



# CONSTRUCTION PERSONNEL TRAINING

FHWA 1273

# PURPOSE OF THE TRAINING

- Familiarize you with FHWA 1273 – Required Contract Provisions, Federal Aid Construction Contracts
- Familiarize you with the changes and additions to the compliance review process
- Make you aware of your responsibilities as it relates to the FHWA 1273



**FHWA 1273 – REQUIRED  
CONTRACT PROVISIONS  
AND  
CONTRACTOR COMPLIANCE  
PROGRAM PLAN**

# FHWA 1273 – Required Contract Provisions

- Included in every federal aid contract and subcontract
- Outlines all of the equal opportunity/equal employment opportunity requirements
- FHWA 1273 supersedes the construction manual (The Source)

# Contractor Compliance Program Plan

- Outlines the requirements of construction personnel in relation to the EO/EEO requirements of the contract, FHWA 1273
- Outlines the requirements of the Department in relation to federal aid projects and the contractor compliance program

# Importance of adhering to the FHWA 1273 & Contractor Compliance Program Plan

- CCP is a contractual plan between DOT and FHWA
- Failure by the Department of adhere to the CCP could result in the loss of federal funds from FHWA

# Training the Contractors

- Training will be conducted for all contractors and subcontractors
- Familiarize contractors and subcontractors on the changes and new procedures
- Purpose to enable them to be prepared for a compliance review and allow them an opportunity to correct any deficiencies

# PRE-CONSTRUCTION CONFERENCE

The background is a solid teal color. In the lower half, there is a faint, semi-transparent graphic of two hands shaking, symbolizing agreement or partnership. The text is centered in the upper half in a white, serif font.

# Pre-construction Conference

- Importance of the pre-construction conference
- In depth discussion with the prime contractor of their requirements
- Place more emphasis on the FHWA 1273, Required Contract Provisions
- Ensure construction personnel provides a pre-construction package for all federal aid contracts prior to beginning work

# Pre-construction Conference

- Send notification to District EEO Office about pre-construction conference and to provide the pre-construction package
- Changes to the pre-construction conference package provided to contractors
- Pre-construction conference package outlines new form – Monthly Employment Utilization Report

# CONSTRUCTION BEGINS



# Labor Interviews

- Change in the Labor Interview Form
- Importance of Labor Interviews
- Importance of construction personnel being EO/EEO conscious
- Monitor closely the prime contractor and subcontractors to ensure accuracy of reports and payrolls
- Address EO/EEO issues when they arise
- Quarterly and semi-annual labor interview reports

# Disadvantage Business Enterprise

- Monitor closely the activities of the DBE's on the project – “commercially useful function”
- Ensure completion and submittal of quarterly DBE reports by the prime contractor
- Monitor closely payments to DBE's – prompt payment
- Ensure DBE goal is met
- Address discrepancies and/or discrimination early
- Submit copies of all correspondence and reports are sent to District EEO Office

# *Commercially Useful Function*

- *A DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality, and quantity, ordering the material, and installing (where applicable) and paying for the material itself.*
- *A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation.*
- *If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, GDOT will presume that it is not performing a commercially useful function.*

# OTJ Training Program

- Ensure prime contractor submits training request promptly
- Ensure trainee is designated on payroll and proper hourly rate is paid during training program
- Ensure requests of changes to training program is submitted
- Submit copies of correspondence and reports are sent to District EEO Office

# Contractor/Subcontractor Payrolls

- Ensure all required information is listed on payroll
- All deductions should be itemized. “Other” is not sufficient
- Ensure hourly rates match minimum wage schedule ([www.gpo.gov/davisbacon/allstates.html](http://www.gpo.gov/davisbacon/allstates.html))
- Ensure overtime is paid at the proper overtime rate
- Requests for Additional Classification and Wage Rate should be submitted to the District Contracts Administration Office with a copy to the District EEO Office

# Contractor/Subcontractor Payrolls

- Project managers are responsible for ensuring payrolls are correct
- Work classifications should match duties of the employee
- Davis Bacon violations should be promptly investigated and corrections made. Maintain accurate documentation.
- Proper documentation on payroll for contractor's supervisory personnel

# Contractor/Subcontractor Payrolls

- Ensure Statement of Compliance accompanies the payroll
- Working supervisor – perform works in any classification more than 20% of the time, the supervisor falls under the Davis Bacon Act
- Subcontractor payrolls should be monitored in the same way
- Original payrolls are kept with the project file and a copy is sent to the District EEO Office

# Contractor's Bulletin Board

- Bulletin Board should be posted in the project area
- Should be visible to worker and applicants (ideally where the majority of workers take breaks)
- Should be weatherproof and maintained in easily readable condition during construction period
- All required posters and EEO policies of contractor & all subcontractors should be posted

# NEW FORMS



# New Forms

- Monthly Employment Utilization Report
- Labor Compliance Field Audit Form

# Monthly Employment Utilization Report

- All prime contractors and subcontractors are required to complete this form monthly
- Prime is required to submit this form along with subcontractors' forms by 10<sup>th</sup> of each month
- Form details the utilization and representation of minorities and females in each work classification

# Monthly Employment Utilization Report

- Information from the report is compared to the Civilian Labor Force for each work classification in the project area
- Information from the report should agree with payrolls submitted by the prime contractor and subcontractor
- Failure to provide this information could result in suspension of progress payments

# Labor Compliance Field Audit Form

- Used to do bi-monthly reviews of prime contractor on each federal aid project
- Used to inform prime contractor of any discrepancies and provide time frame to correct
- Will be conducted by either District EEO Review Officer or DOT Construction Field Personnel

# Labor Compliance Field Audit Form

- When form is completed – copy given to prime contractor's project manager and a copy is faxed to prime contractor
- If Field Audit is conducted by DOT construction personnel, the original should be sent to District EEO Office within 3 days for further handling
- Failure of prime contractor to respond appropriately by due date could result in the withholding of progress payments

# Areas reviewed in Field Audit

- Payrolls
- Work Classifications
- Bulletin Board
- Discriminatory practices
- DBE and prompt payments
- Training Issues

# COMPLIANCE REVIEWS



# Compliance Review Process

- More in depth review of project – covers at least a 6 month review period
- Several areas will be reviewed including the areas covered in the Labor Compliance Field Audit
- Interviews with prime contractor's and subcontractor's employees and supervisors
- All active subcontractors are reviewed

# Compliance Review Process

- Interviews held with prime contractor and active subcontractors
- Close out conference with prime contractor
- DOT Project Manager should be present at review
- Prime contractor will be advised at later date of final determination of review

# Non-compliance Determination

- If prime contractor found in non-compliance, prime is required to submit a voluntary corrective action plan (minor deficiencies only)
- Show Cause Notice
- Prime contractor is required to submit Corrective Action Plan for major deficiencies
- Follow up review
- If prime contractor fails or refuses to respond or submit an acceptable CAP enforcement actions will commence

Item 4 under the State EEO Assurances as required by Section 22(a) of the Federal-Aid Highway Act of 1968 (codified at 23 USC 140(a)) 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-aid highway project and will actively cooperate with the FHWA in all investigations and enforcement actions undertaken by the FHWA.”

# Construction Personnel Training

We hope you are

- Familiar with FHWA 1273 – Required Contract Provisions
- Familiar with changes and new forms
- Aware of your responsibilities as it relates to the FHWA 1273
- Conscious of what to look for in regard to the EO/EEO requirements on a federal aid project

# QUESTIONS



Thank you for participation in the training and for your continued support in ensuring the contractors' compliance with the FHWA 1273.

