

Documenting EEO/AA Compliance - FHWA

A contractor is in compliance when it has implemented an EEO/AA program that fulfills the all of the requirements specified by FHWA in Form FHWA-1273. With FHWA approval, VDOT's Civil Rights Division has the authority to make determinations about a contractor's compliance with these requirements in their contracts.

Contractors must have in place practices to ensure nondiscrimination, equal opportunity and affirmative action. As noted in the "Guide to EEO Contract Compliance," FHWA regulations in 23 CFR Section 230 form the basis for VDOT's contract compliance and monitoring program. The VDOT Civil Rights Division carries out regular EEO compliance reviews of contractors to determine their compliance status according to the regulations. Not all compliant programs look the same and a variety of steps can be used to build a strong EEO/AA program. However, the regulations do emphasize certain key program features. For example, under 23 CFR 230.409 (e) (6), determinations about compliance should be based on the factors listed below:

1. Is there reasonable representation and utilization of minorities and women in each craft, classification or occupation? If not, what has the contractor done to increase recruitment, hiring, upgrading, and training of minorities and women?
2. What action is the contractor taking to meet the contractual requirement to provide equal employment opportunity?
3. Are the actions taken by the contractor acceptable? Could they reasonably be expected to result in increased utilization of minorities and women?
4. Is there impartiality in treatment of minorities and women?
5. Are affirmative action measures of an isolated nature or are they continuing?
6. Have the contractor's efforts produced results?

Regulations at 23 CFR 230.409 (g) (3) state that the compliance status of the contractor will usually be reflected by positive efforts in the following areas:

1. The contractor's equal employment opportunity (EEO) policy
2. Dissemination of the policy and education of supervisory employees concerning their responsibilities in implementing the EEO policy
3. The authority and responsibilities of the EEO officer
4. The contractor's recruitment activities, especially establishing minority and female recruitment and referral procedures
5. The extent of participation and minority and female utilization in FHWA training programs

6. The contractor's review of personnel actions to ensure equal opportunities
7. The contractor's participation in apprenticeship or other training
8. The contractor's relationship (if any) with unions and minority and female union membership
9. Effective measures to assure non-segregated facilities, as required by contract provisions
10. The contractor's procedures for monitoring subcontractors and utilization of minority and female subcontractors and/or subcontractors with substantial minority and female employment
11. The adequacy of the contractor's records and reports.

Documenting EEO/AA Compliance – US Department of Labor

VDOT's Civil Rights Division has the authority to monitor contractors' compliance with Executive Order 11246 and implementing regulations as administered by the US Department of Labor (DOL) at 41 CFR 60-1 and 60-4. The Civil Rights Division reviews contractors' compliance with these specifications and is required to refer any suspected violations of the regulations to the DOL Office of Contract Compliance Programs (OFCCP) for determination. The DOL regulations are referred to as the "Equal Opportunity Clause" and "Standard Federal Equal Opportunity Construction Contract Specifications."

The Equal Opportunity Clause includes reference to workforce participation goals for women and minorities on covered projects at specified geographic locations. Contractors' good faith efforts to implement an affirmative action program should make it possible for them to employ women and minorities at the percentages indicated for each locality.

For the US Department of Labor, OFCCP, the following abbreviated action steps are indicators of a contractor's compliance:

1. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites and in all facilities at which the Contractor's employees are assigned to work
2. Establish and maintain a current list of minority and female recruitment sources
3. Maintain a current file of the names, addresses and telephone numbers of each minority and female off the street applicant
4. Report instances where a labor union refuses to enroll newly hired minorities and women
5. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women

6. Disseminate the Contractor's EEO policy
7. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions
8. Disseminate the Contractor's EEO policy externally by including in any news media advertisement that the Contractor is "An Equal Opportunity Employer"
9. Directs its recruitment efforts, both oral and written, to minority, female and community organizations
10. Encourage present minority and female employees to recruit other minority persons and women
11. Validate all tests and other selection requirements where there is an obligation to do so
12. Conduct, at least annually, an inventory and evaluation of all minority and female personnel for promotional opportunities
13. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out
14. Ensure that all facilities and company activities are non-segregated
15. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers
16. Conduct a review, at least annually, of all supervisors' adherence to and performance under the contractor's EEO policies and affirmative action obligations