

**ARIZONA  
DEPARTMENT OF TRANSPORTATION  
CIVIL RIGHTS OFFICE**

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**Equal Employment Opportunity Contractor  
Compliance Program Plan for Federal Highway  
Administration (FHWA)**

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*Submitted: October 1, 2023*

*Reporting Period October 1, 2022- September 30, 2023*



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The Equal Employment Opportunity Contractor Compliance Program Plan is designed to aid the Civil Rights Office in its ability to provide oversight and ensure compliance with equal employment opportunity requirements of federally-assisted highway construction contracts.

This document will be updated annually to reflect changes in law, administration, regulation, and/or policy. This document is intended to provide guidance to department personnel and other interested entities and is not intended to or may not be relied upon to create any right or benefit enforceable by law, by a party against the department.

For individuals with disabilities, this document will be made available upon request in alternate formats. In addition, a translation of this plan into alternate languages will be made available upon request. To obtain a copy in one of these alternate formats or for questions or concerns, please contact:

**Arizona Department of Transportation**  
**Civil Rights Office**  
**206 S. 17th Avenue, MD 155A**  
**Phoenix, AZ 85007**  
**Phone: 602.712.8946**  
**Fax: 602.239.6257**  
[CivilRightsOffice@azdot.gov](mailto:CivilRightsOffice@azdot.gov)

A copy of this plan can be found online at <https://azdot.gov/business/civil-rights/contractor-compliance-program-external-eeo>

## **1. OVERVIEW**

### **1.1 Agency Responsibilities**

The Arizona Department of Transportation (ADOT), as a recipient of Federal financial assistance, has a responsibility to ensure contractors, subcontractors and suppliers working on Federal-aid highway construction contracts comply with Federal requirements including the equal opportunity requirements. The Contractor Compliance Program (CCP) establishes policies and procedures to determine a contractor's compliance with Equal Employment Opportunity (EEO) requirements. The CCP involves ongoing monitoring and review of contractor's efforts to comply with applicable EEO and affirmative action requirements. A formal compliance review is conducted to determine the contractors' adherence to the requirements of the contract and the effectiveness of the contractor's affirmative action efforts. The administration of the CCP is assigned to the Civil Rights Office (CRO).

### **1.2 Purpose**

The purpose of the CRO's CCP is to ensure that contractors and subcontractors performing work on federally assisted highway contracts do not discriminate in their employment and contracting practices based on race, color, religion, sex, national origin, age or disability. The ADOT administers a decentralized CCP to meet Federal Highway Administration (FHWA) regulations under 23 CFR 230. The specific Required Contract Provisions (FHWA-1273) are applicable to all contractors and subcontractors who hold Federal or Federal-aid contracts of \$10,000 or more.

Unless otherwise specified, the procedures of this Program apply to all Federal-aid highway construction contracts and subcontracts.

### **1.3 Implementation Responsibilities**

#### **1.3.1 The Civil Rights Office**

The CRO has the responsibility for setting policy, issuing guidance, providing training, technical assistance, and monitoring the contractor's EEO compliance through on-site visits. In addition, the CRO will provide compliance reporting to FHWA.

The CRO schedules, conducts, and prepares compliance reviews of contractors as identified in Section 2 of this plan. The review period is based on the federal fiscal year (October 1 to September 30).

#### **Civil Rights Director**

The Civil Rights Director is responsible for oversight of the following nondiscrimination programs:

- Americans with Disabilities Act (ADA) Program;
- Equal Employment Opportunity (EEO) Contractor Compliance Program;
- Affirmative Action Program;
- Title VI Nondiscrimination Program; and
- Title VII Equal Employment Opportunity Program.

**Deputy Civil Rights Director**

The Deputy Civil Rights Director's responsibilities include oversight and implementation of CRO's non-discrimination programs. The Deputy Civil Rights Director ensures that policies and practices are effectively designed and implemented to achieve the goals of each Program. The Deputy Civil Rights Director reports regularly on progress to the Civil Rights Director.

**Civil Rights Compliance Manager**

The Civil Rights Compliance Manager's oversight includes the day-to-day implementation of the Title VI Nondiscrimination Program and CCP Programs. The Civil Rights Compliance Manager is responsible full time for providing the overall management of compliance activities.

**Equal Employment Opportunity Program Contractor Compliance Program (EEO-CCP) Manager**

The EEO-CCP Manager works full time to assist the Civil Rights Compliance Manager in meeting responsibilities over all aspects of the day-to-day administration of the EEO-CCP. The EEO-CCP Manager is responsible for providing the overall management of construction contractor compliance activities relating to the EEO-CCP. Specific activities of the EEO-CCP Manager include but are not limited to:

- Attendance at Pre-Construction Meetings
- Conducting Periodic Field Compliance Reviews of prime contractor and subcontractor EEO programs
- Conducting Annual Training for Contractors, Resident Engineers, and other District personnel
- Ensuring that required contract provisions are in all Federal-aid contracts of \$10,000 or more
- Compiling and reporting annual accomplishments and other reports
- Investigating allegations of discrimination filed with ADOT CRO against contractors working on federal highway aid projects

**Equal Employment Opportunity Program Contractor Compliance Specialist**

The EEO-Contractor Compliance Specialist works to assist the EEO-CCP Manager full time in the review and responsibilities over all aspects of the EEO-CCP. In particular, the EEO- Contractor Compliance Specialist has the delegated task to focus on compliance responsibilities. The specialist's duties include but will not be limited to:

- Providing guidance on Contractor Compliance EEO matters and preparing required reports regarding compliance and monitoring activities
- Ensuring Contractors submit EEO Plans that meet federal requirements
- Complying with ADOT's procedures to conduct compliance reviews
- Conducting Contractor Compliance EEO training
- Developing technical assistance tools
- Complying with federal standards
- Providing technical assistance, tools, and resources for aiding compliance
- Assisting in investigating allegations of discrimination filed with ADOT CRO against contractors working on federal highway aid projects

**1.3.2 Field Reports**

Field Reports is responsible for monitoring compliance with prevailing wage requirements, ensuring trainees are enrolled in approved programs, and maintaining workforce data through ADOT's tracking and reporting systems.

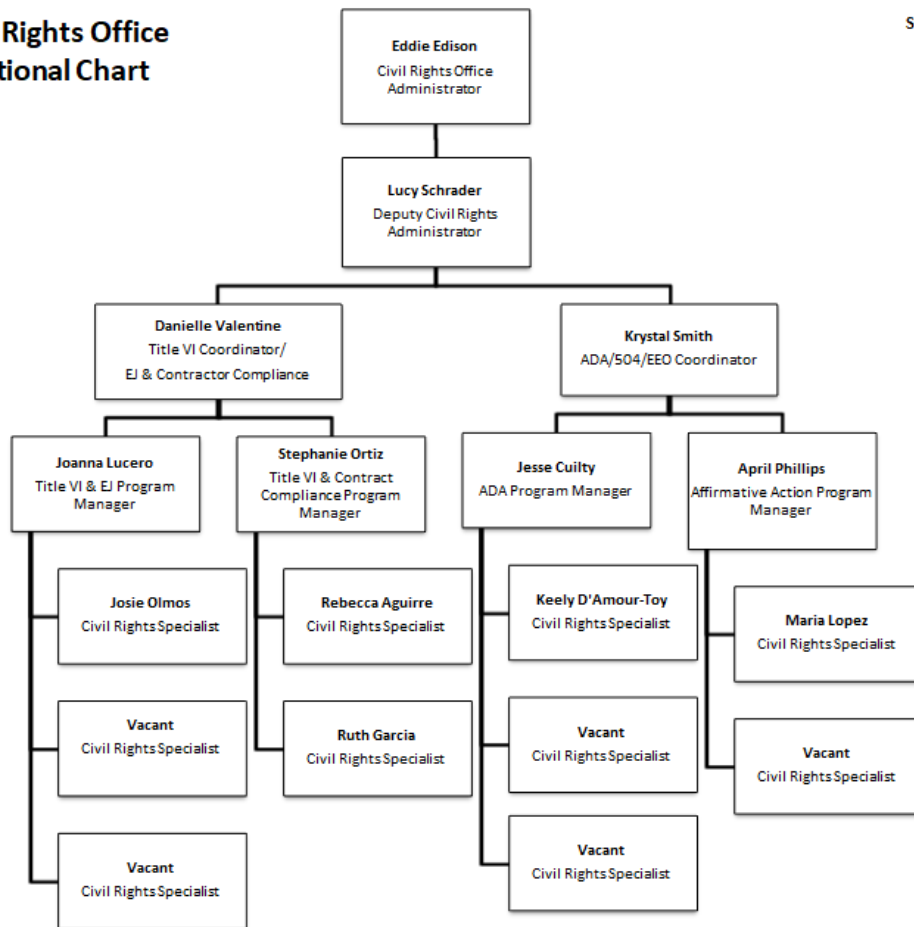
### 1.3.3 Business Engagement and Compliance Office (BECO)

BECO is responsible for implementation and administration of ADOT's OJT and OJT Supportive Services programs and monitoring ADOT and its subrecipient's projects for OJT compliance. BECO will submit the Federal-aid Highway Construction Summary of Employment Data (Form PR 1392) to FHWA.

### 1.4 Civil Rights Office Organization Chart

**ADOT Civil Rights Office  
Organizational Chart**

September 15, 2023



ADOT Organization Chart <https://azdot.gov/about/inside-adot/organization-chart>

## **2. CONTRACTOR COMPLIANCE REVIEWS**

### **2.1 Purpose**

FHWA requires ADOT as a contracting agency to ensure compliance of contractors with the requirements of Federal-aid construction contracts. Contractor Compliance Reviews are performed on Federal-aid Highway projects in order to determine if contractors and subcontractors are complying with the equal employment opportunity and equal opportunity requirements of Federal-aid construction contracts. The compliance review processes consist of the following:

- Review Scheduling
- Contractor Notification
- Preliminary Analysis and Initial Meeting
- Onsite Verification and Interviews
- Exit Conference
- Compliance Determination
- Formal Notification
- Follow up Reviews

### **2.2 Review Scheduling**

Priority in scheduling equal opportunity compliance reviews shall be given to reviewing those contractor's workforces that are:

- Performing work on multiple or large volume contracts
- Which hold the greatest potential for employment and promotion of minorities and females
- Working in areas with high minority and female labor forces within a reasonable recruitment area
- Where the contractors compliance with Equal Opportunity is questionable based on a review of employment data, previous compliance reviews, on-site visits, and certified payroll
- Where there is evidence that the contractor may have engaged in, or tolerated alleged discriminatory practices

In addition, the following considerations shall apply:

- Reviews requested by FHWA shall receive priority scheduling
- Contractors who have had a history of compliance issues or have a high volume of employee complaints
- Contractors who fail to cooperate with the request for evidence of compliance documents

### **2.3 Contractor Notification**

CCP Staff provides written notification to the contractor of the pending compliance review and the scheduled month of the review(s). These confirmations will be sent electronically to the contractor through DocuSign at least 30 days prior to the scheduled onsite visit. CCP Staff contact the contractor and attempt to schedule a mutually agreeable date for the compliance review not later than the 15th of the second month prior to the proposed month (e.g. not later than June 15th for an August review). The contractor shall be requested to provide a meeting place on the day of the visit either at the local office of the contractor or at the jobsite.

Approximately 30 days in advance of the agreed upon date, time, and location of the on-site verification and interview, CCP Staff will confirm to the contractor, in writing, the date(s) and location of the on-site verification, and will issue written confirmation of rescheduled dates, if required.

The written notification to the contractor includes a detailed checklist of the information that will need to be provided, outline the process and basis of the review, and required interviews.

The contractor shall be requested to supply all of the following information to the CCP Staff prior to the onsite verification and interviews:

1. Current Form FHWA -1391 developed from the most recent payroll;
2. Copies of all current bargaining agreements;
3. Copies of purchase orders and subcontracts containing the EEO clause;
4. A list of recruitment/referral sources available and utilized;
5. A statement of the status of any action pertaining to employment practices taken by the Equal Employment Opportunity Commission (EEOC) or other Federal, State or local agency, or internally regarding the contractor or from present or past employees;
6. A list of new hires, rehires, promotions or firings during the past six (6) months broken down by race, sex, and job classification;
7. The most recent certified payroll to show race, sex, national origin, date of hire, and job classification of all employees;
8. A list of minority or female owned companies contacted as possible subcontractors, vendors, material suppliers, and those selected;
9. A copy of the EEO Policy Statement and Affirmative Action Plan; and
10. Any other necessary documents or statements requested by the CCP Staff.

For a project review, the prime contractor is responsible for ensuring that all active subcontractors are present at the meeting and have supplied the required documentation listed in 2.3 Contractor Notification. The prime contractor is responsible for EEO compliance by any subcontractor or lower tier subcontractor.

#### **2.4 Preliminary Analysis -Desk Audit**

Before the onsite verification and interviews, the CCP Staff shall analyze the employment patterns, policies, practices, programs of the contractor, and good faith efforts to determine whether or not problems exist by reviewing information relative to:

1. The contractor's current workforce;
2. The contractor's relationship with referral sources, e.g. union employment agencies, community action agencies, minority and female organizations, etc.;
3. The minority and female representation of sources;
4. The availability of minorities and females with requisite skills in a reasonable recruitment area based on U.S Census data or U.S. Department of Labor Statistics;
5. Any pending EEOC or Department of Justice cases or local or State Fair Employment Agency cases which are relevant to the contractor and/or the referral sources; and
6. The related project (and/or contractor) file to obtain current information relating to the status of the contractor's project(s), value, scheduled duration, written corrective action plans, FHWA-1391 Report, training requirements, previous compliance reviews, information submitted in the reporting system, and other pertinent correspondence and/or reports.



Good faith efforts are those intense, aggressive, sincere and result oriented documented actions taken by the contractor designed to ensure equal opportunities for minorities and women under the contract.

## **2.5 Onsite Verification and Interviews**

The CCP Staff conducts a brief meeting with the Contractor's EEO Officer, EEO Contract Site Representatives, a representative of each active Subcontract working that week (Superintendent or Foreperson), and the Resident Engineer at the Engineer's Field Office. The contractor's representative should have the authority to make decisions on behalf of the contractor with regard to corrective actions.

The purpose of the meeting is to briefly explain to those present what a civil rights compliance review is, why a review is being conducted, and what may result from the review. The CCP Staff should distribute copies of the Civil Rights Compliance Review Fact Sheet to attendees. The CCP Staff will ask the Contractor/Subcontractors what workers are onsite, (by trade, classification, ethnicity and gender) so that the CCP Staff may select individuals for employee interviews, typically conducted later that day. If the Resident Engineer's Field Office is not large enough, or the Resident Engineer requests that another site be designated, the contractor shall provide the alternate site. The contractor is responsible for ensuring that all active Subcontractors are present at the meeting.

Larger contracts may require more than one day to complete the on-site verification and interviews. The review will include at least one (1) construction site visit. During the on-site meeting, CCP Staff identifies and discusses with the contractor and active subcontractors any deficiencies found in the material submitted by the contractor, including the actual implementation of the employee referral source system and any discrepancies found in the material along with proposed corrective action. The CCP Staff compares the submitted documentation to the contractor's records. Accomplishments are also identified and discussed at this time.

After the initial meeting, the CCP Staff shall conduct a physical tour of the work site(s) to determine that:

1. EEO posters are displayed in conspicuous place in a legible fashion;
2. Facilities are provided in a non-segregated basis (e.g., work areas, washroom, time-clocks, locker rooms, storage areas, parking lots and drinking fountains);
3. Supervisory personnel and office employees have been oriented to the contractor's EEO commitments;
4. The employee referral source system is being implemented;
5. Reported employment data is accurate;
6. Meetings have been held with employees to discuss EEO policy, particularly new employees; and
7. Employees are aware of their right to file complaints of discrimination.

Contractor Compliance Program Staff shall:

1. Interview and complete an employee questionnaire for at least one (1) trainee/apprentice who is fulfilling the Training Requirements Item (if applicable), one (1) minority, one (1) non-minority, and one (1) woman employee in each trade, classification, or occupation. The contractor's EEO Officer, superintendent or Foreperson or home office manager will also be interviewed.
2. Determine the union membership status of union employees on the site, on a sample basis (e.g. whether they have permits, membership cards, or books, and in what category they are classified).
3. Determine the method utilized to place employees on the job and whether equal opportunity requirements have been followed.

4. Request any other documentation deemed necessary to ensure contractor compliance.

Contractor Compliance Program Staff shall make the following determinations in the review report:

1. Is there reasonable representation and utilization of minorities and women in each craft, classification or occupation? If not, what methods has the contractor implemented 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 minority and women employees?
5. Are affirmative action measures of an isolated nature or are they continuing?
6. Have the contractor's efforts produced results?

## **2.6 Exit Conference**

Before concluding the review process, the CCP Staff will conduct an exit conference with the contractor. If the contractor is in compliance, CCP Staff may conduct the Exit Conference via telephone conference call.

If the contractor is not in compliance, CCP Staff conducts an exit conference at the onsite designated location and the following topics shall be discussed:

- a) All findings that, if not corrected immediately or corrected by the adoption of an acceptable voluntary corrective action plan, would require a determination of non-compliance.
- b) Actions and time frames of correcting identified deficiencies.
- c) The voluntary corrective action plan that is discussed and agreed upon. Notification of the voluntary corrective action plan is sent to the contractor within 5 days of the exit conference.
- d) Any other matter that could be resolved before concluding the onsite portion of the review.

## **2.7 Compliance Determination**

Based on information obtained through the compliance review, the CCP Staff conducting the review shall determine the contractor's compliance or noncompliance with contractual provisions and include written documentation to support the review findings. The compliance status of the contractor will be determined in part by evidence of good faith efforts in the following areas:

- The contractor's equal employment opportunity (EEO) policy;
- Dissemination of the EEO policy and education of supervisory personnel and office employees concerning their responsibilities in implementing the EEO policy;
- The authority and responsibilities of the EEO officer;
- Periodic EEO meetings;
- Bulletin board notices and posters;
- Advertising as an "EEO Employer";
- The contractor's systematic and direct recruitment activities, especially establishing minority and female recruitment and referral procedures;
- Encouraging present employees to refer minorities and women;
- Investigating all complaints and providing timely responses to employee concerns/complaints;
- The extent of utilizing minority and females in training programs;
- The contractor's review of personnel actions to ensure equal employment opportunities;

- The contractor's participation in training;
- The contractor's relationship (if any) with unions and minority and female union membership;
- Minorities and women are employed in all crafts and job classifications on an equal basis;
- Effective measures to ensure non-segregated facilities, as required by contract provisions;
- The contractor's procedures for monitoring subcontractors utilization of minority and females in the subcontractors workforce to ensure compliance with nondiscrimination, EO, EEO obligations; and
- The adequacy of the contractor's records and reports.

A contractor shall be considered to be in compliance when the equal opportunity requirements have been effectively implemented, or there is evidence that every good faith effort has been made toward achieving this end. Efforts to achieve this goal shall be result-oriented, initiated and maintained in good faith, and emphasized as any other vital management function.

A contractor shall be considered to be in noncompliance when:

1. The contractor has discriminated against applicants or employees with respect to the conditions or privileges of employment;
2. The contractor fails to provide evidence of every good faith effort to provide equal opportunity; or
3. The contractor fails to implement an approved voluntary corrective action plan or the agreed upon corrective actions fail to result in the necessary changes.

## **2.8 Formal Notification**

The contractor is notified in writing of the compliance determination within 15 days following the completion of the onsite verification and exit conference. Once the onsite verification and exit conference have been completed and a compliance determination has been made, the CRO will prepare a contract compliance review report and submit to the FHWA Civil Rights Specialist for concurrence and approval. FHWA Civil Rights Specialist indicates concurrence, and, where appropriate, prepares comments.

If a contractor is found to be in noncompliance, after efforts to bring the contractor into compliance have been unsuccessful, formal efforts to bring the contractor into compliance shall be initiated through the issuance of a show cause notice. The notice shall advise the contractor to show cause within thirty (30) days why sanctions should not be imposed. The date of the contractor's receipt of the show cause notice shall begin the 30-day show cause process.

### **2.8.1 Voluntary Corrective Action Procedures**

Voluntary corrective action plans may be negotiated at the exit conference. The acceptance of a voluntary corrective action plan at the exit conference does not prevent a determination of noncompliance, particularly if deficiencies not addressed by the plan are uncovered during the final analysis and report writing. A voluntary corrective action plan should be accepted with the understanding that it only addresses those problems uncovered prior to the exit conference.

If there are no major deficiencies identified which require a more formal Corrective Action Plan, a voluntary corrective action plan may be submitted to the CRO following the exit conference and approved prior to the issuance of a show cause notice. If the contractor fails to implement an approved voluntary corrective action plan or the agreed upon corrective actions fail to result in the necessary changes the contractor shall be considered to be in noncompliance.

### **2.8.2 Show Cause Procedures**

A Show Cause Notice shall be issued when a determination of noncompliance is made based upon:

- The findings of a compliance review; or
- The results of an investigation which verifies the existence of discrimination.

Show cause notices will normally be issued by ADOT to federally funded contractors when ADOT has made a determination of noncompliance, or when FHWA has made such a determination and has requested ADOT to issue the notice.

The show cause notice must:

1. Notify the contractor of their noncompliance status and the basis for the determination of noncompliance.
2. Notify the contractor of their obligation to show cause within 30 days why formal proceedings should not be instituted.
3. Schedule a compliance conference to be held approximately fifteen (15) days from the date of the contractor's receipt of the notice and specify the date, time and place of the conference.
4. Advise the contractor of the availability and willingness of the CRO to conciliate within the time limits of the show cause notice.

In preparing and processing the show cause notice, the CRO CCP Staff who conducted the investigation or review shall:

1. Develop complete background data for the issuance of the show cause notice and submit the recommendation to the Civil Rights Office Deputy Administrator.
2. Issue a recommendation, background data, or final draft notice shall be reviewed by appropriate ADOT legal counsel.
3. Deliver the notice to the contractor by personal service, or delivered by DocuSign (Certified Mail), return receipt requested, with a certificate of service or the return receipt filed with the case record. The date of contractor's receipt of the Show Cause Notice shall begin the 30 day show cause period.
4. Issue the 30 day Show Cause Notice directly to the non-compliant contractor or subcontractor with an informational copy sent to any concerned prime contractors.

Conciliation efforts during show cause period:

1. The CCP Manager is required to attempt conciliation with the contractor throughout the show cause time period. Conciliation and negotiation efforts shall be directed toward correcting contractor program deficiencies and initiating corrective action which will maintain and ensure equal opportunity. Records shall be maintained in ADOT case files indicating actions and reactions of the contractor, a brief synopsis of any meeting with the contractor, notes on verbal communication and written correspondence, request for assistance or interpretations, and other relevant matters.
2. In instances where a contractor is determined to be in compliance after a show cause notice has been issued, the Show Cause Notice will be rescinded and the contractor formally notified of the change to compliance status.

### **2.8.3 Corrective Action Plans**

The following procedural steps, in modified form come from 23 CFR Part 230.409.

1. 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 plan may be accepted. The written corrective action plan shall clearly specify actions by the contractor with time limits for completion. Insufficient actions to correct cited deficiencies will not be accepted.
2. When a contractor submits an acceptable written corrective action plan, the contractor shall be considered in compliance during the plan's effective implementation and submission of required progress reports.
3. When an acceptable corrective action plan is not agreed upon and the contractor does not otherwise show cause as required, a notice of breach of contract and a recommendation to withhold funds shall be made to ADOT's State Engineer's Office.
4. When a contractor, after having submitted an acceptable corrective action plan and being determined in compliance is subsequently determined to be in noncompliance based upon the contractor's failure to implement the corrective action plan, a notice of breach of contract and a recommendation to withhold funds shall be made to ADOT's State Engineer's Office. There are no provisions for reinstituting a show cause notice.
5. When a contractor operating under an acceptable corrective action plan carries out the provisions of the corrective action plan but the actions do not result in the necessary changes, the corrective action plan shall be immediately amended through negotiations. If the contractor refuses to appropriately amend the corrective action plan, a recommendation to withhold the monthly estimate for the project shall be made to ADOT's State Engineer's Office.
6. A contractor operating under an approved voluntary corrective action plan entered into prior to the issuance of a show cause must be issued a 30-day show cause notice if the contractor fails to implement an approved corrective action plan or the agreed upon corrective actions fail to result in the necessary changes.

### **2.8.4 Review Reports**

The CCP Staff shall maintain detailed notes from the beginning of the review from which a comprehensive compliance review report can be developed.

The completed compliance review report shall contain documentary evidence to support the determination of the contractor or subcontractor's compliance status. The report must be submitted within 15 days of completion of the review to the Civil Rights Compliance Manager or designee.

Findings, conclusions, and recommendations shall be clearly stated and supported by documentary evidence. The compliance review report shall contain the following information:

1. Complete name and address of contractor
2. Project(s) identification
3. Basis for the review, i.e., area / project workforce, home office / target area workforce
4. Identification of Federal or Federal-aid contract(s)
5. Date of review
6. Employment data by job craft, classification of occupation by race /sex in accordance with the basis for the review listed above. This shall be the data verified during the onsite

7. Identification of local unions involved with contractor, when applicable
8. Determination of compliance status: compliance or noncompliance. The determination of compliance will include documentation to support the findings.
9. Copy of show cause notice or compliance notification sent to contractor
10. Name and title of CRO reviewer who conducted the review.

Each contractor (a joint venture is one contractor) will be reported separately. When a project review is conducted, the reports shall be attached with the initial report being that of the prime contractor followed by the reports of each subcontractor. CCP Staff is responsible for ensuring that required information is contained in the report.

When a project review is conducted, the project workforce shall be reported. During an area wide review (all Federal-aid, Federal and non-federal projects in an area) area wide workforce shall be reported.

### **2.8.5 Contract Sanctions**

ADOT may impose contract sanctions and initiate appropriate legal proceedings under applicable Federal-aid highway projects. ADOT will actively cooperate with the FHWA and the Office of Federal Contract Compliance Programs in all investigations and enforcement actions initiated by either agency. Sanctions imposed will be reviewed by the agency's assigned Attorney General Office to ensure legal sufficiency.

### **2.9 Follow- Up Reviews**

A follow-up review is an extension of the initial review process to verify the contractor's performance of corrective action and to validate progress report information. Therefore, follow-up reviews shall be conducted of those contractors where the initial review resulted in a finding of noncompliance, an approved voluntary corrective action plan was entered, or a show cause notice was issued.

A follow-up review shall be conducted at the earliest reasonable opportunity that allows the contractor the best opportunity to implement the corrective actions. Follow-up reviews shall be reported as a narrative summary referencing the findings/deficiencies in the initial review report. The narrative summary will evaluate the adequacy of the contractor's corrective actions in addressing identified deficiencies.

If the follow-up review determines the contractor has not implemented the corrective actions in accordance with its written commitments, and the opportunity existed to do so, the contractor must be found in non-compliance, a notice of breach of contract and a recommendation to withhold funds shall be made to ADOT's State Engineer's Office. Such administrative efforts include negotiation, conciliation, and persuasion and may involve determining the contractor a non-responsible bidder on contracts containing the provisions which were initially violated and not subsequently corrected when the opportunity existed; reducing the contractor's bid ceiling; canceling or suspending the contract(s) on which the violations were found; or debarring the contractor from future contracts. There are no provisions for reinstituting a show cause notice.

## **3. COMPLIANCE TRAINING AND TECHNICAL ASSISTANCE**

The CRO will provide training to contractor personnel as well as other ADOT compliance staff regarding the requirements of ADOT's CCP. CRO is responsible for providing training workshops to advise contractors of their EEO contract requirements (FHWA 1273). A minimum of one training workshop will be provided per federal fiscal year, by October 1 of each year to contractors with current ADOT contracts.

Additional training sessions will be held for contractors bidding for future contracts as needed or at any preconstruction conference held in connection with a Federal-aid contract. The EEO Contractor Compliance Training will provide contractors with information related to the Required Contract Provisions and offer an open forum in which "best practices" can be discussed and exchanged.

## **4. COMPLAINTS**

ADOT and its contractors shall not discriminate on the basis of race, color, religion, sex, national origin, age or disability in the award and performance of federal aid contracts. ADOT will advise each contractor, through state contract specifications, (FHWA 1273) that failure to carry out these requirements shall constitute a breach of contract and may result in termination of the contract or such remedy, as ADOT deems appropriate.

Contractors are responsible for not only the Equal Employment Opportunity compliance of their own company, but also the compliance of their subcontractors. Contractors must ensure that:

1. A prompt internal investigation is conducted and documented.
2. An attempt to resolve complaints and take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect a person other than the complainant, corrective action shall include such other persons.
3. The matter has been resolved. If the complaint has not been resolved, the contractor will notify the CRO and a decision will be made based on the information gathered during the follow-up inquiry. If unlawful discrimination has occurred, the CRO will be responsible for bringing the matter to the attention of the FHWA.
4. The investigator issues one of two letters to the complainant: a closure letter or a letter of finding (LOF). A closure letter summarizes the allegations and states that there was not a Discrimination violation and that the case will be closed. An LOF summarizes the allegations and the interviews regarding the alleged incident, and explains whether any disciplinary action, additional training of the staff member or other action will occur.

On active FHWA ADOT projects, a copy of either the closure letter or LOF must be submitted to ADOT CRO within 72 hours of that decision. Letters may be submitted by hardcopy or email.

When a contractor's employee files a complaint of discrimination or harassment to any ADOT personnel alleging discriminatory practices by the contractor on an ADOT FHWA project, the complaint should be referred to the contractor for investigation. If requested by the contractor, the Civil Rights Compliance Manager or designee may assist the contractor with the processing of the complaint.

## **5. RESOURCES**

### **5.1 Technical Assistance**

The ADOT CRO is responsible for providing ADOT's program areas and contractors with Equal Employment Opportunity Contractor Compliance technical assistance. This includes advising program areas of requirements, implementing, and assisting in developing EEO plans.



- Form FHWA 1273 - Required Contract Provisions Federal-Aid Construction Contracts  
<https://www.fhwa.dot.gov/programadmin/contracts/1273/1273.pdf>
- FHWA Contract Administration Core Curriculum Manual  
<https://www.fhwa.dot.gov/construction/cqit/>
- Construction Contract EO Compliance Procedures Regulations 23 CFR 230, Subpart D  
<https://www.fhwa.dot.gov/legsregs/directives/fapg/cfr0230d.htm>

## 5.2 Elements of a Compliant EEO Program

- Written EEO Policy & Procedures – Document and implement, through signature of company office, an EEO Policy and Procedures and adhere to its requirements.
- Dissemination of the EEO Policy - Identifies to workers the EEO Officer
- Selection and Announcement of EEO Officer – Ensure continuous appointment of an EEO Officer and disseminate the officer's name and contact data to ADOT.
- Periodic EEO meetings with all employees conducted by the EEO Officer
- Job site bulletin board -Installations and maintenance of a fixture for the display of information on various rights, protections and appeals to all workers and the public
- Recruitment activities intended to produce a flow of qualified minorities and women applicants for employment consideration.
  - Advertising as “An Equal Employment Opportunity Employer”
  - Advertise in publications with a large minority circulation in the area where project work force is drawn
  - Training of personnel involved in recruitment
  - Direct and systematic recruitment programs
  - Recruit through public and private referral sources
  - Encourage referrals from current employees
  - Analysis and updating
  - Record Keeping (applicant logs)
- Inform supervisory personnel and others involved in personnel matters of all aspects of their EEO obligations as a contractor on ADOT construction projects within 30 days hire or appointment.
- Evaluate wages to determine if discrimination exists
- Process and procedures for investigating all complaints of alleged discrimination in connection with the obligations in the contractors contract
- Assist in locating, qualifying and increasing the skills of minorities and women
- Uses training programs and advises employees and applicants of opportunities
- Minorities and women exist in contractor's training program
- Minorities and women are employed in all occupations, crafts and job classifications on an equal basis
- Procedures establishing the monitoring of subcontractors' compliance with nondiscrimination, EO and EEO procedures
- Non-segregated Facilities - Ensure that working conditions and facilities used or provided in association with employment are not discriminatory.
- Adequate EEO related records and reports -Maintain a continuous written record documenting policy, procedures, officer designations, programs, communications, disseminations, analysis, effectiveness assessments, etc.



- Minorities and women reach accumulating work hours expected based on their representation
- Written notices have been sent to unions (contractors' signatory to union agreements are required to use their best efforts to incorporate an EEO clause into each union agreement pursuant to 23 CFR 230, Subpart A, Appendix A). The contractor shall notify the union(s) of their commitment to EEO. The EEO officer representing the contractor understands their role and responsibilities. The EEO clauses are included in purchase orders, subcontracts, and collective bargaining agreements.

## **6. ACCOMPLISHMENTS**

### **6.1 Regular Project Reviews**

- Number of project compliance reviews conducted during federal fiscal year: 17
- Number of contractors selected for review: 17
  - 4 contractors in review
  - 0 contractor is scheduled for review
- Number of contractor reviews closed: 13
- Number of contractors found in compliance: 13
- Number of contractors with a voluntary corrective action plan: 2
- Number of follow-up reviews: 2
- Number of scheduled contract compliance reviews FY 23: 17
- Number of show cause notices issued: 0

### **6.2 Consolidated Compliance Reviews**

- Zero

### **6.3 Home Office Reviews**

- Zero

### **6.4 Major Problems Encountered**

- Zero

### **6.5 Other Accomplishments**

- Number of completed subcontractors desks reviews: 233
- Number of completed subcontractors onsite interviews: 44
- Collaborated with Partnering Facilitator for 29 contracts preconstruction conferences attendance and training in connection with a Federal-aid contract with a total of 781 attendees.
- Presented 12 EEO Contractor Compliance Virtual Training to Internal personnel, contractors, subcontractors and lower tiered subcontractors for the reintroduction of ADOT's oversight requirements. EEO Contractor Compliance Program's training has assisted ADOT partner with its external stakeholders to ensure compliance with equal employment opportunity requirements.