



U.S. Department of Transportation
Federal Highway Administration



Resource Center - Office of Innovation Implementation

**Missouri DOT Civil Rights Compliance
Disadvantaged Business Enterprise (DBE)
Training Symposium**

**Equal Opportunity Contractor
Compliance Overview**

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U.S. Department of Transportation
Federal Highway Administration



Equal Opportunity Contractor Compliance 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.
- Recognize the On-the-Job Training Program requirements and key contract provisions.



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



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 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)



Reporting Requirements (Cont.) APPENDIX D TO SUBPART A OF PART 230

GENERAL INFORMATION AND INSTRUCTIONS

This form is to be developed from the “Contractor’s Annual EEO Report.” This data is to be compiled by the State and submitted annually. It should reflect the total employment on all Federal-Aid Highway Projects in the State as of July 31st. The staffing figures to be reported should represent the project work force on board in all or any part of the last payroll period preceding the end of July. The staffing figures to be reported in Table A should include journey-level men and women, apprentices, and on-the-job trainees. Staffing figures to be reported in Table B should include only apprentices and on-the-job trainees as indicated.

Entries made for “Job Categories” are to be confined to the listing shown. Miscellaneous job classifications are to be incorporated in the most appropriate category listed on the form. All employees on projects should thus be accounted for. This information will be useful in complying with the U.S. Senate Committee on Public Works request that the Federal Highway Administration submit a report annually on the status of the Equal Employment Opportunity Program, its effectiveness, and progress made by the States and the Administration in carrying out Section 22(A) of the Federal-Aid Highway Act of 1968. In addition, the form should be used as a valuable tool for States to evaluate their own programs for ensuring equal opportunity. It is requested that States submit this information annually to the FHWA Divisions no later than September 25.



Contractor Compliance Program Roles & Responsibilities

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





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OJT Program Overview





FHWA OJT Program

Federal Regulation 23 CFR Part 230, Subpart A, Equal Employment Opportunity on Federal and Federal-aid Construction Contracts.



FHWA OJT Program 23 CFR 230.107

It is the policy of the FHWA to:

- Require full utilization of all available training and skill-improvement opportunities to assure the increased participation of minority groups and disadvantaged persons and women in all phases of the highway construction industry.
- Encourage the provision of supportive services which will increase the effectiveness of approved on-the-job training programs conducted in connection with Federal-aid highway construction projects.



OJT/SS Program Objective

23 USC 140 (a & b) & 23 CFR 230.113 & 119

- Recruit, train and employ minorities, women and disadvantaged individuals.
- Increase the effectiveness of approved State DOT training programs.



Training Special Provisions

Training Special Provisions - (Subpart A, Appendix B)

- Contractor/Subcontractor's OJT requirements responsibilities.



FHWA Division Offices' Responsibilities

OJT Program

23 CFR 230.111 & 313

- Provide oversight of the State DOTs OJT program requirements.
- Monitor compliance efforts and evaluate State DOTs OJT processes
- Approve OJT Training Goals and Programs.



On-the-Job Training Program Good Practice – Program Monitoring

- Identification of OJT Program type (contract-based, contractor based, or hybrid)
- Description of OJT Program requirements and guidelines
- List of OJT Program Approved Classifications



Resources: On-the-Job Training (OJT) Implementation Plan Development Tool

On-the-Job Training (OJT) Implementation Plan Development Tool

This optional tool may be used by a recipient to develop a comprehensive OJT Program Implementation Plan that responds to the equal employment opportunity and training requirements of 23 C.F.R. §230. Recipients may revise this tool to account for differences in their OJT Programs. Except for the statutes and regulations cited, the contents of this document do not have the force and effect of law and are not meant to bind State DOTs in any way. This document is intended only to provide information and clarity regarding existing requirements under the law or agency policies. Use of this tool is strictly voluntary. Nonconformity with or non-use of this tool will not affect rights and obligations under existing statutes and regulations.

| | | | |
|-----------------------------|--|--|--|
| State DOT: | | Date OJT Plan was approved by FHWA: | |
| OJT Program Contact: | | Date of current review: | |
| Web Link: | | | |

| Program Element | Regulatory Authority | YES NO N/A (Not applicable) | Comments |
|---|--|-----------------------------------|----------|
| OJT Plan Purpose, Objective, and Structure | | | |
| Does the State DOT OJT Plan provide contact information for the representative responsible for OJT implementation? | 23 USC 140(a) | | |
| Does the Plan have a link to or an attached organization chart showing staff responsible for OJT monitoring? | 23 CFR 230.111(a) | | |
| Does the Plan include a statement that the primary objective of the program is training and upgrading of minorities, women, and disadvantaged persons toward journey-level status in the construction crafts? A best practice is to include in the plan a message from the State DOT CEO expressing support of workforce diversity. | 23 CFR 230.111 (d)(1) & (2) | | |
| Does the Plan include a statement that the OJT requirements are not intended to discriminate against any applicant for training or displace workers in contractor's current workforce? | 23 USC 140(a) | | |
| Does the Plan expressly prohibit contractors from discriminating in the selection of apprentices and trainees on the bases of race, color, sex, and national origin, religion, age, and disability? | Appendix A to Subpart A of 23 CFR Part 230 | | |





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Questions/ Comments?

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