



U.S. Department of Transportation
Federal Highway Administration



Resource Center - Office of Innovation Implementation

Missouri Department of Transportation

**MoDOT Civil Rights Compliance
DBE Training Symposium
March 29, 2022**



U.S. Department of Transportation
Federal Highway Administration



Contractor Compliance Program Overview

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Learning Outcomes

Upon completion of this session, the participants will be able to:

- Recognize the Contractor Compliance (CC) and On-the-Job Training Program requirements and key contract provisions.
- Define the roles and responsibilities of the FHWA, State DOTs, and Contractors.
- Identify the key steps to conduct an equal opportunity contract compliance review.



Contractor Compliance Program Objective

23 CFR Part 230.307 – Subpart C

- Ensure that Federal-Aid highway contractors and subcontractors do not discriminate in employment and contracting on the basis of race, color, religion, national origin, age, disability or sex.
- Provide equal employment opportunity and take affirmative action as necessary to assure equal opportunity.



Contractor Compliance Program Authorities

- Federal Aid Highway Act of 1968 (Section 22(a))
- 23 U.S.C. §140 (a) - Nondiscrimination
- 23 CFR Part 230 (Subparts A, C, D)



Federal-Aid Highway Act of 1968

Section 22(a)

{Codified as amended at 23 U.S.C. 140(a)}

Requirements of the State DOTs:

- Written equal employment opportunity (EEO) assurances.
- Condition for receipt of federal funds.
- Assures that employment in connection with construction projects are provided absent discrimination.
- Include EEO requirements in bid specifications.
- Enforce EEO contract requirements.



FHWA Regulations 23 CFR 230 – Subparts

- Subpart A – EEO on Federal and Federal-Aid Construction Contracts (including Supportive Services)
- Subpart C – State DOT EEO Programs
- Subpart D – Construction Contract EEO Compliance Procedures



FHWA Regulations 23 CFR 230, Subpart A

Requires:

- Incorporation of contract provisions;
- FHWA 1273 is also required by 23 CFR Part 633;
- Training Special Provisions; and
- Implementation of OJT program.



Examples of Required Contract Provisions

- Training Special Provisions – (Appendix B To Subpart A of Part 230)
- Contractor/Subcontractor’s nondiscrimination and affirmative action responsibilities – (Appendix B To Subpart A of Part 230) FHWA- 1273
- Employment Preference – Appalachian Contracts Only.
Attachment A of the FHWA-1273
- Department of Labor – Davis Bacon Requirements
FHWA-1273, Section, IV



FHWA-1273

- Section II (Nondiscrimination) related to 23 CFR Part 230 is applicable to all Federal-aid construction contracts and subcontracts of \$10,000 or more.
- The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.





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Nondiscrimination Requirements on Construction Contracts Video: Federal-Aid Essentials for LPAs

<https://www.fhwa.dot.gov/federal-aidessentials/catmod.cfm?id=23>



23 CFR 230, Subpart C

- Establishes FHWA requirements for a Contractor Compliance Program Plan.
- Requires the State DOT to develop a Contractor Compliance Program Plan.



Contractor Compliance Program Plan Contents

23 CFR Part 230, Appendix A to Subpart C

- State DOT's Organization and Structure
- State DOT's Compliance Procedures
- Complaint Process
- External training programs, including supportive services
- Liaison and partnerships
- Major problems encountered



(Continued)

Contractor Compliance Program Plan Contents

23 CFR Part 230, Appendix A to Subpart C

- Major breakthroughs
- Contract sanctions
- DBE Program
- Innovative Programs
- Accomplishments (Contract Compliance Reviews)





Contractor Compliance Program Reporting Requirements

23 CFR 230.121

- Federal-Aid Highway Construction Contractors Annual EEO Report (FHWA 1391)
- Summary of Employment Data (Including Minority Breakdown For All Federal-Aid Highway Projects for Month Ending July 31st (FHWA 1392)



Contractor Compliance Program Roles & Responsibilities

- Federal Highway Administration
 - Headquarters Office of Civil Rights
 - Resource Center
- Division Offices
- State Departments of Transportation
- Contractors and Subcontractors



23 CFR 230, Subpart D

- Provides procedures for conducting compliance reviews;
- Requires State DOT to assure compliance by contractors and cooperate with FHWA; and
- Establishes FHWA and State responsibilities
 - FHWA provides guidance and direction, and
 - State DOT takes action under its contract administration procedures to ensure compliance.



23 CFR 230, Subpart D Compliance Review Stages

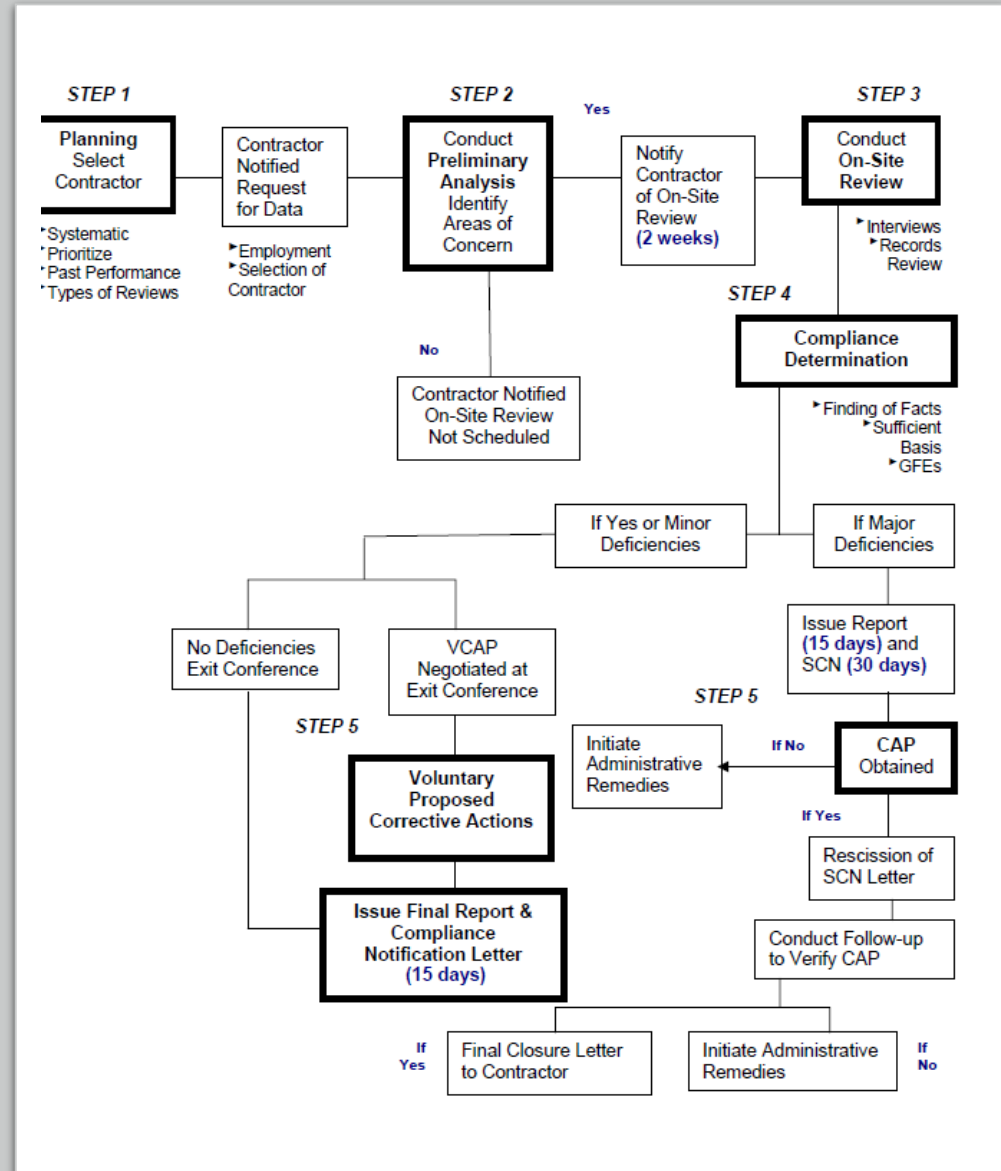
{§ 230.409 – Contract compliance review procedures}

- I. Review scheduling
- II. Contractor notification
- III. Preliminary analysis/desk audit
- IV. On-site verification and interviews
- V. Exit conference
- VI. Compliance determination
- VII. Formal notification



CONTRACT COMPLIANCE REVIEW PROCESS FLOW CHART

Source:
FHWA's Contractor Compliance Desk Reference hand book.





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Job Site Posters Video: Federal-Aid Essentials for LPAs

<https://www.fhwa.dot.gov/federal-aidessentials>



23 C.F.R. § 230.409(g)(4) and (5)- Subpart D

Compliance Determination

- In compliance when contractor:
 - Implements contract provisions and/or demonstrates Good-Faith Efforts (GFEs)
- In noncompliance when contractor:
 - Discriminated
 - Fails to demonstrate GFEs



Compliance and Enforcement Contractor/Subcontractor

23 CFR Part 230.409 (f) & (g)

- Voluntary Corrective Action Plan
- Show Cause Notice
- Corrective Action Plan
- Follow-Up Review



Contractor Compliance Review Report

23 CFR Part 230.413

- Documents the results of the contract compliance review;
- Completed by the State DOT; and
- Submitted to the FHWA Division Office for concurrence.



Knowledge Check

Review of Learning Outcomes

1. What are some of the Contractor Compliance (CC) Program requirements and key contract provisions?

Requirements of the State DOTs: (EEO Assurance)

Written equal employment opportunity (EEO) assurances.
Condition for receipt of federal funds.
Assures that employment in connection with construction projects are provided absent discrimination.
Include EEO requirements in bid specifications.
Enforce EEO contract requirements.

23 U.S.C. §140 (a) –
Nondiscrimination - Title 23
23 CFR Part 230 (Subparts A, C, D) –
Code of Federal Regulations

Contract Provisions: The TSP and the 1273

2. Define the roles and responsibilities of the FHWA, State DOTs, and Contractors.

State implementation
Division Oversight
HQ Policy
Contractor **Meet requirements of 23 CFR 230,**
We are here to assist in the RC if you need technical assistance

3. Identify key steps to conduct an equal opportunity contract compliance review.

- I. Review scheduling
- II. Contractor notification
- III. Preliminary analysis/desk audit
- IV. On-site verification and interviews
- V. Exit conference
- VI. Compliance determination
- VII. Formal notification





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Questions/ Comments?

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