

Georgia Department of Transportation

Equal Employment Opportunity Program:

2017

(Includes 2016 Updates)



Part 1 – Contractor Compliance Plan

Part 2 – Affirmative Action Plan (AAP) *Submitted separately*

In accordance with 23 CFR 230.307

Acronyms

AAP	Affirmative Action Plan
AEE0/DBE	Assistant EEO Administrator/DBE/External
AEE0/AAP	Assistant EEO Administrator/Affirmative Action Program
AASHTO	American Association of State and Highway Officials
CAP	Corrective Action Plan
CCP	Contractor Compliance Program
CFR	Code of Federal Regulations
CR	Civil Rights
DBE	Disadvantaged Business Enterprise
EEO	Equal Employment Opportunity
FHWA	Federal Highway Administration
GO	General Office
GDOT	Georgia Department of Transportation
GMS	Georgia Merit System
HR	Human Resources

MOG	Manual of Guidance
NHT	National Highway Institute
OFCCP	Office of Federal Contract Compliance Programs
OJT	On-the-Job Training
OSD	Office of Strategic Development
TOPPS	Transportation On-Line Policy & Procedures Systems
VCAP	Voluntary Corrective Action Plan

Georgia Department of Transportation

Part I:

2017 Contractor Compliance

Program Plan (CCP)

Submitted to FHWA – August 01, 2016

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§ 230.307 Policy:

Every employee and representative of State highway agencies shall perform all official equal employment opportunity actions in an affirmative manner, and in full accord with applicable statutes, executive orders, regulations, and policies enunciated there under, to assure the equality of employment opportunity, without regard to race, color, religion, sex, or national origin both in its own work force and in the work forces of contractors, subcontractors, and material suppliers engaged in the performance of Federal-aid highway construction contracts.

§ 230.305 Definitions:

As used in this subpart, the following definitions apply:

(a) ***Affirmative Action Plan*** means:

(1) With regard to State highway agency work forces, a written document detailing the positive action steps the State highway agency will take to assure internal equal employment opportunity (internal plan).

(2) With regard to Federal-aid construction contract work forces, the Federal equal employment opportunity bid conditions, to be enforced by a State highway agency in the plan areas established by the Secretary of Labor and FHWA special provisions in non-plan areas (external plan).

(b) ***Equal employment opportunity program*** means the total State highway agency program, including the affirmative action plans, for ensuring compliance with Federal requirements both in State highway agency internal employment and in employment on Federal-aid construction projects.

(c) ***Minority groups***. An employee may be included in the minority group to which he or she appears to belong, or is regarded in the community as belonging. As defined by U.S. Federal agencies for employment purposes, minority group persons in the U.S. are identified as Blacks (not of Hispanic origin), Hispanics, Asian or Pacific Islanders, and American Indians or Alaskan Natives.

(d) **Racial/ethnic identification.** For the purpose of this regulation and any accompanying report requirements, an employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. However, no person should be counted in more than one racial/ethnic category. The following group categories will be used:

(1) The category **White (not of Hispanic origin):** All persons having origins in any of the original peoples of Europe, North Africa, the Middle East, or the Indian Subcontinent.

(2) The category **Black (not of Hispanic origin):** All persons having origins in any of the Black racial groups.

(3) The category **Hispanic:** All persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.

(4) The category **Asian or Pacific Islanders:** All persons having origins in any of the original peoples of the Far East, Southeast Asia, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, and Samoa.

(5) The category **American Indian or Alaskan Native:** All persons having origins in any of the original peoples of North America.

(e) **State** means any of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands.

(f) **State highway agency** means that department, commission, board, or official of any State charged by its laws with the responsibility for highway construction. The term **State** should be considered equivalent to **State highway agency** if the context so implies.

[41 FR 28270, July 9, 1976, as amended at 41 FR 46293, Oct. 20, 1976]

INTRODUCTION

It is the policy of the Georgia Department of Transportation (GDOT) to ensure compliance with the Federal Highway Administration (FHWA) 23 Code of Federal Regulations (CFR) Part 230 federal aid policies and procedures relative to the State of Georgia's transportation internal and external Equal Employment Opportunity programs requirements.

To this end, the Georgia Department of Transportation shall not discriminate on the basis of race, color, religion, sex or national origin in employment, hiring, training, promotional opportunities, administration and performance of any GDOT assisted contracts. GDOT shall take all necessary and reasonable steps to ensure nondiscrimination. Every employee shall uphold all official equal employment actions in an affirmative manner in accordance with applicable statutes, executive orders, regulations and policies. This policy shall ensure compliance with all federal highway contractors, subcontractors and material suppliers.

PURPOSE

To set forth, GDOT's role and responsibilities for assuring compliance with the Equal Employment Opportunity requirements on federally assisted highway construction contracts.



Russell McMurry, P.E., Commissioner,
Georgia Department of Transportation



Kimberly A. King, Director,
Office of Equal Opportunity

I. ORGANIZATIONAL STRUCTURE

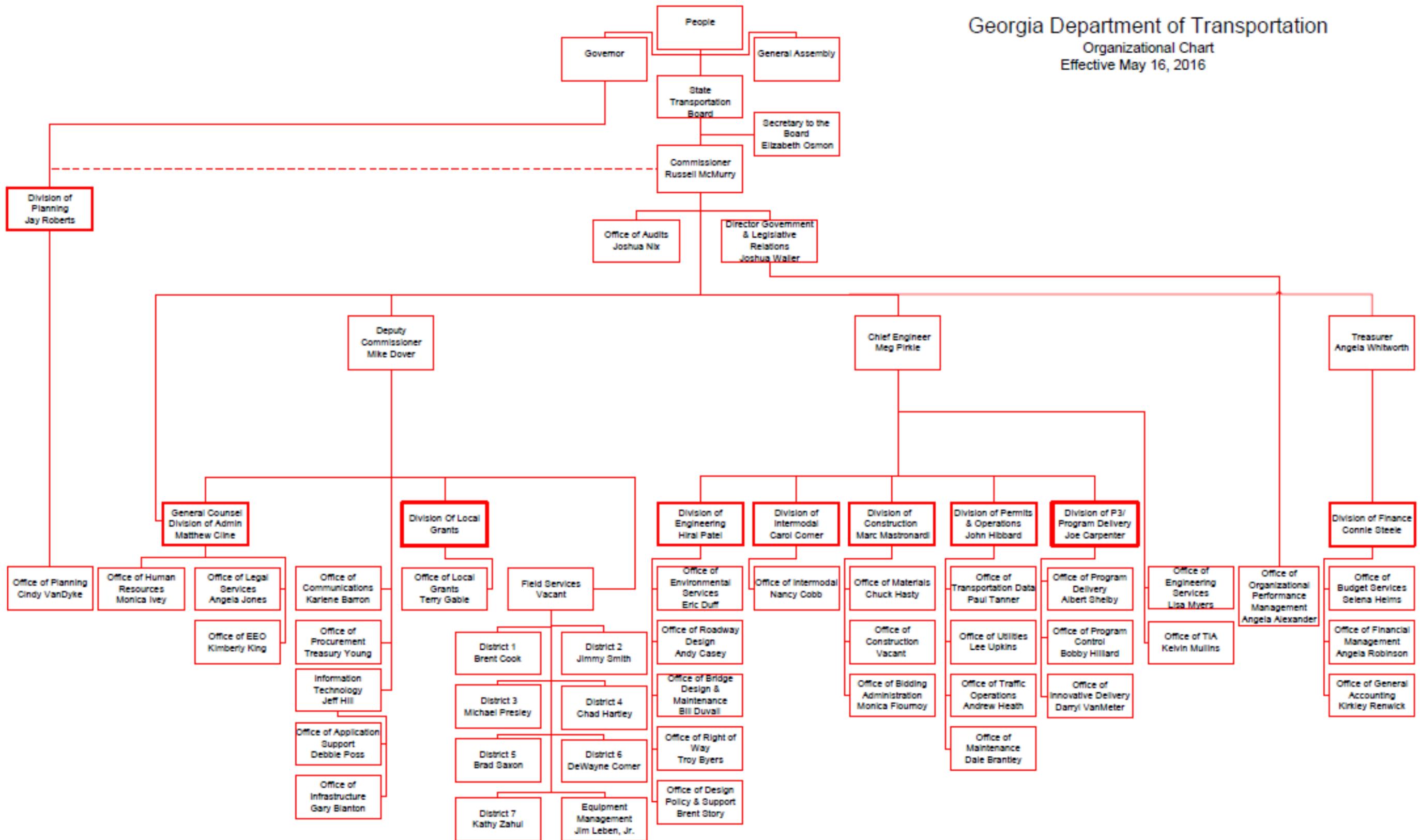
To ensure that highway contractors are in compliance with the Equal Employment Opportunity (EEO) provisions, GDOT has appropriate staff within the Central Office and District Offices in sufficient numbers to coordinate and conduct compliance reviews on highway construction projects.

The Contract Compliance Program is centralized with seven (7) District staff offices conducting compliance reviews. The Central Office provides administrative oversight of the compliance program and serves as liaison to the Federal Highway Administration (FHWA).

The Georgia Department of Transportation Equal Employment Opportunity Division is located at One Georgia Center, 600 West Peachtree Street, NW, Seventh (7th) Floor, Atlanta, Georgia 30308. The Equal Employment Opportunity Division handles all matters pertaining to Equal Employment Opportunity and Civil Rights. The head of this Department is the Equal Employment Opportunity Director, who operates under the direction and control of the Commissioner of the Georgia Department of Transportation. The Departmental organizational chart indicates the position of this office in relation to the other divisions of the Department of Transportation. The Equal Employment Opportunity Office is also responsible for the administration of both contractor and departmental EEO Compliance.

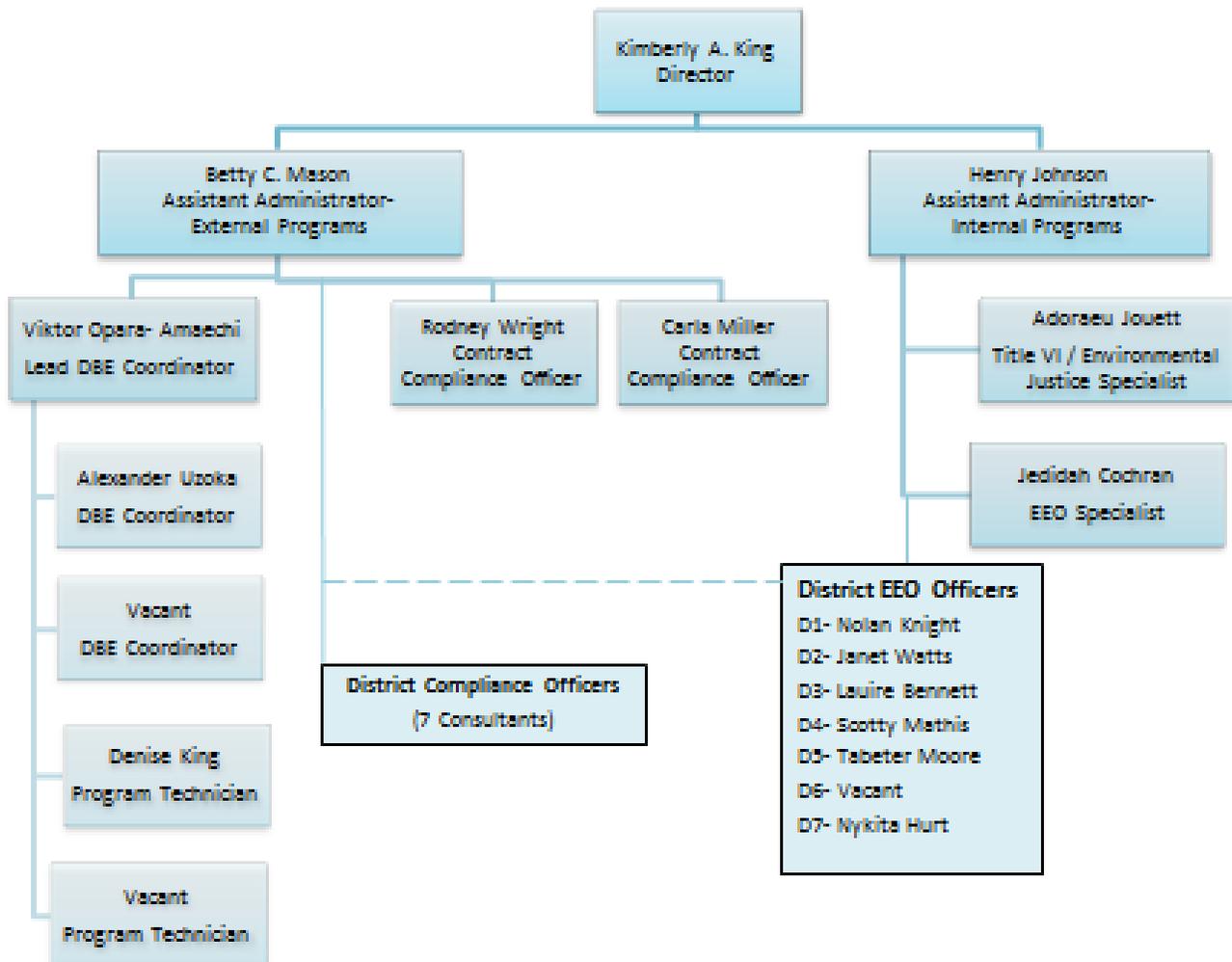
Georgia Department of Transportation

Organizational Chart
Effective May 16, 2016



OFFICE OF EQUAL EMPLOYMENT OPPORTUNITY

Organizational chart as of July 15th, 2016



A. EQUAL EMPLOYMENT OPPORTUNITY DIRECTOR

The Equal Employment Opportunity (EEO) Director has the overall responsibility for monitoring and administering the Department's internal training programs (in conjunction with Human Resources personnel) for all employees, on matters of EEO, affirmative action, Titles VI and VII, and all diversity considerations for the Department. Externally, the Director provides oversight and administration for the Disadvantaged Business Enterprise (DBE) Program to include small business, on-the-job (OJT) training, contractor compliance and supportive services. The EEO Director supervises a staff of eighteen (18) employees in the Equal Employment Opportunity Office. The Director serves on the American Association of State and Highway Officials (AASTHO) Civil Rights Subcommittee, is a member of the American Association for Affirmative Action Educational Foundation and the Southern Transportation Civil Rights Executive Council.

The Equal Employment Opportunity Director, Assistant Equal Employment Opportunity Administrator (External), and two Contract Compliance Officers provide oversight for the implementation of the Contract Compliance Program. All of these individuals are full-time employees of GDOT.

The current Director's previous experience is in employment law, labor relations, human resources and EEO. She has a bachelor's degree in political science and a Juris doctorate from Southern Illinois University School of Law.

B. ASSISTANT ADMINISTRATOR- EQUAL EMPLOYMENT OPPORTUNITY (EXTERNAL)

The Assistant Administrator (External) is responsible for managing the day to day operation of GDOT's DBE Program. This includes small business, on-the-job training, contractor compliance and supportive services. This responsibility includes the monitoring of all external activities as described, assigned to the Equal Employment Opportunity (EEO) Office as delegated by the Equal Employment Opportunity Director and the Commissioner. The Assistant Administrator (External) has oversight for the DBE program activity conducted in the seven districts throughout the

state of Georgia. The Assistant Administrator (External) as delegated by the EEO Director, may serve on the American Association of State and Highway Officials (AASHTO) Civil Rights Subcommittee and may act as a liaison with the National Highway Institute, U.S.DOT Civil Rights Office, Federal Highway Resource Center, and Office of Federal Contract Compliance programs.

The Assistant Administrator (External) will manage the contractor compliance program in Georgia and has received training on the Contractor Compliance Program, and several EEOC training courses. The responsibilities of the Assistant Administrator (External), under the direction and supervision of the EEO Director include:

- Ensure the development and implementation of a systematic program to obtain compliance by contractors with the requirements on federal-aid and state funded construction contracts, including the EEO-related requirements.
- Ensure the development and implementation of a reliable system for prioritizing contractors, projects and/or contracts for review.
- Ensure the development of the necessary procedures to obtain and document the compliance required of all contractors.
- Evaluate the procedures and the results achieved to assure that the EEO program's intent and purpose are accomplished.
- Respond to compliance related inquiries and is pivotal in the decision making process
- Approve compliance reviews and all related reports.
- Serve as an additional point of contact with FHWA.

The current Assistant Administrator (External) has over twenty (20) years of experience in Contractor Compliance from Construction, Audits, and Claims processing. She has a degree in Criminal Justice/ Law.

C. CONTRACT COMPLIANCE OFFICERS

Two (2) Compliance Officers oversee the On-the-Job Training (OJT) and Contractor Compliance programs state-wide.

- **OJT:** Responsibilities include review of contractor OJT program submittals, and trainees for approval or denial. Provide guidance relative to OJT Contract compliance guidelines and

departmental procedures. Ensure the success of the statewide training program for all federally assisted projects. Maintain a database and filing system on programs and trainees. Set annual OJT goals by evaluating future federal aid projects in the coming calendar year.

- **Contract Compliance:** Responsibilities include, monitoring and administration of the day-to-day Contractor Compliance Program for the Georgia Department of Transportation's statewide (EEO) to ensure the contractual promise of affirmative action and equal employment opportunity required of those who do business on federal aid projects. Set annual compliance review goals. Coordinate the statewide contract compliance review process with the Office of Federal Contract Compliance Programs (OFCCP). Prepare all compliance related reports and maintain statistical data on compliance activity. Provide technical support which includes but is not limited to conducting field monitoring and audits of all Federal-aid Highway Construction project job sites, compiling and completing detailed reports, developing and documenting written procedures. Develop and conduct training workshops regarding EEO Contract requirements. Review compliance reports to assure consistency, accuracy and adherence to program guidelines. Monitor local government contracts. Provide guidance to the local agencies on contract compliance and policies.
- Conduct DBE complaint and Commercially Useful Function investigations (CUF). Monitor DBE goal achievement and address DBE goal shortfalls. Provide guidance to field personnel on DBE commercially useful function determinations and documentation.
- Complete the Annual PR 1392 reports, Semi-Annual DBE Award and Commitments reports, and the OJT annual accomplishments report and goals. They may assist with Titles VI and VII investigations.

D. DISTRICT EEO REVIEW OFFICERS

The District EEO Review Officers are responsible for monitoring project documentation status, serving as a liaison between the General Office and the Area Office, and conducting compliance reviews. Responsibilities include:

- Implement EEO procedures in the District, as established by the EEO Administrator.
- Coordinate OJT and contractor compliance issues with the Contract Compliance Officers.
- Attend contract preconstruction conferences to disseminate necessary documentation and bring attention to the project specific obligations such as the DBE goals, training requirements, and reporting.
- Coordinate procedures with Area Engineers and project personnel to assure contract compliance with EEO provisions.
- Conduct EEO contract compliance reviews in accordance with established guidelines.
- Supplement the Area Engineers review of Contractor payrolls for compliance with Davis Bacon labor and wage classifications. Coordinate additional wage classification requests through the Office of Construction.
- Investigate prompt payment complaints involving DBE participants.
- Identify patterns and practices of discrimination during the review process for further monitoring and resolution.
- Establish and maintain district reports and statistics relative to compliance activity.

All District EEO Review Officers are full time employees who devote approximately 25% of work time toward the Contract Compliance Program. Those responsibilities include departmental labor compliance, affirmative action plan implementation, sexual harassment training, assisting with Title VI reviews and the investigation of internal complaints.

E. OFFICE OF CONSTRUCTION

State Construction Engineer (SCE) establishes statewide policies and assists in timely resolution of construction related issues. Reviews and approves contract modifications, conducts compliance/engineering audits, communicates with construction industry and processes contractor payments.

In the course of carrying out the Office mission, the SCE partners with EEO in establishing standard operating procedure related to internal controls for monitoring contractor compliance at the project level, and processes Davis Bacon additional wage classifications Form SF 1444 that impacts contracts as a modification to the list of labor wages in the contract. The Office also includes EEO documentation in their project audit processes. The auditor periodically reviews project files for labor interviews, OJT approvals and training completion, contractor payrolls, DBE documentation, and

provides recommendations in cases of contractor non-compliance.

F. DISTRICT PERSONNEL

The Area Engineer: In accordance with the Georgia Department of Transportation Standard Specifications 105, the Area Engineer as the Chief Engineer's direct representative, has the authority to make all decisions related to contract compliance on projects in their area of assignment. The Area Engineer manages multiple construction projects in various cities and counties within their respective Districts.

- Coordinates all issues related to Contract Compliance concerns with the District EEO Officers.
- Serves as a liaison between EEO Officers and the Contractor. Reviews EEO reporting documentation including labor interviews, contractor certified payrolls, subcontract agreements, contractor employment data on projects, and subcontractor payments.
- Attends pre-construction meetings and support compliance related issues.
- Requests the withholding of the monthly estimate for non-compliance issues such as failure to submit required EO documentation.

Project Inspector: Construction field personnel are “key” to the success of the GDOT EEO/DBE Contractor Compliance program. Federal laws require that the work of DBE contractors be monitored in the field in order to ensure that DBEs are actually performing the work. A Project Inspector is assigned to each construction project and works with the District EEO Review Officers to ensure compliance with all state and federal guidelines.

The Project Inspector is responsible for the daily activities on the project site, which include:

- Documenting the day-to-day activities on the project site.
- Monitoring the work of all contractors and subcontractors. Inspecting and approving work performed.
- Assisting in the resolution of compliance issues on project site.
- Relaying information to District EEO Review Officers when project activity is not in compliance with guidelines.
- Participating in Contract Compliance on site meetings.
- Confirming Davis Bacon labor compliance, and ensuring additional wage classifications are requested when the contract does not cover the classification listed in the Contractor's payroll.

- Receiving and reviewing applicable compliance related documents to include the monthly employment data, total company employment data and subcontracts during random on-site visits.
- Conducting labor and trainee interviews to submit to District EEO Review Officers for the quarterly and semi-annual labor compliance reports.
- Monitoring commercially useful functions on federally funded projects.
- Submitting various reports as requested concerning disadvantaged business enterprise and payroll monitoring.
- Ensuring bulletin board information is posted in the project area visible to workers and applicants and contains all required posters & EEO Policies.
- Ensuring prime submits OJT FHWA 1409 as required on trainees and conducts labor interviews.
- Requesting copies of subcontractor agreements from prime contractor on all active subcontractors and maintaining documents in project records.
- Completing the Commercially Useful Form quarterly on each DBE contractor shown on the DBE Participation Report
- Refer to Roles and Responsibilities Training for Construction Personnel in the Appendix.

II. COMPLIANCE REVIEW PROCEDURES

A. APPLICABLE DIRECTIVES

1. FHWA Contract Compliance Procedures.
 GDOT complies with the contract compliance and organizational responsibilities as provided by 230.301 Part I
2. EEO Special Provisions (FHWA Federal aid Highway Program Manual volume 6, Chapter 4, section 1, sub-section.2,
3. Training Special Provisions (FHWA Federal aid Highway Program Manual volume 6, Chapter 4, Section 1, Sub-section 2.
4. FHWA 1273 – Required Contract Provisions – Federal-Aid Construction Contracts

B. SUPPORTING REGULATIONS AND AUTHORITIES:

1. 23 USC (140)(a),
2. Title VI of the Civil Rights Act of 1964,

3. 23 CFR, Parts 200, 230 and 633,
4. 49 CFR, Parts 21 and 26

C. **IMPLEMENTATION**

The federal directives serve as a guide for implementing the contract compliance program; and the supporting regulations & authorities are included in all construction contracts. The Civil Rights field offices monitor construction activity via the Contract Compliance review process to determine whether contractors and their subcontractors are adhering to the applicable regulations and to ascertain the level of program effectiveness. The Equal Opportunity Director receives copies of all Federal Highway Administration directives related to equal employment opportunity. These copies are forwarded to the District EEO Review Officers, along with instructions on implementation. Contractors working on government projects are advised of EEO Contract requirements at Pre-Construction Conferences held in each district. In attendance at the Pre-construction conferences are: the contractors, departmental construction personnel, and the District EEO Review Officer. The District EEO Review Officer, at this time, advises the contractors to read and take note of special provisions of the contract. The contractor is required to maintain all employment records for a period of three years, for the purpose of historical data. Contractors are to ensure that EEO and Labor posters are affixed around the company and employees are informed. Contractors are also advised to formulate an EEO Policy and informed to keep records of minority employment for periodic inspections.

D. **CONTRACT COMPLIANCE REVIEW PROCESS**

Compliance reviews conducted by the Office of Equal Employment Opportunity of the Georgia Department of Transportation follow the procedures outlined in 23 CFR 230. The Contract Compliance Review process has several steps to ensure a comprehensive review:

1. **Review Scheduling:** The Compliance Officer identifies the contractors for review considering their peak employment period. Since construction workforces can vary; it is important to know when the contractor anticipates the highest level of employment (peak) to assure adequate work forces for the review.

Factors for consideration are:

- Contracts that hold a great potential for employment and promotion of minorities and women
- Contracts that include special training provisions;
- Contracts where a contractors' compliance with EO requirements is questionable;
- Previous compliance review findings;
- Contracts located in areas that have significant minority and female labor forces within a reasonable recruitment area;
- Reviews are conducted prior to or during peak employment periods;
- Reviews requested by FHWA or other federal agencies shall receive priority scheduling.

2. **Project Reviews:** GDOT conducts project site-reviews of employees, applicants and employment practices at the physical location of construction activity. Reviews are conducted prior to or during peak employment periods. No compliance review shall be conducted that is based on a home office work force of less than 15 employees unless requested or approved by Washington Headquarters.

GDOT may consider conducting contractor compliance reviews on its subcontractors independent of the prime contractors if the subcontract is in excess of \$10,000 and fits the criteria for a compliance review. Once the contractors have been selected for review in accordance with Federal Highway Policy Guidelines, a statewide review schedule is developed by the Contract Compliance Officer and the Assistant Equal Opportunity Administrator (External). The final selection process within the Equal Opportunity Office will seek to achieve the following goals:

- Ensure formal compliance reviews are conducted and reports prepared on all contractors with federal-aid construction contracts.
- Ensure compliance reviews are conducted on all major projects with substantial employment opportunities as identified from pre-construction conferences and routine project monitoring.

3. **Contractor Notification:** The first certified notification letter advises the contractor of a pending review and of the authority for conducting the review, type of review, project number, a request for documents to conduct a preliminary analysis, review time, date, and location of the on-site review meeting. May call the contractor and District Project Inspectors

to coordinate scheduling date and time. Determine if Contractor has been reviewed by another Agency, if so request findings to review documents from Contractor. Contractor will be required to complete required documents and provide information related to recruiting, hiring, promotion, training/Training Special Provisions (TSP), terminations, payrolls, PR 1391 and other documents as requested. Written notification is provided to each contractor at least two (2) weeks prior to the on-site verification and interviews (see letters attached). The second certified notification letter advises the contractor of the request for additional information (if applicable).

4. **Preliminary Analysis:** Upon receipt of requested documentation and prior to the on-site meeting, a preliminary analysis is completed on the *employment patterns, policies and practices* of the contractor relative to the EO requirements that includes a review of the contractor's current work force, the community recruitment resources, minority and female representation within the recruitment resources, the availability of minorities and females within reasonable proximity to the project, any pending discrimination complaints with EEOC or the Department of Justice and a review of other related project activity reports and previous compliance findings (written corrective action plans, etc). In addition, the Preliminary Analysis consists of a review of the PR 1391 Reports, Field Audit Reports, Commercially Useful Function documents (if applicable), and Monthly Utilization data collected from Contractor and/or in Project during the preliminary analysis (see documents in Appendix).

5. **On-site Verification Visit & Interviews:** During the meeting with the contractor, information is verified; employees and supervisory personnel are interviewed to determine the contractor's commitment to EEO. Interviews should be conducted with available trainees to verify the OJT program is administered effectively. The actual review process begins after the preliminary analysis is completed, which gives a fairly accurate picture of the contractor's employment processes. A meeting with the contractor is established to verify the information submitted and interview employees. During the on-site visit, the objectives of the visit, any discrepancies in the materials submitted, and arrangements for conducting employee interviews are discussed. The following areas are evaluated:
 - The placement of EEO posters and policies in a legible fashion;
 - Facilities provided on a non-segregated basis and free of sexual or discriminatory language;
 - Correctness of employment data;

- Method used to place employees on the job;
- Supervisory personnel orientation to the Contractors EEO policy and commitments;
- Discussions/meetings held with employees on EEO policies;
- Implementation of employee referral system;
- Awareness of Contractor's EEO Officer's Name and contact information;
- Awareness of right to file complaints of discrimination.

Contract Compliance Officer or District EEO Review Officer makes a physical tour of the employment site(s) to determine that EEO posters are displayed in a conspicuous place in legible format, facilities are provided on a non-segregated basis (e.g., work areas, washroom, time clocks, locker rooms, storage areas, parking lots, and drinking fountains), interviews are held with at least one minority, one non-minority, all females on the project, and project supervisory personnel to determine if they have been orientated to the contractor's EEO commitments. Other topics of discussion also include:

- Implementation of employee referral system.
- Discussions/meetings held on EEO policies.
- Awareness of right to file complaints of discrimination.

The on-site visit includes the determination of the status of any union labor being utilized on the construction site and to determine the method used to place employees on the job and if the EEO requirements have been met. In making the compliance determination, the following are considered:

- Is there reasonable representation and utilization of minorities and women in each craft or company? If not, what steps has the contractor taken to increase recruitment, hiring, upgrading and training of minorities and women?
- What action has the contractor taken to meet the contractual requirement to provide equal employment opportunities?
- Are the actions taken, acceptable? Could they reasonably be expected to result in an increase of minority and female utilization?
- Is there impartiality in the treatment of minorities and females?
- Has the contractor's efforts produced any results?
- Is EEO an integral part of the management decision-making process?

The Contract Compliance Officer determine if there is sufficient basis to determine whether

the contractor took all the necessary and reasonable steps to comply with their contractual requirements under FHWA 1273 – Required Contractor Provisions. The contractor must be able to document good faith efforts to comply with the contract provisions.

6. **Exit Conference:** After the on-site meeting, an Exit Conference or discussion is conducted between the Compliance Officer Officers and the contractor(s). The purpose is to inform the contractor of any findings that might lead to a non-compliance determination and if so a Voluntary Corrective Action Plan (VCAP) can be negotiated to remedy each deficiency identified.

The final determination must be rendered within fifteen (15) days of the on-site meeting and interviews. During this same period, any VCAP must be submitted, so that within the fifteen (15) days following the on-site meeting, the review report can be completed and the determination of either compliance or non-compliance issued.

7. **Guidance to Determine Compliance:** A contractor determined to be in compliance has effectively implemented the EEO requirements and there is evidence that every good faith effort was made toward achieving this goal. Efforts taken must be initiated and maintained in good faith, result-oriented and emphasized in all management functions.

Contractor found in compliance requires no further action. Contractor has provided all documentation as required by 23 CFR 230. Contractor has provided EEO in all hiring and personnel actions. Equal Opportunity requirements have been implemented, or there is evidence that every good faith effort has been made toward achieving this end.

Contractor found in compliance pending submittal of a Voluntary Corrective Action plan to correct procedural deficiencies must submit the requested information within 15 calendar days. A VCAP may be negotiated at the exit conference; however, the acceptance of a VCAP does not preclude a determination of noncompliance, particularly if deficiencies not addressed by the plan are uncovered during the final analysis and report writing.

A non-compliance determination shall be issued when a contractor has discriminated against applicants or employees or has failed to provide sufficient documentation of making every good faith effort to provide equal opportunity.

Contractor found in non-compliance has not met all of the contract requirements under

the Federal aid contract and/or has not provided EEO in their hiring and other personnel actions. The contractor has not met their commitment to correct deficiencies identified in a VCAP and cannot demonstrate good faith effort to do so. When a contractor is required to show cause and the deficiencies cannot be corrected within the 30 day show cause period, a written corrective action may be accepted.

8. **Show Cause Procedures:** The contractor receives written notification of the compliance determination within fifteen (15) days of the on-site meeting and exit conference. If the contractor is found in non-compliance, then a show cause notice is issued and the contractor has thirty (30) days to show cause why sanctions should not be imposed.

A show cause is issued when a determination of non-compliance is based upon:

- The findings of a compliance review
- The results of an investigation verifying the existence of discrimination.

Show cause notices will be issued by the State to the federally assisted contractor when the State has made a non-compliance determination or when the FHWA has made such a determination and requested the State to issue the notice.

The show cause notice is notification to prime of non-compliance determination, the reasons for the determination and informs the contractor of their obligation to show cause in writing why formal proceedings should not occur within thirty (30) days (see sample letter attached). The notice also includes the date, time and place of the scheduled compliance conference, which is to be held fifteen (15) days from receipt of the show cause notice. It also advises the contractor of the purpose of the meeting which is to discuss acceptable corrective action plans and to inform the contractor of the willingness of the Compliance Officer to work with and conciliate within the designated time frame.

Preparing for the show cause notice requires the Compliance Officer who conducted the review or investigation to compile a background data file and submit it with the recommendation for a show cause to the Assistant Equal Opportunity Administrator (External). The EO Director and Assistant State Administrator reviews this file and recommendation. The show cause notice is to be sent to the contractor via certified mail with return receipt, which will become part of the contractor's file. This notice is sent

directly to the non-compliant contractor or subcontractor with copy to the prime contractor. The thirty (30) day notice commences upon date of receipt of the notice.

During the thirty (30) day period, the Contract Compliance Officer must take efforts to negotiate and work towards corrective actions for each cited deficiency. The Compliance Officer maintains a record of such efforts to include meeting notes, verbal communications, regulation interpretations, etc. that occur during this period.

When a contractor takes steps to be in compliance after the show cause has been issued; the Assistant Equal Opportunity Administrator (External) can rescind the notice and the contractor will be formally notified of this change.

If corrections cannot be made within the thirty (30) day period, a Corrective Action Plan (CAP) can be submitted. If accepted, the show cause notice is rescinded (see sample attached). The written corrective plan must specifically outline the actions that will be taken and time frames to correct each cited deficiency. After the submittal of a CAP:

- The contractor is considered to be in compliance during the plan's implementation period with reports/documentation submitted to reflect progress.
- If a contractor fails to submit a CAP, the formal hearing process will commence following the thirty day (30) show cause period.
- Should a contractor submit a CAP and then be found in compliance but fail to implement the actions to correct deficiencies and then be found in non-compliance, the formal hearing process will commence. *There is no option to issue a second show cause notice.*
- Should a contractor implement the steps outlined but the measures do not result in correcting the deficiency, the CAP shall be amended through negotiation. If the contractor refuses to renegotiate, then the formal hearing process will be recommended.
- A contractor under a voluntary corrective action plan will be issued a show cause notice if the contractor is found in non-compliance during the plan or if measures do not result in correcting the deficiency. A CAP will then be developed and negotiated.

9. **Follow-up Reviews:** Follow-up reviews are an extension of the initial contract compliance review process to verify adherence to voluntary corrective action plans and corrective action plans. Follow-up compliance reviews are conducted on all contractors found in non-compliance and/or who were issued a show cause notice. Such reviews are reported as a narrative summary referencing the initial review report.

10. **Enforcement:** When an acceptable CAP cannot be agreed upon, GDOT must proceed with formal administrative sanctions as called for under the contractor specifications. GDOT must take the necessary administrative action it would use if the contractor failed to perform any other specification item(s). GDOT will commence enforcement actions under its EO Assurances. This action includes utilizing its normal contract administrative procedures.

Item four (4) under the State EO Assurances, as required by Section 22(a) of the Federal-Aid Highway Act of 1968, reads as follows:

- *The State Highway Department will, on its own initiative, take affirmative action including the imposition of contract sanctions and the initiation of appropriate legal proceedings under any applicable State or Federal law to achieve EEO on Federal-Aid highway projects and will actively cooperate with the FHWA in all investigations and enforcement actions undertaken by FHWA.*

It is the responsibility of GDOT to declare the contractor a non-responsive bidder for failing to comply with the EEO requirements while the request for a formal hearing is pending approval by the Office of Federal Contract Compliance Programs (OFCCP).

GDOT will refrain from entering into any contract or subcontract amending with a contractor who has not demonstrated eligibility to secure federally assisted contracts.

11. **Report of Findings:** Once the review process is complete; a formal review report is submitted to the Assistant State Administrator indicating review findings and copies of supporting Voluntary Corrective Action Plans, Show Cause Notices and Corrective Action Plans, if applicable. These documents along with the Compliance Officer notes ensure the completion of a comprehensive review report.

The compliance review report will include documentation in support of the determination. The compliance findings and conclusions shall be clearly indicated in the report and if necessary, supporting documentation included. The review report shall contain the following:

- Complete name and address of contractor

- Project identification numbers
- The basis for the review (area work force, home office, etc.)
- Identification of all federal or federally assisted contracts
- Date of review
- Employment data indicating race and sex
- Listing of unions, if applicable
- Compliance determination
- Show cause notice, if any
- Name of District EEO Review Officer who conducted the review
- Any concurrences at appropriate levels

III. 2016 GOALS & ACCOMPLISHMENT

A. 2016 GOALS

- A. Conduct twenty-five (25) Contractor Compliance Reviews for fiscal year 2014-2015
- B. Reenergize District EEO Officers involvement in Contractor Compliance reviews. The past few years, the District EEO Officers involvement in Contractor Compliance reviews has diminished, while the general office Contract Compliance Officers have been attempting to physically do all reviews statewide. Through team work and leadership from the Compliance Officers, the District Officers will be reengaged in the review process.
- C. Implement the new CUF process by providing the form, instructions and online training to Compliance Officers, District EEO Officers, and Construction inspection personnel through the Training Office's ELMS program. The new process and training is anticipated to be released July 1st. Going forward, the training of project inspection personnel will be continuous. CUF concerns will be investigated by EEO, as well as logged and tracked through the EEO SharePoint page.
- D. Increase Local Government monitoring, by freeing the Compliance Officers from doing all Contractor reviews statewide, and redirecting some of their attention toward Local Government training and monitoring.

- E. Provide continuous online training to internal and external customers. July 1st, new internal training materials will be released through the ELMS system. The courses provide content with audio, testing, and certificates at completion. We anticipate releasing several training courses through the same system throughout the year for our external customers.

B. 2016 ACCOMPLISHMENTS

1. Thirty- five (35) compliance reviews were collectively conducted for the fiscal year 2013/2014 by GDO, and the sharing partnership with OFCCP.

- Number of Contracts exempt-less than \$10,000 8.
- Number of Contractors exempt-less than 24 months 28.
- Number of Contractors trained in CC 16.
- Number of Contractors found in noncompliance 0.
- Number of Show Cause Notices issued 1.
- Number of Corrective Action Plans received 1.
- Number of Show Cause Notices rescinded 1.
- Number of Show Cause Actions still under conciliation and unresolved 0.
- Number of follow-up reviews conducted 0.
- Number of Contractors in compliance 21.

GDOT Conducted 1 Contractor Investigation in FY 2016.

- Contractor was placed on a performance plan at the district level.

GDOT Completed 2 DBE Investigations.

- 1 Decertified
- 1 Recommended NAICS Code change.

OFCCP Conducted 14 Evaluations.

OFCCP Conducted 1 Investigation.

2. District EEO officers involvement increased on reviewing Local Government projects and providing training based on weakness identified during the reviews.
3. Implemented the new CUF process by providing the form, instructions and online training to Compliance Officers, District EEO Officers, Construction inspection personnel through the training Office's ELMS program.
4. Provided continuous online training to GDOT Inspection personnel. The courses provide content

with audio, testing, and certificates at completion. To date 321 personnel have taken the online training courses.

5. Conducted Project Engineers Academy. And created additional training videos.

IV. CHALLENGES ENCOUNTERED

In fiscal year 2016, the following obstacles were recognized and the following accomplishments submitted:

- A. State Audit findings reported project inspections of contractor's compliance with the Federal EEO requirements were not consistent across Districts, and were not being performed in conformance with the Office of Construction's inspection policies. As a result, the Office of EEO received approval to activate Consultant Contract Compliance positions in each District. To date over 1,000 project audits have been performed since October 2015.
- B. Continued confusion with Contractors and Local Governments related to their responsibilities in monitoring subcontractors. As part of a bigger initiative the Department created a Committee with members from GDOT and the GA Highway Contractors Association to address known problems and concerns.

V. OTHER ACCOMPLISHMENTS

On the Job Training

Previous Fiscal Year 2015
Accomplishments:

- Graduates: 46
- New Trainees: 116
- Terminations: 3

Current Fiscal Year 2016
Accomplishments:

- Graduates: 47
- New Trainees: 98
- Terminations: 7

VI. CONTRACT SANCTIONS

Contract Sanctions are established by the Department and applied to the Contractors via special

provisions and specifications. They include but are not limited to:

- A. Georgia Department of Transportation Standard Specification 105.01 Authority of the Engineer states in part, *“The Engineer will have the authority to suspend The Work wholly or in part due to the failure of the Contractor to correct conditions unsafe for the workmen or general public; **for failure to carry out provisions of the Contract**, or for failure to carry out orders; for such periods as he may deem necessary due to unsuitable weather; for conditions considered unsuitable for the prosecution of The Work; or for any other condition or reason deemed to be in the public interest.*

- B. Georgia Department of Transportation Standard Specification 108.09 Default of Contract states in part, *“If the Contractor fails to begin The Work within the time specified, or fails to perform The Work with sufficient workers, equipment, or materials to ensure its prompt completion, or performs The Work unsuitably, or neglects or refuses to remove materials or perform anew such work as shall be rejected as defective and unsuitable, or discontinues the prosecution of The Work, or from any other cause whatsoever does not carry on The Work in an acceptable manner, or becomes insolvent or is adjudicated a bankrupt, or commits any act of bankruptcy or insolvency, or allows any final judgment to stand against him unsatisfied for a period of 10 days, or makes an assignment for the benefit of creditors, or fails to comply with the **contract requirements regarding wage payments or EEO requirements**, or fails to sign the standard release form as stipulated in Subsection 109.08 “Final Payment,” the Engineer may give notice in writing by registered or certified mail to the Contractor and the Surety, stating the nature of the deficiencies and directing that The Work including its progress be remedied and made satisfactory. If, within 10 days after such notice, the Contractor or his Surety does not proceed in satisfactory way to remedy the faults specified in said notice, the Engineer will notify the Contractor and his Surety by registered or certified mail that the Contractor is in default and, by the same message, direct the Surety to take over The Work including all of the obligations pertaining to the Contract. If the Surety takes over the work in a satisfactory way within 10 days after such notice of default, the Department will thenceforth pay to the Surety the amounts due and to become due under the Contract, less all deductions provided herein including liquidated damages. The Department shall not be liable for any sums not due under the Contract and shall not be made a party to any dispute between the Contractor and the Surety.”*

C. Georgia Department of Transportation Standard Specification 158.4 Training Program states in part, *“The Contractor will be not receive any progress payment under any one of these conditions:*

- *Failure to provide an acceptable training program to the Department within 30 days after the Notice to Proceed is issued*
- *The Contractor fails to provide the required training*
- *The trainee fails to be hired as a journeyman at the fault of the Contractor*
- *The Contractor fails to show good faith to meet the requirements of this Training Specification”.*

D. Georgia Department of Transportation DBE Criteria of Acceptability states in part, *“In order to comply with 49 CFR 26.11, the Prime Contractor shall submit documentation regarding all payments made from the Prime to all DBE subcontractors on federal aid projects in the form of copies of cancelled checks or notarized electronic documentation which validates said payments made on the DBE Monthly Participation Reports. This information shall be required monthly and submitted with the DBE Monthly Participation Report. C. Failure to respond within the time allowed in the request will be grounds for withholding all payments on all Contracts”.*

E. The Office of Equal Employment Opportunity standard operating procedures in addressing noncompliance and recommending sanctions are as follows:

A preliminary and detailed report summary detailing the findings of an inquiry and/or investigation will be submitted from the Office of Equal Employment Opportunity or the Office of Construction which may trigger more in-depth investigative measures and corrective actions. The contract sanction process may begin with the Contract Compliance Specialist or in the District EEO Review Office where the compliance review is conducted. The process entails requesting sanction proceedings from Contract Compliance Specialist in consultation with the

General EEO Office, to the District Engineer, Construction Division Director and Commissioner. The role of the Contract Compliance Officer and/or Equal Opportunity Office is to monitor the process, ensuring proper documentation and timeliness. Once the request for sanctions is made to the General Office, GDOT's Office of General Counsel will be contacted for review and concurrence of activity. Supporting documentation and correspondence will be provided. The Assistant EEO Administrator (External) in conjunction with the Construction Engineer will inform the contractor in writing of the sanction with copy to the, GDOT's Office of General Counsel and FHWA. While the process is taking place, the Department will consider the contractor to be an unresponsive bidder and remove from the bidders list.

As a means of imposing contract sanctions, the Director may issue a written notice to General Counsel, Commissioner, or the Engineer recommending work to be stopped in whole or in part. GDOT's monitoring and enforcement mechanisms may consist of one or a combination of the following (list is not all inclusive):

- 1) Breach of contract action with GDOT and initiation of all steps necessary to bring contractor into compliance;
- 2) Withholding of progress payments, monthly invoices, and/or final invoice;
- 3) Removal of contractor from bidding activities with GDOT on federally funded projects;
- 4) Removal of contractor from the bidder's list;
- 5) Removal of contractor from registered subcontractor's list;
- 6) Notice to contractor may include recommendation for suspension.
- 7) Notice to contractor concerning declaration of default of contract or debarment.

Depending on severity of actions/offense of non-compliance, file may be referred to Office of Inspector General/Attorney General for criminal and/or civil actions.

VII. COMPLAINTS

Contractor's employees and applicants for employment who have cause to believe that they have been treated unfairly due to race, color, religion, national origin, political affiliation, sex, age, or disability may file an employment discrimination complaint with their respective Contractor's Equal

Opportunity Office or the individual may contact GDOT's Project Engineer or District EEO Review Officer for assistance. In addition, they are notified that in accordance with Title VII, Section 704(a) of the Civil Rights Act of 1964, as amended, GDOT prohibits retaliation against anyone who files a complaint or who participates in an investigation.

A. ALLEGATIONS OF COMPLAINTS/GRIEVANCES FROM CONTRACTOR'S EMPLOYEES:

Contractors must respond promptly to all complaints of alleged discrimination made to the contractor in connection with his/her obligations under the designation contract in the following manner:

1. Investigate promptly;
2. Attempt to resolve these complaints;
3. Take appropriate corrective action within a reasonable time;
4. Include all persons in the correction action who have been shown by the investigation to have been discriminated against, even if they are not the original complainant;
5. Inform every complainant of all of his avenues of appeal, once the investigation has been completed;
6. Cooperate with in-depth reviews conducted by the District EEO Review Officers and Contract Compliance Specialist.

Contractor's policy statement and procedures include the names, addresses, and telephone numbers of the contractor's contact individual should complaint or grievances occur at the project site and federal EEO posters are displayed on bulletin boards at all locations. All complainants are encouraged to first discuss their allegations with their immediate supervisor and attempt informal resolution. However, if the complainant does not feel that it would be in his or her best interest, they may contact the District EEO Review Officer or Project Manager. The District EEO Review Officer, Project Manager or Contractor Compliance Officer may discuss the allegations with the complainant to determine if there is a legitimate discrimination complaint.

It should be noted that most complaints received on construction projects are primarily labor/wage and hour related allegations, wages owed for work performed, misclassifications of work performed, unpaid time or overtime, etc. Such complaints are usually forwarded to District EEO Review Officer and/or Contractor Compliance Office formally or informally by a third party individual. A third-party individual may be a person or persons who witness or is knowledgeable of questionable incident. There are no set time limits for complaint resolution other than the resolution should be as quickly as possible and during the life of the project in question. District EEO Review Officers will communicate their investigation to the GADOT Contract Compliance Officer. The GADOT Contract Compliance Officer will log all data in the Formal Compliant Log for record. If the complaint is not resolved, GDOT can proceed to sanctions as indicated in the above section.

B. COMPLAINTS OF ALLEGED DISCRIMINATION - CONTRACTOR:

Any individual, group of individuals or entity who believes that they have been subjected to discrimination or retaliation prohibited on federally funded contracts may file a complaint with GDOT's Title VI Coordinator. However, complaints against GDOT will be forward to the FHWA Headquarters Civil Rights Division in Washington D.C for processing. Complaints must be filed in writing within 180 days of the date of the alleged discriminatory act or when the alleged discrimination became known to the complainant. Complaint forms may be obtained from the Equal Employment Opportunity Division at (404) 631-1972.

The investigation and resolution of complaints related to construction activity is guided by GDOT's Complaint Procedures as indicated in the Affirmative Action Plan (Part II). District EEO Review Officer will communicate their investigation to the GADOT Contract Compliance Officer. The GADOT Contract Compliance Officer will log all data in the Formal Compliant Log for record.

VIII. EXTERNAL TRAINING PROGRAM-ON JOB TRAINING (OJT)

The Georgia Department of Transportation maintains a database on enrolled, terminated, and graduated trainees. (Refer to the OJT Manual available online @ <http://www.dot.ga.gov/doingbusiness/eo/Documents/OJT/On-the-JobTrainingManual.pdf> .)

IX. DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM

The Georgia Department of Transportation maintains a directory of certified Disadvantaged Business Enterprises. (Refer to the Georgia Department of Transportation D.B.E. Plan)

X. LIAISON

The EEO Director is the Department Liaison for GDOT. In addition, as a part of the Department's outreach program, liaison is maintained with other public agencies and private organizations involved in Civil Rights programs. Liaison is maintained regularly through personal contact and participation with the Urban League, NAACP, Atlanta Business League, MED Week, National Suppliers Association, Asian/American Chamber of Commerce, Hispanic Chamber of Commerce, Georgia Minorities Supplier Development Council, National Association of Women in Construction, Georgia Black Chamber of Commerce, and the AASHTO National Civil Rights Conferences. Other participation includes area OFCCP Liaison Groups, which meets as needed, and provides training workshops.

XI. INNOVATIVE PROGRAMS

- A. EEO is using the Transportation Reporting and Query System (TRAQS). It is a BI workspace that allows you to organize and display different BI platform data sources, such as Web Intelligence documents, hyperlinks, Crystal reports, non-visual modules, or external pages such as web pages via URL, in a single view. You can analyze and manage complex data effectively, and share the information across organizations. The system is allowing EEO personnel to more efficiently collect and analyze data required for reporting and monitoring related OJT, DBE, and in the future all contractor employment data and subcontract vendor payments.

- B. EEO has taken ownership of its Microsoft SharePoint webpage. Microsoft SharePoint is a Web application platform. It has historically been associated with intranet content management and document management, but recent versions have significantly broader capabilities. The Office will be able to share documents with internal and external customers on a real time basis, set security permissions, and establish tasks providing better communication.

- C. Civil Rights Labor Management System (CRLMS) has been implemented and continues to be a work in progress. It manages the department's Civil Right requirements and provides contract electronic access to submit the Certified Payrolls, Bidder/Quoters, and Prompt Payment reports. The system will provide a faster, easier, and more accurate way for contractors to meet government reporting requirements.

- D. Project records, including electronic contractor payrolls and DBE reports are stored on a system called Project Wise. Providing access statewide to EEO.

XII. 2017 CONTRACT COMPLIANCE PLAN GOALS

- A. Conduct twenty-five (25) Contractor Compliance Reviews for fiscal year 2016-2017

- B. Conduct training academies in each District.

- C. Participate in Contractor training academies.

- D. Increase Local Government monitoring and training.

XIII. APPENDICES

- A. GDOT Organizational Chart (*UPDATED*)
- B. Equal Opportunity Office Chart (*UPDATED*)
- C. Equal Employment Opportunity Policy Statements: #2840-1 and #2820-1
- D. GDOT's Criteria for Acceptability (ARRA Project & Non-ARRA Projects)
- E. TOPPS 2880-1, Sexual Harassment Policy
- F. GDOT -- OJT Training Program Section 158
- G. FHWA Construction Contractor's Semi-Annual Training Report (FHWA 1409)
- H. OJT Statistical Data
- I. Georgia On-the-Job Training Program – Instructor's Manual/Administration Guidelines
- J. Bulletin Board Checklist
- K. Commercially Useful Function Form and Manual
- L. Contractor Compliance Forms Checklist
- M. Contractor Compliance Notification Letters (samples)
- N. Contract Compliance Review Report checklist (sample)
- O. DBE Participation Report & Instructions
- P. Monthly Utilization Form, Compliance Audit Report and Labor Interview Form (Sample Forms)
- Q. Compliance Data Report (Sample)
- R. Show Cause Letter (Sample) and Show Cause Rescind Letter (Sample)
- S. Title VI Complaint Form
- T. FHWA 1273 – Required Contract Provision Federal Aid Contracts
- U. Roles & Responsibilities Training for GDOT Personnel on FHWA 1273
- V. Recommendations for Affirmative Action to Contractors from GDOT's Commissioner.