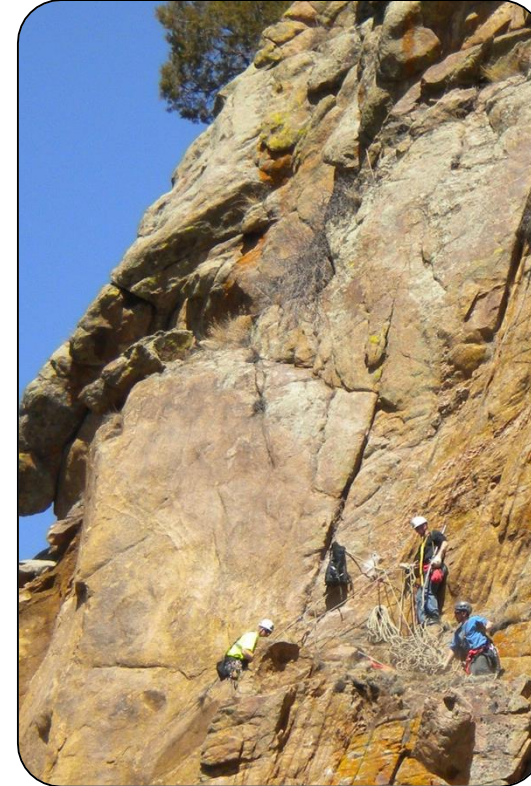
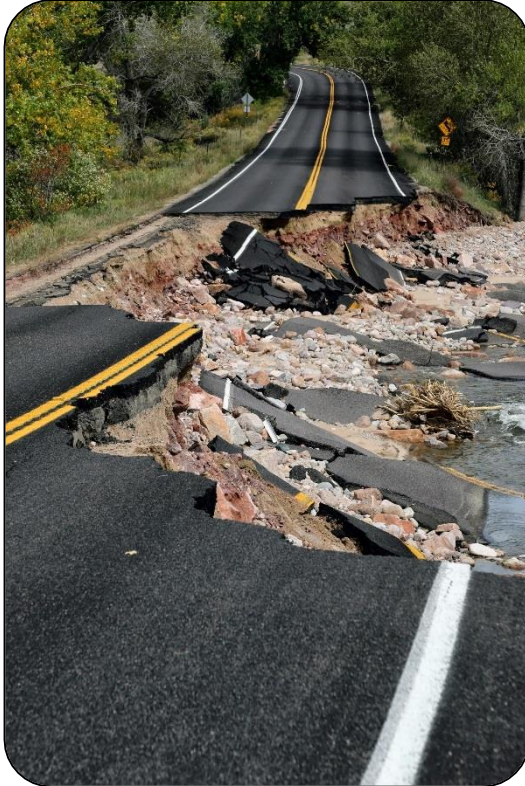




COLORADO
Department of Transportation



Civil Rights and Labor Compliance

Through the Life Cycle of a Project



Today's Schedule

Part One - Bidding Requirements

- Contractor Registration
- Prime Contractor Prequalification
- Wage Decision & Bidding
 - Local Agency & DB Wages
- OJT Training Requirements
- Small Business DBE & ESB

Part Two - Award Process

- Sublet Permit Application -- 205
- DBE Utilization Plan
- Forms 1415, 1416
- FHWA 1273

Part Three -- Pre-Construction Meeting

- Safety & Accident Prevention Plan
- Workplace Violence Policy, EEO Policy, and AAP
- Written Notification to OFCCP



Part Three -- Pre Construction Cont.

- Nondiscrimination: Title VI
- On-the-Job Training Program

Part Four - Active Project Compliance

- Bulletin Boards Postings
- ADA Requirements
- Prompt Payment to Subs & Reporting
- Release of Retainage to Subcontractors
- Form 1420
- Contractor Compliance Reviews
- FHWA 1391

Part Five - Labor Compliance

- Regulations
 - Davis-Bacon, CWHSSA, FLSA, Copeland Act
- Trucking
- Certified Payroll Records
- Wage Decision Info. & Conformances
- CDOT Form 280



Part One – Bidding Requirements

Part One - Bidding Requirements

- Contractor Registration
- Contractor Prequalification
- Using the Wage Decision
- Local Agencies - D-B Determination
- OJT Training Requirements
- DBE & ESB Contract Goals





Contractor Registration

- All firms working on a CDOT job must register with CDOT in B2GNow, and to WORK with CDOT, you must be registered. Once you finish filling out the form, it will say “Auto Accepted.”
- Annual renewal required. You WILL get a system generated email to renew again.
- Account is available immediately
- Registration is required in order to process the 205. If contractors do NOT get registered, it is likely to create backups and delays down the line. THIS COULD HOLD UP A PAYMENT.

CDOT Prime Test 1

New Contractor's Registration/Prequalification & Renewal

Contractor's Registrations/Prequalifications

No Contractor's Registrations/Prequalifications found.

[Customer Support](#)
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Contractor Registration

In order to register a company within B2G:

- Verify that your firm is registered:
 - Login to B2GNow
 - From the Left Menu, Select:
 - View, then
 - My Registrations/Prequalifications
- Once again, WHO must register? All primes, subs, and suppliers.
- Do owner - operators have to register? YES

CDOT Prime Test 1

New Contractor's Registration/Prequalification & Renewal

Contractor's Registrations/Prequalifications

No Contractor's Registrations/Prequalifications found.

[Customer Support](#)
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Contractor Prequalification

- Now submitted electronically through B2GNow
- Available immediately for new prequalifications or upon renewal of existing prequalification
- Different from contractor registration
- Required to bid as a Prime (including ESB Primes)
- Appear on the Prequalified Contractor Directory (accessible from the B2G Login Page)
- Please note that these processes are distinct. Simply because you're registered doesn't mean that you're prequalified or vice versa.

REGISTRATION AND PREQUALIFICATION

Do highway construction work with CDOT

Register & Prequalify

Search Vendor Directory

For more information on Prequalification, please contact Marci Gray at (303)757-9297.



Using the Wage Decision

- How do I know if Davis-Bacon wages are required for this job?
- Where is the wage decision located?
- If I can't find a copy of the wage decision, how do I get a copy of it?
- More in depth information in the manual





Local Agencies

- Local agency manual available as a resource
 - Current version 2016
- FHWA 1273 applies
 - CDOT specifications
- Projects located on local roads and/or rural minor collectors exempt from Sections IV and V only (labor standards)
 - Exemption based on functional classification of road
- Davis Bacon applies on Safe Routes and on projects with TAP funds.





On-the-Job Training Program & Goals

- CDOT's Special Provision is an implementation of 23 USC 140(A).
- Intent to develop journey workers in skilled craft classifications (Construction)
- Training and upgrading geared toward minorities and women
 - No discrimination allowed
- Goals
- Preapproved Contractor plan required:
 - CDOT
 - FHWA
 - CCA
 - USDOL - Office of Apprenticeship





Disadvantaged Business Enterprise (DBE) Program & Goals

- Required by the federal government
- There are two components: race conscious and race neutral.
- State-funded projects do not have DBE goals
- Each federal-aid project is evaluated for a DBE goal and some projects are evaluated for ESB goals by the Region Civil Rights Office (RCRO)
- DBE goal is included in the DBE Project Worksheet in the project advertisement
- CDOT's overall DBE goal is 11.55%





Emerging Small Business (ESB) Program & Goals

- State approved program
- Race neutral
- Design-Build and P3 projects may have ESB goals or target participation percentage for prime incentives
- Projects of \$1 million or less can be restricted for bidding by ESB primes
 - Certified as an ESB prior to bid date
 - Meet bonding and insurance requirements
 - Perform at least 30% of the contract





Processes and Procedures

Pre Bid

- 1413 (Bidder's List) No Longer Collected with Bid
- This information will be collected with the upcoming new vendor registration for contractors.
- All contractors must register and renew annually.
 - Primes and subs
 - Suppliers
 - Simply having an account in vendor registration DOES NOT mean you are registered.





DBE Processes and Procedures With Bid Package

- 1414 - Anticipated DBE Participation Plan
- Online submission - no longer needs to be emailed to CRBRC

Letting: 20170202
2/2/2017 10:00:00 AM

Colorado Department of Transportation

Contract ID: C20757
Call: 001

COLORADO DEPARTMENT OF TRANSPORTATION ANTICIPATED DBE PARTICIPATION PLAN

Contact:
Contract Goal:
Contact Phone:
Region:
Contact Email:
Preferred Contact Method:

DBE Commitments

DBE FirmName:
Work to Be Performed:
Commitment Amount:
DBE Credit Amount:



Part Two – Award Process

- Permit Sublet Application
- DBE Utilization Plan
 - Form 1415
 - Form 1416
- Required Contract Provisions --1273





Sublet Permit Approval (205)

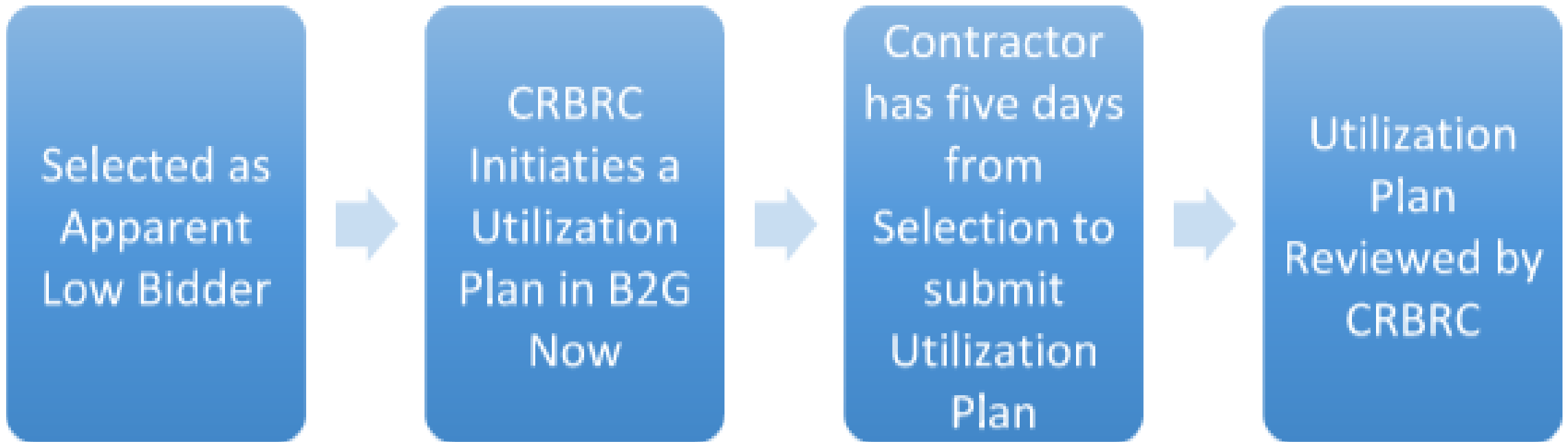
Subcontracting

- No changes to the specification
- New process: e-205s will be standard on both state and federal projects
 - Primes will submit sublet request electronically (through B2G) to add 205s into B2G.
 - Questions? Please reach out to your RCRO.
- Prime must perform at least 30% of the work with own forces.
 - Suppliers are (direct to prime) included in the 30%.
 - Leased employees may be included in 30%.
- Must request approval from CDOT with a 205.
- Sub cannot begin work until 205 is approved.
- ****Prime must provide an updated 1425 for all suppliers.****
- Process continues to be the same: prime - engineer - RCRO





DBE Processes and Procedures





DBE Processes and Procedures: Utilization Plans (UP)

- Replaced CDOT Form 1417
- Required per federal DBE regulations on any project with a DBE goal
- Submitted electronically through B2GNow by Prime Contractor prior to contract award
- LPA submits a hard copy of this form
- Lists all firms with a DBE commitment
- Should only reflect the commitment amount
- Reviewed by CDOT CRBRC
 - Notices of rejection, return, or approval automatically generated by the system upon CRBRC review
 - Returned plans must be resubmitted by the original deadline.



DBE Processes and Procedures: Utilization Plans

- To Complete the Plan, you will need to know:
 - Subcontractor's legal name
 - Subcontractor B2G contact person
 - Amount of commitment (\$)
 - All work to be performed by sub
 - Type of participation (i.e. supplier, subcontractor, etc.)
- Required Attachments:
 - 1415 (Always)
 - 1416 (As Needed)



DBE Processes and Procedures: Form 1415

- DBE Commitment Confirmation form
- Both Prime and Sub information & signatures required
- Gathers second tier subcontractor information from DBE
- Captures only commitment amount NOT total subcontract amount
- Submitted as attachment in B2G
- Must match information provided electronically
- Signatories must have signing authority for the firm.

COLORADO DEPARTMENT OF TRANSPORTATION				
COMMITMENT CONFIRMATION				
SECTION 1. This section must be completed by the Contractor.				
Project:		Project:		
Contractor:		Phone:		
Contact:		Email:		
DBE Firm Name:		DBE Phone:		
DBE Address:		DBE Email:		
Commitment Details				
Category	Work to be Performed	DBE Work Code(s)	Commitment Amount	Eligible Participation
Construction				
Trucking				
Supplies				
Services				
Total				
This section must be signed by an individual with the power to contractually bind the Bidder/Contractor. You declare under penalty of perjury in the second degree and any other applicable state or federal laws that the statements made in this document are complete, true and accurate to the best of your knowledge.				
Bidder/Contractor Representative	Title	Signature	Date	
SECTION 2. This section must be completed by the DBE. (Attach additional pages if necessary).				
This document is not a contract with the Bidder/Contractor; it is an acknowledgement of the obligation of the Bidder/Contractor is making to CDOT. The amounts listed above may be less than the subcontractor or purchase order amount, but can never be more, and shall not reflect any mark up by the Bidder/Contractor. All questions must be answered.				
Are you contracting directly with the Bidder/Contractor or with one of its subcontractors? If with a subcontractor, provide the firm name.				
Will you be purchasing supplies or materials or leasing or renting equipment from the Bidder/Contractor or its subcontractors? If so, explain.				
Do you intend to subcontract any portion of the work listed above? If yes, state to which firms, what work and the approximate amount. Include trucking subcontractors and owner-operators.				
Will you be providing trucking services on this project? If so, state how many of your own trucks and employees you will have on this project.				
Who within your firm will be supervising and responsible for your firm's work on this project?				
Will you be acting as a broker on this project? If so, state what you will be brokering and your approximate brokerage fee.				
Will you be acting as a supplier on this project? If so, please state what you will be supplying and whether you will manufacture the items.				

Commitments made through this process are binding contractual obligations even if the total commitment amount exceeds the DBE goal. CDOT will assess dollar for dollar sanctions if any commitment is not fulfilled even if the goal is met.



DBE Processes and Procedures: Form 1416

- Good Faith Effort Report
- ONLY submitted if prime won't make DBE goal.
- Submitted in the Waiver Section of the Utilization Plan
- Include any necessary documentation to prove GFE.
- Guidance and examples of GFE are located on CDOT's external website:

<https://www.codot.gov/business/civilrights/smallbusiness/dbe/gfe>



DBE Counting: Commitment vs Credit

Commitment

- Must equal goal at award; must fulfill commitments at completion
- Specific DBEs designated by the prime
- Commitments and any modifications require civil rights approval in advance (1415 or 1420)
- Commitments apply only to first tier subs, but lower tiers effect overall counting
- Commitments are not concerned with participation type.
 - It is the bidder's responsibility to know what percentage of the commitment will count toward the overall goal
- Commitments are must be fulfilled regardless of commercially useful functions

Credit

- Must equal goal upon completion
- Any DBE on the project *could* count for credit
- No prior civil rights approval required (except 205)
- Subcontractors must be DBE certified to perform the work contracted
- No credit for non-certified firms at any tier
- Participation Type Matters (Suppliers)
 - Manufacturers - 100%
 - Dealers - 60%
 - Brokers - Reasonable broker fee
- Commercially Useful Function (CUF)
 - If not performing a CUF, then no work will count
 - Cannot be a pass through
 - Work should be in accordance with industry practice
 - If not performing 30%, it is presumed not to be performing a CUF



How to Submit the UP in B2G

Utilization Plan Summary

Organization	Colorado Department of Transportation
Proposal	C19644: STA 095A-016 (19644) On Sheridan Blvd. from Hampden Ave. to Arizona Ave.
Reference	00000
Phase	Original, version 0
Status	ⓘ Pending Submission
Notification Date	12/4/2017 by Erica Downey
Due Date	12/9/2017 5:00 pm US/Mountain

Step 1: Provide Utilization Plan Information

Use this section to provide information on the plan. Click the button to Fill in Utilization Plan Details.

Utilization Plan Information

Estimated Bid/Transaction Amount Not entered yet (update)

Step 1 →
Fill In Utilization Plan Details

Step 2: Provide Subcontractor Information

Use this section to add subcontractors to the Utilization Plan, if applicable. Click the Add Subcontractor button to get started. Firms that do not perform commercially useful functions may not be counted toward DBE, and/or ESB utilization.

Certification Types Recognized for this Utilization Plan

Firms selected for credit on this utilization plan must hold one of the recognized certification types listed in this box.

Organization	Certification Type
City and County of Denver	ACDBE - Airport Concessionaire Disadvantaged Business Enterprise
City and County of Denver	DBE - Disadvantaged Business Enterprise
Colorado Department of Transportation	ACDBE - Airport Concessionaire Disadvantaged Business Enterprise
Colorado Department of Transportation	DBE - Disadvantaged Business Enterprise
Colorado Department of Transportation	ESB - Emerging Small Business

Prime Contractor

	Vendor Name	Cert	Inc in Goal	\$ Total	\$ Self Perf	\$ For Credit	Actions
P	CDOT Prime Test 1	No	No		\$0 0.00%	-	Edit View

Step 2 →
Add Subcontractor

Subcontractors

No subcontractors assigned to this utilization plan.

Step 3: Provide Waiver Request Details (if applicable)

A Waiver is required if the Utilization Plan has a status of below goal. To request a waiver provide a detailed explanation of the prime's business process; an inventory profile; an explanation as to why a waiver is being requested; and a supplier/subcontractor diversity plan or policy if applicable. To attach documents specifically related to the waiver request click **Attach Waiver Files**. When finished click **Save Waiver Details** before leaving the plan or attempting to complete another step.

Goal & Waiver Summary

Goal Type	Goal	Plan	Status	\$ to Reach Goal	Waiver Status
DBE	12.00%	0.00%	-12.00% below goal	\$0	ⓘ Waiver required
Enter DBE waiver request details and attachments: <div style="border: 1px solid gray; height: 30px; width: 100%;"></div>					
ESB	0.00%	0.00%	Met goal		
Total	12.00%	0.00%	-12.00% below goal	\$0	

Step 3 →
Save Waiver Details
(As Needed - 1416)



How to Submit the UP in B2G: Adding Subs

* required entry

Subcontractor Assignment

Subcontractor *

Contact Person *

Address *

[Get Subcontractor](#) from vendor database

None selected ▼

None selected ▼

Search for subs and identify contact person

Applicable Vendor Certifications

Assign a vendor and [click to refresh certification list](#)

Subcontractor Details

Subcontractor Tier *

Proposed Amount & Percent *

Count Towards Goal *

Type of Participation *

Work Description *

Work Codes

Estimated Start Date

Estimated End Date

Attached File(s)

Comments

Subcontracts to [Prime] CDOT Prime Test 1 ▼

By Amount: \$

Dollar Amount of Commitment

By Percent: %

Yes - Payments to this contractor will count towards the goal

Select "DBE"

No

- Subcontractor/Subconsultant
- Supplier - Manufacturer
- Supplier - Regular Dealer
- Supplier - Packager, Broker, Distrib., Wholesaler, Manuf. Rep.
- Joint Venture
- Fees & Commission Broker
- Trucking & Hauling
- Trucking & Hauling Brokerage

Select 1

List All Anticipated Work

Currently assigned work codes:

No Codes Assigned

Add Work Codes

Add Work Codes to support all types of work. Select from pre-approved codes or add as necessary. Only work that matches a pre-approved code will count for credit.

[Click here](#) to see if there are any available work codes assigned to recognized certifications for the assigned vendor.

(mm/dd/yyyy)

(mm/dd/yyyy)

Attach File

Attach 1415



Required Contract Provisions Federal-Aid Construction Contracts FHWA 1273

- I General
- II Nondiscrimination
- III Non-Segregated Facilities
- IV Davis-Bacon and Related Act Provisions
- V Contract Work Hours and Safety Standards Act Provisions
- VI Subletting or Assigning the Contract
- VII Safety: Accident Prevention
- VIII False Statements Concerning Highway Projects



Required Contract Provisions Federal-Aid Construction Contracts FHWA 1273

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).



Part Three – Pre-Construction Meeting

- Safety & Accident Prevention Plan
- Workplace Violence Policy
- Equal Employment Opportunity Policy
- Affirmative Action Plan
- Nondiscrimination: Title VI
- On-the-Job Training





Safety & Accident Prevention

- Contractors must comply with all applicable federal, state, and local laws to protect workers on the project.
 - Safety, Health, Life, and Sanitation
 - Obligation to protect the traveling public
 - Contractor must have an accident and prevention plan
 - Standard Specifications 107.06
- Project Safety Manager & Alt
 - Identify High Risk Activities
 - Location and Time of Safety Mtgs
 - Safety Compliance for Visitors
 - Safety Inspections
 - Signed Certifications
 - Safety Stand-Down Plan
 - Compliance Steps
 - Procedures for Suspected Drug / Alcohol Impairment



Workplace Violence Policy

- Standard Specifications 101.95 & 108.07
- Not tolerated
- Removed from project
 - CDOT employee/Consultant
 - Contractor's employee
- Written policy
- Office of Personnel Management guidelines





EEO Policy

- Meetings
 - Company
 - Date/Agenda
 - Roster
 - Minutes
 - Project
 - Employees
 - Subcontractors
- Complaint and Grievance Procedures
 - Company source
 - Outside sources
 - Colorado Civil Rights Division
 - Equal Employment Opportunity Commission





Affirmative Action Plan

- AAP different from EEO policy
 - Specific actions for promotions
 - Ensures EEO for all employees
 - Goals
 - Timetables
- Goal of an AAP
 - Workforce entrance based on competition
- Job performance standards
 - Occupational qualifications
- Disseminated to all employees





Title VI (Non-Discrimination Contracting)

- Title VI of the Civil Right’s Act of 1964 states that “no person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”
- DOT Title VI Regulation-49 CFR part 21
 - Provides guidance of the provisions of Title VI of the Civil Rights Act of 1964
- All discrimination complaints must be submitted to the Civil Rights and Business Resource Center.





Title VI (Non-Discrimination Contracting)

- The contractor is responsible for complying with CDOT's Title VI program and all Limited English Proficiency requirements.
- The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
- CDOT contractors shall seek to communicate with LEP populations and provide LEP individuals meaningful access to CDOT programs and activities.
- For all non-employment related discrimination please contact the Civil Rights and Business Resource Center.





On-the-Job Training

- Training Commitment
 - CDOT Form 1337
 - Contractor's Training Program Submittal(s) at Preconstruction Conference
- Trainee approval
 - Registration of Trainee/Apprentice in approved program
 - CDOT Form 838
 - RCRO approves
 - For set up in LCPtracker, contact your RCRO via email with a copy of the approved 838 and a document showing trainee rates for all levels.
- Pay scale (on 838)
 - Base rate and fringe benefits
 - Classification(s) and code(s)
- Monthly submittal
 - CDOT Form 832 with engineer approval.





Part Four – Active Project Compliance

- Bulletin Board Postings
- ADA Requirements
- Contractor Compliance Reviews
- FHWA 1391
- Prompt Payment to Subcontractors
- Prompt Payment Reporting
- Form 1420: DBE Plan Modification
- Release of Retainage





Bulletin Board Postings

- Must be prominently displayed
- No binders allowed
- May use sandwich boards
- Easily accessible by all employees
- Posting must be protected from fading, water damage, etc.
- If posters are damaged or illegible, replace promptly
- Only include wage decisions applicable to project
- Complete list in Resource Material section

Bulletin board poster website

<https://www.codot.gov/business/bidding/bulletin-board-postings>





Americans with Disabilities Act of 1990 (as amended in 2008)

- The Americans with Disabilities Act is a law that prohibits discrimination on the basis of disability.
- The Manual on Uniform Traffic Control Devices (MUTCD) is known as the national standard for accessibility considerations.
 - At minimum, there should be an equivalent level of accessibility.
- Make sure detours are reasonable.
- If you are unsure as to whether you are providing appropriate accommodations, please call for help!

ADA laws impact projects in two ways:

They prohibit state and local governments from discriminating against individuals with disabilities in access to and use of

- their services, programs, activities.
- their transportation services, programs, and activities.

Bottom line: Physically challenged people should have equal access to roads that have access accommodations AND they should have equal access to public transportation.



Contract Compliance Reviews

- Required by FHWA to verify compliance with the Federal-Aid contract
 - Notification from RCRM
- Focus is on contractor work force
- Project Review
 - Specific project
 - Contractor and all subcontractors
- Area Review
 - All projects within a geographic area
 - Contractor only





Federal-Aid Construction Annual EEO Report – FHWA 1391

- FHWA 1391 - Annual EEO report
- Involved all active primes and subs in the month of July
- LCPtracker Use -- NO filing of any forms.
- NOT using LCPtracker (only for LPAs)
 - Roll up from prime
 - Excel format only
- Information within report is due by August
- Last full work week of in month of July 2020 - no June or August days



DBE Compliance: Who's Counting?

- Firms may count for DBE credit towards the goal without a 1415 commitment (Race Neutral)
- All DBE firms with a 205 may potentially count for credit if performing a certified function
 - RCRO will determine whether firm counts for credit
- Check if a firm is counting for credit in B2GNow
- You must complete CDOT Form 1432 for all firms counting for credit



Certified	Original Current	Type	Inc. in Goal	Compliance Audit	Final Pmnt
No	\$86,687 \$86,687	Sub	No	✓	No
✓	\$2,700 \$2,700	Sub 100%	✓ DBE	✓	No
✓	\$31,000 \$31,250	Sub 100%	✓ DBE	✓	No



DBE Compliance: CUF

- 49 CFR 26.55(c)
- DBE must
 - Perform
 - Manage
 - Supervise
- Self perform at least 30%
- Cannot be an extra participant or pass through
- Special rules for trucks





Commercial Useful Function: Trucks

- DBE must be responsible for entire trucking operation under it
- Must fully own and operate at least one truck
- Full credit:
 - owned,
 - operated,
 - insured, and
 - driven by W-2 Employees & 1099 drivers
- Leased trucks cannot count
 - Leased from DBE
 - Leased non-DBE





DBE Compliance: CDOT Form 1432

- Commercially Useful Function Form
- Includes 3 questions for prime, 3 questions for DBE sub, 2 questions for CDOT engineer
- Must be submitted for each DBE participating for credit
- DBEs without 1415 may still count for credit
- Process:
 - Prime gives the 1432 to DBE sub
 - Sub returns it to prime
 - Prime verifies information and answers three questions
 - Engineer verifies information
 - Engineer gives to RCRM to review and upload





Prompt Payment Specifications

Overview

- Timely payments required to lower tier subcontractors and suppliers
 - Due based on progress payments
 - 7 day rule for payment to lower tiers
 - Engineer WILL authorize partial pay estimate (if contractor is not in a dispute)
- Reporting due by the 15th of every month for all subcontractors and any suppliers listed on the 1425.
- Confirmation due within 15 days of higher tier's reporting





Prompt Payment Reporting

- All contractors making payments must report
 - Prime contractors must report payments received from CDOT
- Accessible by any user linked to firms account
- Collect historical data (i.e. not real time)
- Audits open on the 1st of following month
- Audit Period based on date of actual payment NOT work date, invoice date, or pay estimate
- Leave lines blank for firms paid by your lower tiers (except joint checks)

Audit Information	
Audit Response Status	Not complete 3 sub responses to Reporting deadline Audit will be locked
Audit Period	October 2017
Payment to Prime	Report Payment to
Marked As Final Audit?	No (mark audit as f

Subcontractor Payments for October 2017						
	Subcontractor	Certified	Type	Inc. in Goal	Actions	Paid Amount in October 2017
1	Cdot Sub 2 CDOT Sub Test 2 cdotsub2@b2qnowuser.com P 602-927-3554	<input checked="" type="checkbox"/>	Sub 100%	<input checked="" type="checkbox"/> DBE	Submit Response YES	Not Reported
2	CDOT Sub Test 3 CDOT Sub Test 3 cdotsub3@b2qnowuser.com P 623-953-7848	<input checked="" type="checkbox"/>	Sub	No	Submit Response NO	Not Reported



Joint Checks

- Used to ensure payment to lower tiers or “commercially useful function” of DBEs.
- Joint checks to DBE must be approved by the RCRO
- Approval Process
 - Submit request signed by prime contractor and DBE in writing to Civil Rights.
 - RCRO will strive to issue approval within 48 hours of receiving all information to make a determination.
 - Can request approval of multiple joint checks at a time.
- Not to be used in a discriminatory manner.



Prompt Payment Confirmation

- Subcontractors (and all lower tiers) must confirm payment reported by higher tiers
- Prompted by the system
- Confirmation due within 15 days
 - Chance to request CDOT's involvement in resolving disputes or withholding
 - Failure to confirm/mark discrepant is tacit confirmation
- Applies to payments actually received during audit period
- Not concerned with work date, invoice date, or pay estimate

Note: Some prime contractors have been incorrectly reporting on behalf of their first tier subcontractors. If you are a second (or lower) tier and your audit shows \$0.00 but you were actually paid, it is crucial that you report the discrepancy.



Ongoing DBE Tracking

- Audit Summary tab tracks progress toward contract completion and DBE goal based on payment data
- Categories based on goal and contract value are:
 - Current Award
 - Payments to Date
 - Difference
- Progress toward any commitments not tracked here

Prime: CDOT Prime Test 1

Current Value: \$6,000,000

Audit Summary - Total Contract

	Current Award	Award Percent	Payments	Payments Percent	Difference (Payments - Award)
Prime Contract	\$6,000,000.00		\$1,459,150.00		
For Credit (4 subs)	\$540,000.00	9.000%	\$379,186.00	25.987%	16.987% above goal
For Credit to DBE Goal	\$540,000.00	9.000%	\$343,475.00	23.539%	14.539% above goal
For Credit to ESB Goal	\$0.00	0.000%	\$35,711.00	2.447%	2.447% above goal
Contract Progress	24%				
For Credit Progress	70%				

Award values may not match due to differences between overall contract goal and subcontractor assignments.



DBE Plan Modification

- Contractor must make good faith effort throughout the project.
 - Commitments are binding obligations.
 - Failure to fulfill commitments or meet goals may result in sanctions.
- 1420 DBE Plan Modification
 - Tools for communication
 - Way to change approved commitments or waive a goal
 - Regulation says that this change must be in writing.
 - Federal language says that if prime does not fulfill DBE commitment and didn't get approval for termination, CDOT can take dollar for dollar sanctions.



DBE Plan Modification

- Termination Procedures
 - Notice to the DBE, allowing five days to respond
 - Send a request to CDOT via form 1420
 - 1) Is there good cause to terminate?
 - 2) Can you substitute up to the goal? Yes - Substitution. No - Waiver.
- Substitution Requirement
 - Must demonstrate GFE to find substitute participation
 - If commitment exceeded the goal, must replace ONLY up to the goal
- Waiver Request
 - If not able to make the goal, either as a result of a change order or termination, then must request a waiver
 - Use form 1420 and document why participation cannot be obtained



Good Cause for Termination

- DBE failure or refusal to execute contract
- DBE failure to perform consistent with industry standards
- DBE fails to meet bond requirements
- DBE becomes bankrupt, insolvent or exhibits credit unworthiness
- DBE suspension or debarment
- DBE not a responsible contractor
- DBE voluntarily withdraws and provides written notice to CDOT
- DBE misrepresented eligibility to receive DBE credit for work
- DBE owner dies or becomes disabled and unable to complete work
- ~~CDOT eliminates work - DBE work will not have to be replaced~~
- Other documented good cause that compels termination



Retainage

- CDOT withholds up to 3% of each progress payment as retainage
 - CDOT will release any unpaid retainage to the prime less any sanctions at the close of the project
- Primes may withhold retainage from subcontractors.
 - Sub may request release of retainage in writing prior to project close
 - Primes must release retainage within 30 days of satisfactory completion of sub's work



Release of Subcontractor Retainage

- Prime is obligated to release retainage to subcontractor if 205 work is “satisfactorily completed.”
 - Prime’s job to review the work and make sure that it is satisfactorily completed.
 - Once work is deemed satisfactorily completed, subcontractor is released from the project
- Project Engineer’s role
 - Per Construction Manual, engineers should confirm quantities upon request by prime
 - Confirmation from engineer does not constitute acceptance of the work.

**PAYMENT
REQUIRED**



Closing Out the Project

The RCRO will evaluate DBE participation based on payment information in B2G and determine whether to apply a payment reduction.

Payment reduction possible when:

1. Contractor failed to fulfill a commitment without approved 1420;
2. Contractor failed to meet contract goal either by:
 - a. Not substituting after an approved termination or reduction or not increasing DBE participation in accordance with change orders; **and**
 - a. Did not get a waiver on an approved 1420.



Part Five – Labor Compliance

Part Five - Labor Compliance

- Regulations
 - Davis-Bacon
 - CWHSSA
 - FLSA
 - Copeland Act
- Certified Payrolls
- Wage Conformance
- Payroll Information
 - Fringe Benefits
 - Deductions
- Trucking





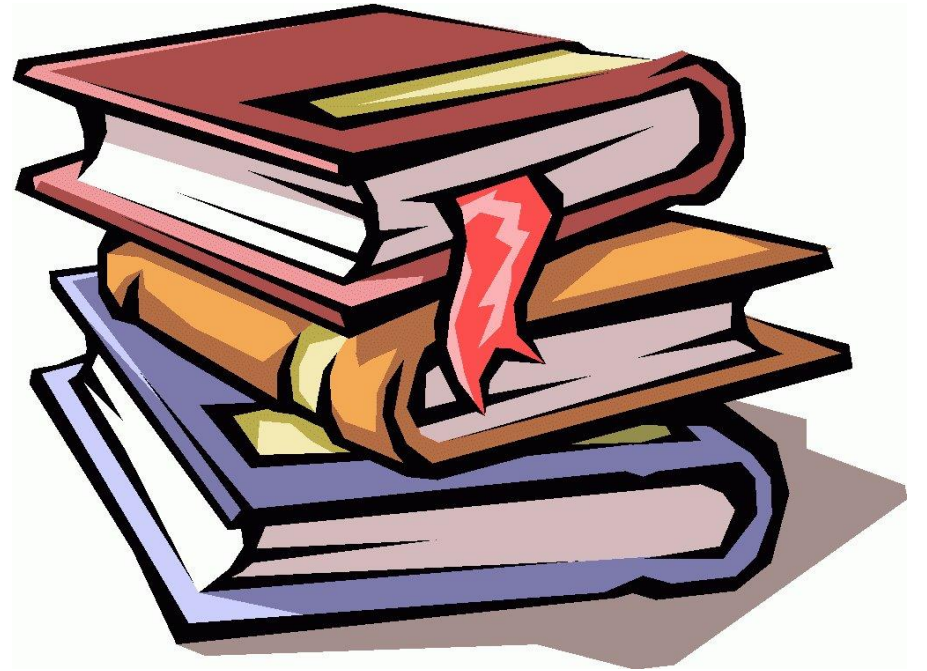
Federal Regulations

Davis-Bacon Act (DBRA)

Contract Work Hours and
Safety Standards Act (CWHSSA)

Copeland Act

Fair Labor Standards Act (FLSA)





Wage Decisions

- Nine decisions (Applicable wage decision in contract)
 - Not interchangeable
- Appropriate wage decision based on project location (county)
 - Multiple counties - higher decision prevails based on classification
- Contains collectively bargained rates and non-collectively bargained rates
 - Status of Contractor irrelevant
- Contract wage decision effective for duration of project
 - Modified periodically
 - Be sure to include the appropriate wage decision at the time of ad.
- 10 days prior to bid opening will require a revision under ad if a revision was done to your county





Wage Decisions

- Five columns
 - 4 digit code
 - Classification
 - Basic hourly rate
 - Fringe benefit rate
 - If expressed as a percentage, percent is multiplied by basic hourly rate and added to fringe benefit rate
 - Last modification of wage decision

Code	Classification	Basic Hourly Rate	Fringe Benefit	Modifications						
1000	Electrician (Clear Creek county)	\$26.42	\$8.68+4.75%	<table border="1"> <thead> <tr> <th>MOD #</th> <th>Date</th> <th>Page #</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>1/24/14</td> <td>1</td> </tr> </tbody> </table>	MOD #	Date	Page #	1	1/24/14	1
MOD #	Date	Page #								
1	1/24/14	1								
To calculate the total fringe benefit: $\$26.42 \times 4.75\% (.0475) = \1.26 Total fringe benefit: $\$8.68 + \$1.26 = \$9.94$ Total wage: $\$26.42 + \$9.94 = \$36.36$										



Wage Decisions

Covered Workers

- Crane operators
- Concrete pump operators
- Laborers/mechanics
- Flaggers
- TCS
 - Multiple classifications
- Specialty work
 - If manual in nature

Non-covered Workers

- Profilometer operators
- Ticket takers
- Testers
- Erosion control supervisors
- Salaried supervisors
- CDOT Engineers



Wage Decisions

- Must be posted in a prominent and accessible place
 - With other posters and notices
- Split classifications must be tracked/documentated
 - Highest wage for all hours may be paid
- Direct questions on classifications to RCRO's or Contract/Labor Compliance Manager



Wage Decisions

- Classification (work) not on wage decision
 - Not on the wage decision = wage conformance
- Workers must be paid the wages of the classification in which they work
 - No “forcing” someone into a classification
- Conformance issues by project
 - No 4 digit code assigned
- Classification is utilized in the area by the construction industry
- Bear a reasonable relationship to the wage rates contained on the wage decision
- Approved by CDOT and submitted
- Final approval by USDOL



Request for Authorization of Additional Classification and Rate (Conformance Request)

US DOL SF 1444

AUTHORIZED FOR LOCAL REPRODUCTION				
REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND RATE			<input type="checkbox"/> CHECK APPROPRIATE BOX <input type="checkbox"/> SERVICE CONTRACT <input type="checkbox"/> CONSTRUCTION CONTRACT	OMB No.: 9000-0089 Expires: 04/30/2005
<p>Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVP), Office of Acquisition Policy, GSA, Washington, DC 20405; and to the Office of Management and Budget, Paperwork Reduction Project (9000-0089), Washington, DC 20503.</p>				
<p>INSTRUCTIONS: THE CONTRACTOR SHALL COMPLETE ITEMS 3 THROUGH 16, KEEP A PENDING COPY, AND SUBMIT THE REQUEST, IN QUADRUPPLICATE, TO THE CONTRACTING OFFICER.</p>				
1. TO: ADMINISTRATOR, Employment Standards Administration WAGE AND HOUR DIVISION U.S. DEPARTMENT OF LABOR WASHINGTON, D.C. 20210			2. FROM: (REPORTING OFFICE)	
3. CONTRACTOR			4. DATE OF REQUEST	
5. CONTRACT NUMBER	6. DATE BID OPENED (SEALED BIDDING)	7. DATE OF AWARD	8. DATE CONTRACT WORK STARTED	9. DATE OPTION EXERCISED (IF APPLICABLE) (SCA ONLY)
10. SUBCONTRACTOR (IF ANY)				
11. PROJECT AND DESCRIPTION OF WORK (ATTACH ADDITIONAL SHEET IF NEEDED)				
12. LOCATION (CITY, COUNTY AND STATE)				
13. IN ORDER TO COMPLETE THE WORK PROVIDED FOR UNDER THE ABOVE CONTRACT, IT IS NECESSARY TO ESTABLISH THE FOLLOWING RATE(S) FOR THE INDICATED CLASSIFICATION(S) NOT INCLUDED IN THE DEPARTMENT OF LABOR DETERMINATION				
NUMBER: _____		DATED: _____		
a. LIST IN ORDER: PROPOSED CLASSIFICATION TITLE(S); JOB DESCRIPTION(S); DUTIES; AND RATIONALE FOR PROPOSED CLASSIFICATIONS (SCA ONLY)		b. WAGE RATE(S)	c. FRINGE BENEFITS PAYMENTS	
<i>(Use reverse or attach additional sheets, if necessary)</i>				
14. SIGNATURE AND TITLE OF SUBCONTRACTOR REPRESENTATIVE (IF ANY)			15. SIGNATURE AND TITLE OF PRIME CONTRACTOR REPRESENTATIVE	
16. SIGNATURE OF EMPLOYEE OR REPRESENTATIVE			TITLE	CHECK APPROPRIATE BOX-REFERENCING BLOCK 13. <input type="checkbox"/> AGREE <input type="checkbox"/> DISAGREE
<p>TO BE COMPLETED BY CONTRACTING OFFICER (CHECK AS APPROPRIATE - SEE FAR 22.1019 (SCA) OR FAR 22.406-3 (DBA))</p> <p><input type="checkbox"/> THE INTERESTED PARTIES AGREE AND THE CONTRACTING OFFICER RECOMMENDS APPROVAL BY THE WAGE AND HOUR DIVISION. AVAILABLE INFORMATION AND RECOMMENDATIONS ARE ATTACHED.</p> <p><input type="checkbox"/> THE INTERESTED PARTIES CANNOT AGREE ON THE PROPOSED CLASSIFICATION AND WAGE RATE. A DETERMINATION OF THE QUESTION BY THE WAGE AND HOUR DIVISION IS THEREFORE REQUESTED. AVAILABLE INFORMATION AND RECOMMENDATIONS ARE ATTACHED.</p> <p style="text-align: center;"><i>(Send copies 1, 2, and 3 to Department of Labor)</i></p>				
SIGNATURE OF CONTRACTING OFFICER OR REPRESENTATIVE		TITLE AND COMMERCIAL TELEPHONE NO.	DATE SUBMITTED	
PREVIOUS EDITION IS USABLE		STANDARD FORM 1444 (REV. 12-2001) Prescribed by GSA-FAR (48 CFR) 53.222(f)		



CDOT's Certified Payroll Statements

- Weekly submission (7 day workweek)
- CDOT Form 118 now within LCPtracker
 - Compliance statement will be signed electronically by whomever is submitting payroll.
 - LCPtracker also requires delineation of fringe benefits through the Contractor Fringe Benefit Statement.
- Owners/salaried employees working within a labor / mechanic classification should be shown on the payroll. Owner operators who are working on site must be shown on the payroll.





Contractor Fringe Benefit and Deduction Statement (CFBDS)

Contractor Fringe Benefit Statement

CFBS

Contractor Name:		5 Digit Project Number:	
Name of Person Submitting This Form:			
Are you an owner /operator?			
How are fringe benefits for employees paid at your company?			
	Cash		Fringe
			Both
Please note: If cash benefits are paid, a monetary breakdown <u>must be demonstrated</u> in the payrolls within <u>LCPtracker</u> . Contractors must submit one CFBDS ONCE per project / per year unless there are changes to the benefits and deductions listed.			

FRINGE BENEFITS

Bona Fide Benefit Plans

Bona Fide Benefits are described in detail in the [DOL Field Operation Handbook, 30C16](#).

If employees (all or some) have paid fringe benefits going to bona fide benefit plans (health plans, dental plans, pension plans, life insurance, vacation, and/or sick leave, etc.), please provide the following information:

Type of Benefit	Provider	Provider Address	Provider Phone Number



Contractor Fringe Benefit Statement CFBDS

https://www.codot.gov/business/civilrights/compliance/assets/cdot-certified-payroll-memo_june-2018.pdf

3. Supporting Documentation for Other Deductions

Generally, 29 CFR 3.5 lists certain deductions that are permissible without application to or approval from the Secretary of Labor. Any deductions made to an employee’s pay outside of those permissible deductions require approval from the Secretary of Labor. While all deductions are subject to the request of additional supporting documentation, supporting documents for certain permissible deductions are required at the time of submission of the certified payroll, as outlined in the table.

Federal Reference	Type of deduction	Required supporting documentation at time of submission of certified weekly payroll in LCPtracker
29 CFR Part 3.5	Any deduction that is not generally allowed by the Secretary of Labor	USDOL approval letter for the specific type of deduction and specified time period of approval for the deduction.
29 CFR Part 3.5 (a)	Any deduction made in compliance with the requirements of Federal, State, or local law, such as Federal or	None. May be requested at later date upon audit.



Fringe Benefits

- Required in the amounts listed in wage decision
- Please note: If you decide to do away with the fringe and simply pay a higher base rate, this becomes the new base, with the 1.5 OT rate being multiplied at this rate.
- Cash, bona fide plans, funds and/or programs or in combination
 - Usual fringe benefits: insurance, pension plans, vacation, sick pay, holiday pay
- Must be paid for all hours worked
 - No overtime calculation for fringe benefit





Fringe Benefits

- Must be expressed in a dollar amount per hour (CFBS)
 - Yearly contribution divided by 2080 hours
 - Monthly contribution, x 12, divided by 2080
 - Weekly contribution, x52, divided by 2080
- Must be spread over all hours worked (DB and non-DB) for workweek and through year
- Information of fringe benefits must be provided in writing to employees before deduction is made
- No credit for benefits required by law (29 CFR 5.29(f))
 - Social security
 - Workman compensation
 - Affordable Care Act (ACA) Fees





Reporting Fringe Benefits

- This reporting is done on the Statement of Compliance within the certified payrolls. This is how the contractor is meeting the D-B requirement of fringe. It is for the contractor to tell CDOT how you are meeting the fringe requirement.

4A – all in fringe

4B – all in cash

4C – no fringe (?), or some in cash and fringe to 3rd, choose the one that is done the most, and then list the exception.



Deductions

- Deductions are similar in LCPtracker.
- Must be identified and legally allowable
 - Taxes
 - Fringe benefits
 - May be allowed under FLSA, but could be unfeasible under DBRA (deposits, PPE, tools)
 - Union Dues
 - Garnishments and/or Child Support
 - Requires documentation
 - Cash advances on wages
 - Requires documentation
- Other deductions not listed must benefit employee



Overtime

- CWHSSA, FLSA
- Must be paid at 1.5 times the base wage
- Required for all hours over 40 hours in a work week
 - Not limited to project (DBRA) hours





Overtime

The basic rate of pay under CWHSSA is the straight time hourly rate - generally the amount listed in the “RATE” column, apart from the fringe benefit amount (if any) listed for a classification in the wage determination. The basic rate cannot be less than the basic hourly rate required in an applicable wage determination.

◇◇ If the employer paid \$22.00 in cash wages and paid \$5.00 for fringe benefits, the electrician would receive:

44 hours x \$22.00 = \$ 968.00 for cash wages

44 hours x \$ 5.00 = \$ 220.00 in fringe benefits

4 hours x ½ x \$22.00 = \$ 44.00 for CWHSSA earnings

\$1232.00





Site of Work

29 CFR 5.2

Site of work is the physical place or places where the building or work called for in the contract will remain; and any other site where a significant portion of the building or work is constructed, provided that such site is established specifically for the performance of the contract or project...other work areas not located on the site of permanent construction (job headquarters, tool yards, batch plants, borrow pits) may be part of the site of the work **“provided that they are dedicated exclusively or nearly so, to the performance of the contract or project, and provided they are adjacent, or virtually adjacent to the site of the work.”**



Site of Work

- Two prong test
 - Dedicated exclusively or nearly so AND
 - Adjacent or virtually adjacent
- USDOL position is that site of work determinations will be made on a case by case basis and no arbitrary mileage will be given.





Truck Drivers



- Received guidance from FHWA
 - Can have a subcontract or a service contract
 - Either way, the provisions of the 1273 are in place and binding.
 - FHWA 1273 should be attached.
- Form 205 (in B2G) is required for all.



Truck Drivers

- Are covered by Davis-Bacon in the following circumstances:
 - Time spent working on the site of work
 - Loading and/or unloading of materials and supplies, if not *deminimis*
 - Delivery of material or supplies between a facility that is part of the site of work and the actual construction site
 - Transport of portion(s) of the building or work between a site of work and the physical place(s) where the building or work called for in the contract will remain.





Truck Drivers

Are not covered by Davis-Bacon in the following circumstances:

- Material delivery truck drivers while off “the site of work”
- Drivers of a contractor or subcontractor traveling between a Davis-Bacon job and a commercial supply facility while they are off the “site of work”
- Truck drivers whose time spent on the site of the work is *deminimus*, such as only a few minutes at a time merely to pick up or drop off materials or supplies.





Owner / Operators of Trucks

- USDOL's enforcement position
 - Must be bona fide owners
 - Own and drive truck
 - Applies only to truck drivers
 - Certified payrolls must include:
 - Names of owner
 - Notation "owner/operator"
 - **Reporting: Not Money, Nor hours**
 - Registration & driver's license needed for documentation
- CDOT Form 205 is submitted
- Truckers enter this information in LCPtracker.





Owner / Operators

USDOL's 541 Exemption:

- If you are an owner/operator, you can now use the 541 exemption.
- Fill out the owner/operator affidavit.
- Fill out the CFBDS with the notation owner / operator.
- All independent owners (both truckers and owner operators) must complete the top portion which describes the degree of ownership and confirms their management role. These people are part of the 541 exemption.
- This (affidavit) verification is CDOT's confirmation that this company is performing work with this exemption and within this capacity.



Contractor's Payroll Checking Requirements

- Specification 107.01 (May 2, 2013)
 - CONSTRUCTION BULLETIN 2013 NUMBER 3
- Prime contractors are responsible for compliance on project.
- Prime contractor is responsible for checking/signing of all payrolls saying they are reasonable.



Contractor's Payroll Records

- Requirements
- Full name
- Address
- Social security number
- Correct classification(s)
- Hourly rate of pay, including fringe benefits
- Daily hours
- Weekly hours
- Deductions
- Wages paid

These are the requirements for ALL payrolls -- even for those that require back pay are restitution.





Prime Contractor's Payroll Checking Requirements

- Check all payrolls submitted from subcontractors and from prime prior to submission to CDOT.
- Electronically sign that their own payroll was checked and wages and classifications shown are **reasonable** and correct.
- Submit subcontractor's and its own payroll to CDOT's Project Engineer. (Approval automatically unlocks for CDOT's acceptance.)
- Operating CDOT Project Engineer will be checking all payrolls through LCPtracker.





Employee Interviews

- Required by 29 CFR 5.5 Contractors/subcontractors must allow you to interview employees during working hours
- Applies to state, local agency, and maintenance projects even if exempt from labor standards
- Number of interviews determined by awarded contract dollars
 - Monthly requirement - could be zero if project is shut down or all employees interviewed
- Quarterly report submission to RCRM
- Compare information to specific payroll
- The site interview feature within LCPtracker is currently being tested before implementation. We are looking for volunteers to use this feature and provide feedback on functionality.





Number of Employee Interviews

Contract Amount Interviews Required

- Up to \$20 million
 - 4 interviews during each month of active construction
- Greater than \$20 million and up to \$100 million
 - 8 interviews during each month of active construction
- Greater than \$100 million and up to \$200 million
 - 12 interviews during each month of active construction
- Greater than \$200 million and up to \$300 million
 - 16 interviews during each month of active construction
- Greater than \$300 million
 - 20 interviews during each month of active construction



Compliance / Certified Payroll Requirements



Vanessa Urbina, HQ

Contract / Labor Compliance / OJT

vanessa.urbina@state.co.us

[303-512-4144](tel:303-512-4144)



Title VI and Title VII Information

Marie Nakagawa
Civil Rights & Business Resource Center
marie.nakagawa@state.co.us
303-757-9072

Danke!



Merci