contractor Records for Commercially Useful Function verification

2.8 DBE Forms & Documents

Chapter 3 Company EEO/AA Requirements

3.1 General Information

- 3.1.1 Purpose
- 3.1.2 Scope

3.2 EEO Policy and Officer Notice

- 3.2.1 Purpose
- 3.2.2 Overview
- 3.2.3 EEO Policy and Procedure

- 3.2.4 Selection of EEO Officer
- 3.2.5 Communicating EEO Officer Designation to FDOT
- 3.2.6 Communication of EEO Policy and Procedure
- 3.2.7 Record Keeping

3.3 Supervisory and Personnel Office EEO Meetings

- 3.3.1 Purpose
- 3.3.2 Attendees
- 3.3.3 Timeframes
- 3.3.4 Content
- 3.3.5 Record Keeping

3.4 Company-wide EEO Reports

- 3.4.1 Purpose
- 3.4.2 Reported Workforce
- 3.4.3 Report Timeframes
- 3.4.4 FDOT Adoption of Equal Employment Opportunity Commission (EEOC) Race Codes and Job Categories
- 3.4.5 EEO Job Category of Classifications

3.5 Contractor Recruitment Program

- 3.5.1 Purpose
- 3.5.2 Scope of Recruitment Activities
- 3.5.3 Good Faith Efforts Required
- 3.5.4 Announce Equal Opportunity
- 3.5.5 Train Personnel Involved in Recruitment
- 3.5.6 Conduct Systematic and Direct Recruitment
- 3.5.7 Use Public Employee Referral Source(s)
- 3.5.8 Development of Private Employee Referral Sources Likely to Yield Qualified Applicants
- 3.5.9 Establish with Each Source Procedures for Referring Candidates
- 3.5.10 Encourage Referrals from Current Employees
- 3.5.11 Contractor's Recruitment Report
- 3.5.12 Record Keeping

3.6 Non-segregated Facilities

- 3.6.1 Purpose
- 3.6.2 Scope
- 3.6.3 Inspection
- 3.6.4 Record Keeping

3.7 Analysis for Nondiscrimination

- 3.7.1 Purpose
- 3.7.2 Scope
- 3.7.3 Record Keeping

3.8 Company EEO Forms & Documents

Chapter 4 Project EEO/AA Requirements

4.1 General Information

- 4.1.1 Purpose
- 4.1.2 Scope

4.2 Job Site Bulletin Board

- 4.2.1 Purpose
- 4.2.2 Location
- 4.2.3 Timeframe
- 4.2.4 Fixture
- 4.2.5 Content
- 4.2.6 EEO Officer Poster
- 4.2.7 Wage Rate Decision Poster(s)
- 4.2.8 Additional Federal Wage Decisions Poster
- 4.2.9 Wage Determinations Appeals Poster
- 4.2.10 Inspecting Bulletin Board Content and Condition
Example 4-2-10 Job Site Bulletin Boards: Sample Layouts and Dimensions

4.3 EEO Information for Project Personnel

- 4.3.1 Purpose
- 4.3.2 Means of Communication
- 4.3.3 Who is Included in Project Personnel
- 4.3.4 Project Personnel EEO Meetings
- 4.3.5 Recordkeeping

4.4 Annual July EEO Report

- 4.4.1 Purpose
- 4.4.2 Scope
- 4.4.3 Content
- 4.4.4 Pay Period Reported
- 4.4.5 Report Submission
- 4.4.6 Florida's July Report Cycle

4.5 TRAINING ASSESSMENTS

- 4.5.1 Purpose
- 4.5.2 Training Assessment Meeting
- 4.5.3 Federal-aid EEO Checklist
- 4.5.4 Training Schedule
- 4.5.5 Follow up Assessment Meeting
- 4.5.6 Database for Checklist

4.6 Project Contract Compliance Reviews

- 4.6.1 Purpose
- 4.6.2 Review Scheduling
- 4.6.3 Contractor Notification
- 4.6.4 Preliminary Analysis and Initial Meeting
- 4.6.5 Onsite Verification and Interviews
- 4.6.6 Exit Conference
- 4.6.7 Compliance Determinations
- 4.6.8 Show Cause Procedures
- 4.6.9 Corrective Action Plans
- 4.6.10 Follow-up Reviews
- 4.6.11 Review Reports
- 4.6.12 Reported Workforce
- 4.6.13 Pay Period Reported

4.7 Project EEO Forms & Documents

Chapter 5 On-the-Job (OJT) Training

5.1 THE FDOT OJT TRAINING PROGRAM

- 5.1.1 Purpose
- 5.1.2 Estimating OJT Training Requirements
 - Table 5.1.2 Maximum Number of Required Trainees Based Estimated Contract Amount
- 5.1.3 Approved Training Classifications
- 5.1.4 Requesting Approval for Additional Training Classifications
- 5.1.5 Criteria for Contractor Fulfillment of Trainee Requirements
- 5.1.6 Training by Subcontractors
- 5.1.7 Trainee Wages
- 5.1.8 Training Program Communication

5.2 TRAINING EVALUATION MEETING

- 5.2.1 Purpose
- 5.2.2 Meeting Timeframe, Announcement and Attendees
- 5.2.3 Agenda for Training Evaluation Meeting
- 5.2.4 Considerations in Setting Trainee Requirements
- 5.2.5 Workforce Diversity
- 5.2.6 Selecting the OJT Training Classifications
- 5.2.7 Training Evaluation Meeting Outcomes
- 5.2.8 Meeting Minutes

5.3 OJT TRAINING SCHEDULE

- 5.3.1 Purpose
- 5.3.2 OJT Schedule and Concurrence/Approval Process
- 5.3.3 Timeframe for Implementation of OJT Schedule
- 5.3.4 OJT Schedule Revisions

5.4 TRAINEE PERSONNEL ACTIONS

- 5.4.1 Purpose
- 5.4.2 Trainee Enrollments
- 5.4.3 Enrollment Requirements
- 5.4.4 Trainee Affirmative Action Criteria
- 5.4.5 Trainee Economic Disadvantaged Criteria
- 5.4.6 Trainee Work Experience & Training History
- 5.4.7 Trainee Interviews
- 5.4.8 Trainee Identification Card
 - Attachment 5.4.8.1 Example of Trainee Identification Card
- 5.4.9 Trainee Graduation
- 5.4.10 Trainee Transfers
- 5.4.11 Trainee Terminations

5.5 TRAINING PROFICIENCIES

- 5.5.1 Purpose
- 5.5.2 The Proficiency Statement
- 5.5.3 Proficiency Statement Development and Concurrence
- 5.5.4 Proficiency Observation Eligibility, Request and Record

5.6 OJT TRAINING MONTHLY TIME REPORT

- 5.6.1 Purpose and Responsibilities
- 5.6.2 Responsibilities
- 5.6.3 Timeframe for Submitting the Monthly Time Report

5.7 VOLUNTARY OJT AND BANKING

- 5.7.1 Purpose
- 5.7.2 Eligibility
- 5.7.3 Weekly Record of Hours and Pay for Trainees on Non-Federally Assisted Projects
- 5.7.4 The Banking Certificate
- 5.7.5 Redemption of Banking Credits

Chapter 6 Wages & Payroll

6.1 GENERAL INFORMATION

- 6.1.1 Purpose
- 6.1.2 Scope
- 6.1.3 State and Federal Minimum Wage
 - Table 6.1.3.1 State of Florida and Federal Minimum Wage
- 6.1.4 Requirements

6.2 WAGE DETERMINATIONS

- 6.2.1 Purpose
- 6.2.2 Wage Determinations Based on Type of Construction

-
- 6.2.3 U.S. Department of Labor (USDOL) Wage Determination
 - Table 6.2.3.1 Common USDOL Rules Guiding Wage Determinations
 - 6.2.4 Fringe Benefits Required in Wage Determination
 - 6.2.5 Posting Requirements

6.3 REQUESTING ADDITIONAL WAGE CLASSIFICATIONS

- 6.3.1 Purpose
- 6.3.2 Requirements and Process
- 6.3.3 Wage Payments While Awaiting Additional Classification Decision
- 6.3.4 Directions for Completing the Additional Classification Request

6.4 EMPLOYEE LABOR/EEO INTERVIEWS

- 6.4.1 Purpose
- 6.4.2 Overview
- 6.4.3 Monthly Interview Requirements

6.5 PAYROLLS

- 6.5.1 Purpose
- 6.5.2 Payroll Reporting Requirements
 - Table 6.5.2 Race and Sex Abbreviations
- 6.5.3 Deductions
 - Table 6.5.3.1 Deductions Generally Allowed Without Contractor Application to or Permission from the USDOL
 - Table 6.5.3.2 Four Criteria Required by USDOL in Granting Permission for Other Deductions
- 6.5.4 Requesting USDOL Permission for Deductions
- 6.5.5 Overtime
- 6.5.6 Classifications
- 6.5.7 Work in More than One Classification
- 6.5.8 Working Foremen/women
- 6.5.9 Independent Contractors
- 6.5.10 Truck Owner-Operators
- 6.5.11 Certified Payroll for Warranty Work
- 6.5.12 Time Frame for Submittal of Payrolls
- 6.5.13 Contractor's Retention of Payroll Records
- 6.5.14 Department's Storage and Retention of Payroll Records
- 6.5.15 The Wage and Hour Record

6.6 NOTIFICATION OF PAYROLL VIOLATION

- 6.6.1 Purpose
- 6.6.2 Violation Types
 - Table 6.6.2 Payroll Violation Codes
- 6.6.3 Correction Requirements

6.6.4 Processing Supplemental Payments when the Employee cannot be located

Attachment 6.6.4.1 Standard Form 1446

6.7 WAGE SURVEYS

6.7.1 Purpose and Overview

6.7.2 Requirements

6.7.3 Data Collection

6.8 FRINGE BENEFITS

6.8.1 General Information

6.8.2 Fringe Statements on Wage Determinations

6.8.2.1 Fringe Calculation Examples

6.8.3 Fringe Benefits: Work Hour and Overtime Requirements

6.8.4 Bona Fide Fringe Benefits

6.8.4.1 Funded Benefit Plans

6.8.4.2 Unfunded Benefit Plans

6.8.5 Administrative Expenses

6.8.6 Reporting Payment of Fringe Benefits on the Statement of Compliance

6.8.7 Fringe Benefit Record Keeping Requirements

6.8.8 Additional Information on **Davis-Bacon** Fringe Benefits

Approved:



Department of Transportation

Effective: March 8, 2019
Review: May 21, 2018
Office: Equal Opportunity
Topic No.: 275-020-005-b

INTRODUCTION

PURPOSE:

The *Equal Opportunity Construction Contract Compliance Manual (CCM)* contains guidance and provides instruction on establishing the requirements of the Florida Department of Transportation (FDOT) to meet the requirements to administer the Equal Employment Opportunity (EEO), Disadvantaged Business Enterprise (DBE), and On-the-Job Training (OJT) contract requirements. The CCM will give instruction on the inclusion or incorporation of the required contract provisions 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 U.S. Department of Labor (USDOL) regulations in 29 C.F.R. Parts 1, 3 and 5, provide 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 with the 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

REFERENCES:

- **23 C.F.R. 200** Prohibits discrimination in any program, service or activity of state departments of transportation.
- **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 OJT Training program for all Federal-Aid-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** 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-aid Required Contract Provisions for highway construction projects.
 - 49 C.F.R. 21 Prohibits discrimination in the United States Department of Transportation (USDOT) federally assisted programs.
 - **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 Americans with Disabilities Act (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 **USDOL 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 USDOL 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 DBEs in state departments 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**.

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.

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 (AA): 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 40 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.

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 USDOL, 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 OJT 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 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 alleges 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 FDOT pertaining to Equal Employment Opportunity, Disadvantaged Business Enterprise, OJT 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.”

Contractor’s Compliance Staff: Used in this Manual, the contractor’s compliance staff is any contractor employee(s) with responsibility for any aspect of FHWA 1273 compliance. This specifically includes, but is not necessarily limited to those with responsibilities associated with EEO, DBE, OJT or prevailing wages.

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 (FDOT) 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.

Digital Signature: A digital signature is a means of electronically executing a document. Digital signatures are generally “authenticated” by an approved source and have password or other means of encryption/ protection. As such, they may take the place of notary or other certification of true signature. Digital signatures have same force and effect of a real or “wet” signature, including the consequences for false statements. As the industry increasingly relies on

paperless documentation, digital signatures will become more prevalent. Those doing business with FDOT must obtain a digital signature through one of the approved sources.

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: Adverse or disparate 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 OJT 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 (IRS) 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 or 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.

Independent Contractor: A person engaged in a business of his or her own within a strictly contractual relationship and therefore outside of coverage of the Fair Labor Standards Act (FLSA). Misclassification of employees as independent contractors to circumvent employment laws is a common occurrence and requires the application of an 'economic reality' test as defined by FLSA and the Supreme Court. See US DOT Fact Sheet 13 for more information.

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 OJT 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 such as 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 USDOL’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 OJT 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 OJT 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 OJT training, whether through an apprenticeship program or other programs approved or accepted by the FHWA.

Training Completion: A trainee enrolled in the OJT 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.

Training Special Provisions or TSP: As defined by Appendix B to Subpart A of 23 CFR 230, TSP are the contract specifications a State DOT uses to ensure OJT Training of qualified participants, primarily females and minorities that have neither completed a training course nor worked as a journeyman in a particular job category. For the purposes of this manual, TSP refers to FDOT's specifications while OJT means the implementation of the requirements on a project.

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, or use any 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. The CCM will be reviewed every two (2) years. The review will be in accordance to the procedures of the FDOT Policy Process Management Office and be reviewed through the Procedures Information Management System (PIMS). The SCO-EOO CCM Coordinators will route any comments received during the prior 24 months to the appropriate contact person for the bi-yearly review. The SCO-EOO CCM Coordinators or staff person assigned as the contact person will ensure that all comments received during the prior 24 months are reviewed, responded to and if appropriate, incorporated into any revision. 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 and/or District Engineers.

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 [FDOT Forms Library](#).