



COLORADO

Department of
Transportation

Contract Management and Compliance

Equal Employment Opportunity and Labor Compliance Training

Presented by The Colorado
Department of Transportation

Sponsored by Connect2DOT





Introduction

Morning

- FHWA 1273
- EO, Complaints, AA
- Recruitment, Workplace Violence
- ADA
- DBE/ESB
- Subletting the Contract
- Material Suppliers
- Partial Payments
- Compliance Processes
 - Reviews
 - OJT
 - FHWA 1391 Reporting
- FASTER Job Reporting

Afternoon

- Regulations
 - Davis-Bacon
 - CWHSSA
 - Copeland Act
 - FLSA
- Certified Payrolls
- Wage Conformance
- Misc Payroll Information
- Resources



Chapter 1

Regulations, Policies and Procedures





Required Contract Provisions Federal-aid Construction Contracts FHWA 1273

Eleven sections to document

- 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

Read the entire document! Know your responsibilities!



EEO Policy

- Signed and dated
 - President/Owner
 - EEO Officer
- Annual review of policy
- No discrimination - EO statement
 - Persons with Disabilities
 - Veterans
 - Sexual Orientation/Gender Identity
 - Recruitment
 - Promotions/Terminations
- Disseminated to applicants/employees
 - Posters and Notices
 - Supervisors/managers every 6 months
 - All other employees annually





EEO Policy

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





Affirmative Action Plan

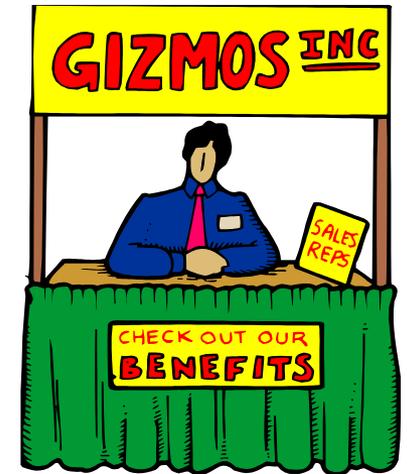
- AAP different from EEO policy
 - Specific actions for ensuring EEO plan
 - Ensures EEO for all employees
 - Goals
 - Timetables
- Goal of an AAP
 - Anyone has same opportunity to enter workforce
- Job performance standards
 - Based on occupational qualifications
- Disseminated to all employees
- Examples in book





Recruitment Efforts

- Minority and Female candidates
 - Based on contractors workforce
- Referrals by current employees
 - Encourage current employee to recruit candidates
- Recruitment sources
 - Minority and Female community organizations
- Applications
 - Review previously submitted candidates
- Analyze efforts for success





Workplace Violence Policy

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





SAFETY AND ACCIDENT PREVENTION

FHWA 1273, Section VII

- Comply with all applicable Federal, State and Local Laws to protect workers on the project
 - Safety
 - Health
 - Life
 - Sanitation
- Contractors and Subcontractors must also protect the traveling public
- Contractors and Subcontractors must not allow employees to perform work in a dangerous or hazardous manner



SAFETY AND ACCIDENT PREVENTION - PLAN

Pursuant to SS 107.06(c) and (d) describe that the Contractor shall designate a competent person prior to construction and for each construction activity being completed.

The Engineer may suspend all or part of the work in the case of an accident, or catastrophe or other situation that presents an imminent danger to life or health that is in violation of the Plan per section 107.06(f).





SAFETY AND ACCIDENT PREVENTION - PLAN

- Project Safety Manager and alternate
- Significant and/or high risk activities
- When and where field safety meetings
- Safety stand-down plan
 - Compliance steps
- Safety compliance for visitors
- Procedures for suspected drug/alcohol impairment
- Safety inspections
- Signed certification



Safety: Accident Prevention

- Standard Specifications 107.06
- Contractor responsible for:
 - Project Management Safety Plan
 - Applies all other Federal, State, Local, Guidelines, Laws and Regulations
 - Designated Safety Person
 - Employees wear Personal Protections Equipment
- All responsibilities listed in book



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



Why/how does this affect me as a Contractor
and/or my construction site?



The Law

The Americans with Disabilities Act is a law that prohibits discrimination on the basis of disability.

The ADA is divided into Titles and Chapters that classify laws according to their subject matter:

- Title I Employment
- **Title II State and Local Governments (28 CFR Part 35)**
- Title III Public Accommodations (retail, commercial, sports complexes, movie theaters, etc.) (28 CFR Part 36)
- Title IV Telecommunications
- Title V Misc., including requirements for the U.S. Access Board to develop design guidelines



Title II of the ADA

Title II, Subpart A

- Prohibits state and local government agencies from discriminating against individuals with disabilities in access to and use of their services, programs and activities.

Title II, Subpart B

- Prohibits state and local government transportation agencies from discriminating against individuals with disabilities in access to and use of their transportation services, programs and activities.

Both Impact CDOT as a State Transportation Agency



State and Local Responsibilities

- Wherever public agencies provide pedestrian facilities, those facilities are to be accessible to persons with disabilities.
- The accessibility of pedestrian facilities is required by ADA and is independent of funding sources.





Activities Covered

- The operation of all services and programs offered by the entity
- All aspects of the employment relationship
- Government services carried out by contractors
(Contracts with CDOT regardless of funding source)
- Activities of state and local legislative and judicial branches
- Public Transportation



2009 Federal Manual on Uniform Traffic Control Devices (M.U.T.C.D.)

- The Manual on Uniform Traffic Control Devices (MUTCD), is approved by the Federal Highway Administrator as the National Standard in accordance with:
- Title 23 U.S. Code, Sections 109(d), 114(a), 217, 315, and 402(a)
- 23 CFR 655
- 49 CFR 1.48(b)(8), 1.48(b)(33), and 1.48(c)(2).

Chapter 6D.02 - Accessibility Considerations -

- When Existing pedestrian facilities are disrupted, closed or relocated in a Temporary Traffic Control “TTC” zone, the temporary facilities shall be detectable and include accessibility features consistent with the features present in the existing pedestrian facility.



2009 Federal Manual on Uniform Traffic Control Devices (M.U.T.C.D.)

Chapter 6D - Pedestrian and Worker Safety -

- If the Temporary Traffic Control (TTC) zone affects the movement of pedestrians, adequate pedestrian access and walkways shall be provided.

If the TTC zone affects an accessible and detectable pedestrian facility, the accessibility and detectability shall be maintained along the alternate pedestrian route.

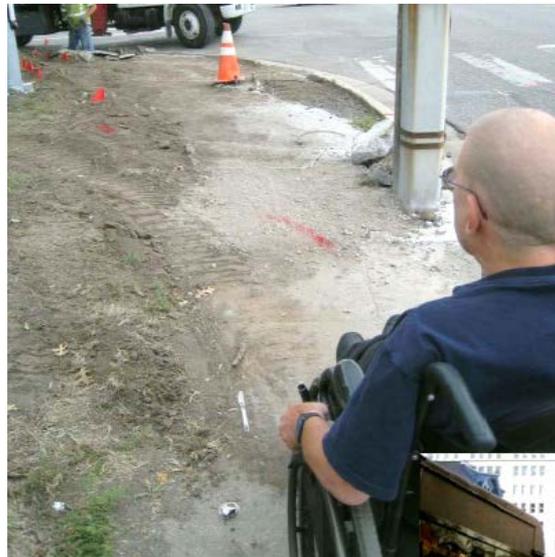


Provide Detection

- Side detection when temporary route is channelized and changes direction
- Temporary truncated domes (detectable warnings) at street crossings
- Provide effective safety barriers - define construction zone and potential hazards



Is there an accessible alternate route?





Where's the accessible alternate route?





Ineffective Barriers





Detours

- Make sure detours are reasonable
 - Other side of street is reasonable
 - 1 block parallel is reasonable
 - Is 2-3 blocks parallel reasonable ?
- Reasonable can vary in different situations
- Long detours “feel good” but do they meet needs (equal access)?



Taking a Lane





Temporary Pedestrian Access Route (TPAR)

Options to consider:

- 1) Making use of roadway lane, shoulder, or parking lane
- 2) Crossing pedestrians to the other side of the street and then crossing them back
- 3) Providing a reasonable detour
- 4) Maintaining use of existing sidewalk through project staging



TPAR Implementation

- When TPAR is not practical, **alternate construction staging** and or **pinch construction timelines** so that pedestrian facilities are interrupted for as little time as possible.
- Traffic engineer and Project Engineer should look at the pedestrian needs on the project and develop a concept of how to accommodate the needs in the plan and in the time and traffic.



Major Elements of TPAR

- Increased awareness of the issue
- At minimum, provide equivalent level of accessibility
- Consider impacts to pedestrian routes in early stages of project development, even in Scoping
- Include TPAR in Traffic Control Plan
- Consider staging to minimize impacts to PAR and to implement TPAR
- Attended versus unattended work zones









Being Non-Compliant

- Non-compliance can be significant in terms of public trust
- FHWA can withhold funding for persistent non-compliance
- Fines and court awards can be tens of thousands of dollars, or more
- Attorney's fees (may be needed even if claim doesn't go to court)
- Poor public image
- Reputations of staff and elected officials may suffer
- Complaints can be filed with Local Agency, CDOT, FHWA, USDOT or DOJ
 - Lawsuits filed in state or Federal District Court
 - FHWA can withhold money after unsuccessful efforts to achieve compliance
 - For state DOTs and local government entities, FHWA will seek voluntary compliance and if unsuccessful, the matter is referred to DOJ



Addressing ADA

- Why should the public agencies look for the best and most consistent way to address and implement ADA?
- It is the law.
- It is the right thing to do.
- Everyone benefits!



Contact Information for ADA

Greg Martinez

ADA Title II Analyst

Greg.martinez@state.co.us

303-512-4142





Chapter 2



- **Disadvantaged Business Enterprise**
- **Emerging Small Business**

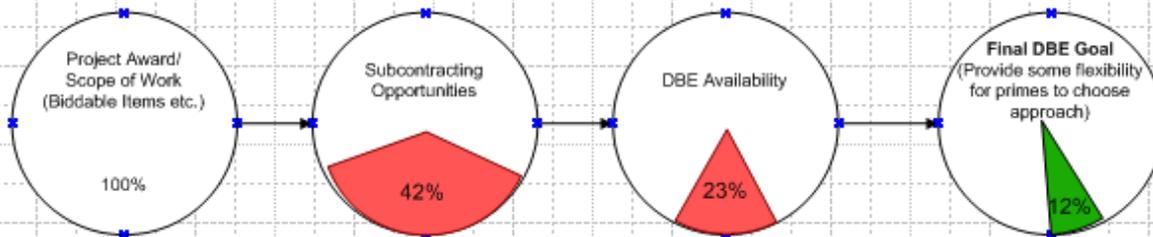


DBE Contract Goal



Basic Example

This is only an example of how the goal-setting process might work. The actual goal will vary depending on the project type, biddable items, location, DBE availability, etc.





Good Faith Efforts

- In order to be awarded the contract, must either meet the goal or make other good faith efforts
- Good faith efforts are all necessary and reasonable steps to achieve the contract goal which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if not fully successful.
- Good faith efforts are evaluated prior to award and throughout performance of the Contract. For guidance on good faith efforts, see 49 CFR Part 26, Appendix A.



Finding DBEs

- DBEs can be found on the DBE directory at www.coloradodbe.org
- DBE must be certified to perform the work
 - DBE crosswalk from old codes (at top of directory page) to NAICS codes
 - NAICS search (<http://www.census.gov/eos/www/naics/>)
 - Directory search (Use code lookup – search multiple words)



Forms Due with Bid

- **Form 1413: Full (DBE and nonDBE) Bidders List** (all federally-funded contracts)
- 1413 must be submitted by 10am on letting date to cdot_hq_dbeforms@state.co.us
- **Form 1414: Anticipated DBE Participation Plan** - no paper form -electronic in BIDX (only if Contract Goal is greater than zero)



Commitment vs Eligible Participation

- **Commitment Amount** is the amount committed to a DBE. It may be less than the total subcontract amount but never more.
- **Eligible Participation Amount** is the amount of the commitment that will count toward the contract goal.
 - Deduct subcontracts (including trucking owner-operator subcontracts) to non-DBEs
 - Dealers only count for 60% of the contract.
 - Brokers only count for their reasonable broker fee.



Forms Due From Apparent Low Bidder

Within five calendar days of selection, must provide:

- **Form 1415 Commitment Confirmation** (must be signed by the DBE)
- **Form 1416 Good Faith Effort Report** (only if commitments do not meet the contract goal)
- Submit to cdot_hq_dbeforams@state.co.us by close of business on the fifth day.
- Send originals via mail to the CDOT Civil Rights and Business Resource Center.



CDOT Form 1415: Commitment Confirmation

- <https://www.codot.gov/library/forms/cdot1415.xlsx/view>
- Form 1415 required for each commitment listed on the 1414. Previously Form 715.
- Written confirmation of the DBE commitment is required under the federal regulation.
- Form designed to assist primes and DBEs in understanding the commitment and ensure that the DBE's participation is properly counted.
- Due within five calendar days of being designated lowest apparent bidder.
- Prime completes first half and DBE completes second half.

COLORADO DEPARTMENT OF TRANSPORTATION COMMITMENT CONFIRMATION				
SECTION 1. This section must be completed by the Contractor.				
Project:	Project:			
Bidder/Contractor:	Phone:			
Contract:	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 accurate, true and complete to the best of your knowledge.				
Bidder/Contractor Signature	Title	Signature	Date	
SECTION 2. This section must be completed by the DBE. (Attach additional pages if necessary.)				
I have consented to enter a contract with the Bidder/Contractor; it is an acknowledgment of the obligations that 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.				
DBE Signature:				
Are you subcontracting 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 in which firms, what work and the approximate amount. Include trucking				
Will you be providing trucking services on this project? If so, state the name 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.				
This section must be signed by an individual with the power to contractually bind the DBE. 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 accurate, true and to the best of your knowledge. You affirm that you are eligible to participate as a DBE on this contract for the work listed above and have the capacity to perform the work on related.				
DBE Signature	Title	Signature	Date	
<i>For the DBE Standard Special provision for additional information on completing and submitting this form.</i>				
<i>For standard CDBF projects:</i> Submit this form to the CDOT Civil Rights and Business Resources Center via fax to (303)527-3813. All originals must be sent to: CDOT Civil Rights and Business Resources Center, 4281 E. Arkansas Ave. Room 158, Denver, CO 80222.				
<i>For standard Road opening projects:</i> Submit this form to the local agency. All originals must be sent to: CDOT Civil Rights and Business Resources Center, 4281 E. Arkansas Ave. Room 158, Denver, CO 80222.				



Commitment Details				
Category	Work to be Performed	DBE Work Code(s)	Commitment Amount	Eligible Participation
Construction				
Trucking				
Supplies				
Services				
Total				

- Work to be performed** - For construction contracts, these are bid items or work types. Group them together if they fall under the same work code.
- Work code** - A DBE work code is a NAICS code plus a descriptor. To see work codes, search the DBE name at www.coloradodbe.org. The firm must have the appropriate descriptor to count for the work.

Work Codes	
CO UCP NAICS 237110	Storm sewer construction
CO UCP NAICS 237310	Concrete paving (i.e., highway, road, street, public sidewalk)
CO UCP NAICS 237310	Curbs and street gutters, highway, road and street, construction
CO UCP NAICS 237310	Guardrail construction
CO UCP NAICS 237990	Retaining walls, anchored (e.g., with piles, soil nails, tieback anchors), construction
CO UCP NAICS 237990	Riprap installation



DBE Confirmation – Second Half of Form

This document is not a contract with the Bidder/Contractor; it is an acknowledgement of the obligation that 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.**

<p>Are you contracting directly with the Bidder/Contractor or with one of its subcontractors? If with a subcontractor, provide the firm name.</p>	
<p>Will you be purchasing supplies or materials or leasing or renting equipment from the Bidder/Contractor or its subcontractors? If so, explain.</p>	
<p>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.</p>	
<p>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.</p>	
<p>Who within your firm will be supervising and responsible for your firm's work on this project?</p>	
<p>Will you be acting as a broker on this project? If so, state what you will be brokering and your approximate brokerage fee.</p>	
<p>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.</p>	



CDOT Form 1416: Good Faith Effort Report

- <https://www.codot.gov/library/forms/cdot1416.xlsx/view>
- Only required if DBE commitments do not meet the contract goal.
- If known at time of bid, must submit within **five calendar days** of being designated lowest apparent bidder.
- If notified after submission of 1415s that commitments do not meet goal, must submit within **two business days** of notification.
- Guidance for good faith efforts can be found in 49 CFR Part 26, Appendix A @ www.ecfr.gov.
- **Must be notarized.**



CDOT Form 1416: Page 1

- a. Describe your overall plan or approach to meeting the contract goal. Include how much and what work you intend to self-perform; how much and what work you intend to subcontract; what work areas were identified as subcontracting opportunities for DBEs; and the approximate number of DBEs per area.
- b. Describe your efforts to obtain DBE participation (i.e. how you attempted to execute your plan or approach to meeting the contract goal). Include direct outreach (state the DBE solicited, date(s) and method of phone, email or fax); indirect outreach such as events, publications, and/or communication with minority and other organizations that you conducted to reach DBEs (state date(s), location and audience); other efforts you made to assist DBEs in competing for or obtaining contracts (accepting quotes from DBEs that may be higher than other subcontractors, modifications to contract scopes, unbundling, mentoring, etc.); and obstacles you encountered in assisting or contracting with DBEs. Cost alone shall not be a reason to reject a DBE and will be considered in the evaluation of Page 2.
- c. If the eligible participation submitted on the Form 1414 was miscalculated, determined to be invalid, or otherwise did not meet the contract goal, provide your justification for such deficiencies and the remedies you have taken or intend to take to avoid the issue in the future. If you have obtained any additional commitments since submission of the bid, attach the Form 1415(s) and the reason why such commitments were not obtained prior to the proposal due date.

- Plan to meet the goal
- Efforts to meet the goal
- Explanation of deficiencies

Page 2

Subcontractor Quote Summary (Attach additional pages if necessary.)					
Subcontractor	DBE (Y/N)	Work Type(s)	Quote Amount	Selected (Y/N)	Reason



Commitments vs Contract Goal

- Commitments:

- Must seek to fulfill each commitment even if greater than the contract goal; subject to payment reduction if commitment terminated or reduced and not approved
- Must have good cause and follow termination procedures in order to receive approval of a reduction or termination

- Contract Goal:

- When commitment terminated or reduced, must make good faith efforts to substitute up to the contract goal
- Must also make good faith efforts to obtain additional participation to meet the contract goal on the total earned amount of the contract (i.e. bid amount plus change orders)



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 ineligible 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

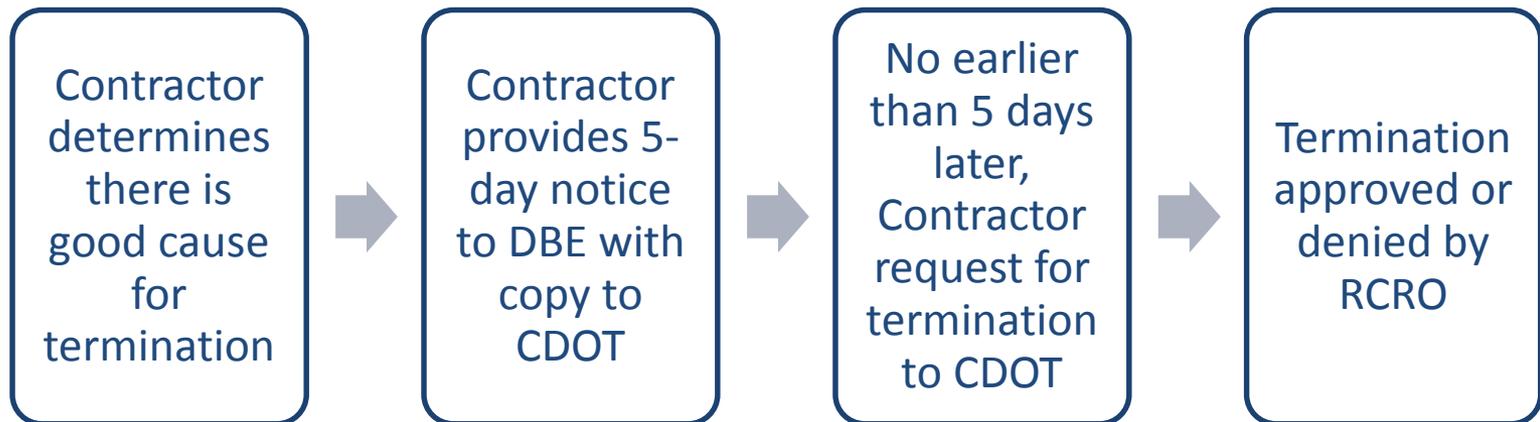


Termination and Reduction

Termination and Reduction Include:

- Self- performance of work by the Contractor.
- Performance by another subcontractor, whether or not a DBE.
- Reduction of the work to be performed, whether by Contractor efficiencies or CDOT elimination.

Required Process:





Substitution

- Must make good faith effort to substitute if goal not met.
- Must submit Form 1420 and 1415 for new commitment.
- Substitution includes increasing the work of an already approved DBE to compensate for a termination.
- Substitution must be approved prior to DBE commencing work unless solely increasing quantities of work already committed to participating DBEs.
- Must only substitute up to the contract goal and not up to the original commitment amount.



Change Orders

- Contractor is responsible for ensuring that the contract goal is met when there are any changes to the contract.
- Additional work items and new DBEs must be approved.
- Use Form 1420 and Form 1415 for new commitments.
- If unable to obtain additional participation, must request a waiver from the RCRO.
- Contractor will be subject to payment reductions for failure to meet contract goal or get participation waived.



CDOT Form 1420: DBE Participation Plan Modification Request

Use this form to request:

- Termination/Reduction: lessening the amount to be paid to a DBE
- Substitution: Finding a new DBE to replace a commitment
- New Commitments: To increase participation on the contract due to change orders or unexpected participation
- Waiver: Have made good faith efforts but cannot obtain additional participation or CDOT eliminates work for a DBE.

COLORADO DEPARTMENT OF TRANSPORTATION					
DBE PARTICIPATION PLAN MODIFICATION REQUEST					
Section 1. Contractor and Project Information.					
Contractor:		Project Code:			
Project Name:		Earned Amount:	\$		
Contact Name:		Estimated Total Contract Amount:	\$		
Contact Phone:		DBE Goal:		%	
Contact Email:		DBE Participation to Date:	\$		%
Section 2. Approval Request. Attach supporting documentation and additional pages as necessary.					
Reason(s):	Termination/Reduction	Substitution	New Commitment	Waiver	Modification
Explanation of Request:					
Contractor Signature:				Date:	
Section 3. Regional Civil Rights Office Review					
RCRO Staff Signature:			= Approved = Denied	Date:	
Comments/Conditions:					



CDOT Form 1419: DBE Participation Report

COLORADO DEPARTMENT OF TRANSPORTATION			
DBE PARTICIPATION REPORT			
Project:		Project Code:	
Contractor:		Phone:	
Report Period (Quarter or Final):			
For the quarterly report, summarize the DBE participation during the reporting period. For the final report summarize all DBE participation on the contract. Attach additional pages as necessary.			
DBE Firm		Work Status (In Progress/Completed)	
Work this Period	Paid to Date	Eligible Participation to Date	
Work Performed			
DBE Firm		Work Status (In Progress/Completed)	
Work this Period	Paid to Date	Eligible Participation to Date	
Work Performed			

- <https://www.codot.gov/library/forms/cdot1419.xlsx/view>
- Must be submitted quarterly and at the end of the project.
- Contractor must document all participation by DBEs that will count toward the contract goal.
- Final report must list all DBE participation.



Counting

- **Must have an approved commitment**
 - New DBE must be approved
 - Must modify commitment if adding new work items
- **Must be a certified DBE upon execution of the subcontract (205)**
- **Only count value of work actually performed by the DBE**
 - Non-DBE subcontracts do not count
 - Status as manufacture, dealer or broker on that project
 - DBE must perform commercially useful function
- **Only count amount paid to the DBE**
 - Includes release of retainage



Commercially Useful Function (CUF)

A DBE must perform a commercially useful function for any of its participation to count toward the contract goal.

- The DBE must be responsible for the execution of the work of the contract (negotiating price, supervising work, etc.)
- A DBE cannot be a conduit or a pass through
- Rebuttable presumption if DBE does not perform 30% or in manner consistent with industry practice that DBE not performing a CUF



Joint Checks

- Joint checks to DBE must be approved by the RCRO.
- Purpose is to ensure “commercially useful function” of DBEs.
- Can request approval of more than one joint check at a time.
- Must submit a request in writing; it must be signed by the Contractor and the DBE and state the approximate number of joint checks.
- RCRO will strive to issue approval within 48 hours of receiving all information to make a determination.
- Joint checks will not be approved if it appears that they are being used in a discriminatory manner.



Closing Out the Project

The Contractor must submit a final Form 1419 summarizing all DBE participation on the project. The RCRO will evaluate DBE participation 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**
 - b. Did not get a waiver on an approved 1420.



Emerging Small Business (ESB) Restricted Projects

- Projects of \$1million or less restricted for bidding by ESB prime
- Certified as an ESB prior to bid date
 - Mandatory orientation
- Prequalified
 - Time for review extended to 21 days
- Meet bonding and insurance requirements
- Perform at least 30% of the contract
 - Includes direct purchase of supplies



ESB Incentives

- Currently only on design-build contracts
- Financial incentive for prime to achieve a certain level of ESB participation
- Example: US6 \$100,000 incentive for reaching \$1million of ESB participation



DBE/ESB Contact Information

- Katherine Williams, Small Business Programs/Title VI
 - Civil Rights & Business Resource Center
 - Katherine.williams@state.co.us
 - 303-757-9162
- Greg Diehl, Manager
 - Civil Rights & Business Resource Center
 - Greg.diehl@state.co.us
 - 303-757-9599
- Region Civil Rights Managers
 - See Resource Material section



Chapter 3

- **Subletting the Contract**
- **Material Suppliers**
- **Partial Payments**



Subletting the Contract

- *The Contractor shall not sublet, sell, transfer, assign, or dispose of the Contract or Contracts without the written permission of the Engineer*
 - FHWA 1273, Section VI
 - Standard Specification 108.01
- Can sublet up to 70% of the total original contract amount
 - 30% or more of the work completed by Prime
 - original contract price for all bid construction pay items - SS 101.44
 - % does not include force accounts or change orders
- **Subcontract dollars** - confidential CDOT form 205



Subletting the Contract

- Must be submitted for each subcontractor prior to beginning work on project
 - Includes construction survey, testers, profiler operators
 - No payrolls
 - Force accounts and change orders
 - May want to submit separate 205
- Certifies written subcontract agreement is fully executed and in place
 - FHWA 1273 attached
 - Prompt payment
 - Release of retainage, if applicable
- Not required for one time material suppliers
 - Must submit list of proposed sources (CDOT Form 1425) at least 2 weeks prior to delivery (SS 106.01)

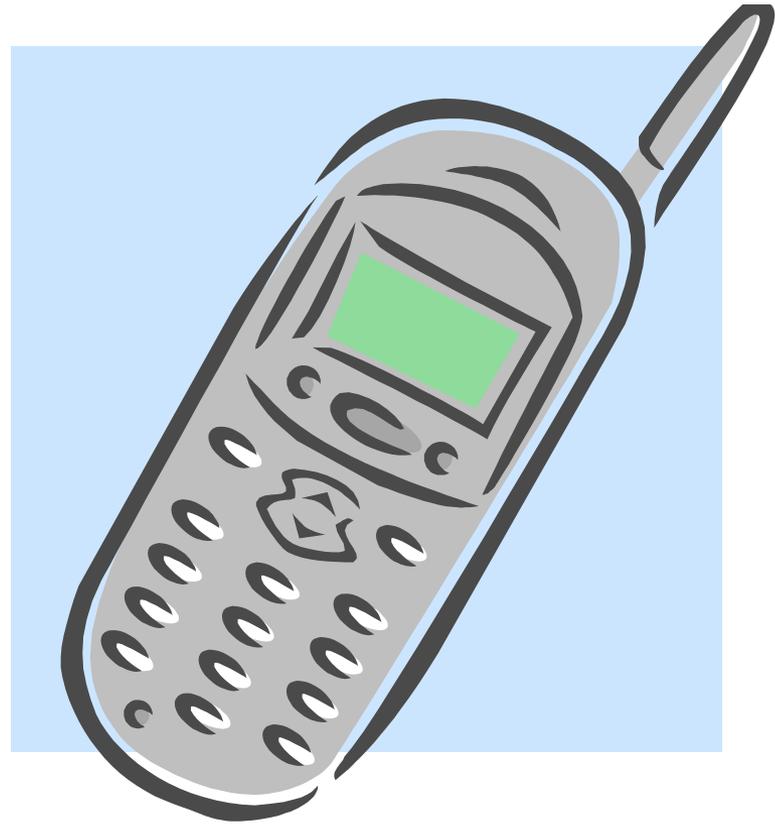


Contacts for 205

- Darrell Wells
 - 303-757-9215

AASHTOWare Support

- Jason Kelly
 - 303-757-9271
- Tracie Benton
 - 303-757-9534
- Erin Evans
 - 303-757-9287





Material Suppliers CDOT Form 1425

Spec 106.01

Prior to beginning any work the Contractor shall submit to the Engineer a completed Supplier Permit, Form 1425 and when requested by the Engineer.

Failure to comply with the requirements of this subsection shall be grounds for withholding of progress payments.





Partial Payments

Standard specification 109.06

- A. Monthly Payments by CDOT
Retainage held
- B. Securities in lieu of retainage
- C. Withholding for liens filed
- D. No payment
- E. Prompt payment
- F. Retainage of subcontract work
- G. "Good cause" exception
- H. Maximum Partial Payments





Chapter 4



Compliance Processes

- **Contract Compliance Reviews**
- **Program Quality Reviews**
- **Project Bulletin Board**
- **Subcontractor EEO Requirements**
- **On the Job Training**
- **FHWA 1391**



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





Program Quality Reviews

- Conducted by Civil Rights and Business Resource Department
- Review of contractor
 - EEO/AA plan
 - Monitoring of subcontractors
 - EEO Officer
 - Dissemination of EEO policy
- EEO interviews on project site
- Review of subcontract agreements
 - EEO Clause
 - FHWA 1273 physically attached
 - Prompt payment language correct
 - Release of retainage language, if applicable



Project Bulletin Board

- 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
- Complete list in Resource Material section
- Includes FHWA 1022 - False Statements, misrepresentation
- Bulletin board poster website
 - <https://www.codot.gov/business/bidding/bulletin-board-postings>





Subcontractor Equal Opportunity Requirements

- Subcontracts and CDOT Form 205
 - Signatures and dates
 - Provisions in accordance with CDOT contract
- Provide:
 - EO Policy and compliance procedure
 - Name and contact info of EEO Officer
 - “Equal Opportunity and Affirmative Action Employer”
 - Work environment free from harassment
- Provide equal opportunity in subcontracting
- Opportunities for disadvantaged businesses



Monitoring of Subcontractor Requirements

- Contractor must:
 - Include FHWA 1273 in all subcontracts
 - Includes truck drivers
 - Include Standard Special Provisions
 - Obtain copies of all lower tiered subcontract agreements and purchase orders
 - Reserve the right to inspect subcontractor records
 - Assure weekly payrolls are submitted and reviewed in a timely manner
 - Interview subcontractor employees
 - Require timely submittals of all documentation as requested by CDOT



Pay Estimates



- Pay estimate website
- CDOT Monthly project pay estimate information available at:
 - <https://www.codot.gov/business/payestimates>
- No password required
- Project ID subaccount required (5 digit code)
- Estimate information will show which items were paid and the amount paid for each
- The date of estimate is the release date: the Contractor must have received the funds to begin the 7 calendar day requirement to pay



On the Job Training

- Intent to develop journey workers in skilled craft classifications
 - Construction crafts
- Training and upgrading geared toward minorities and women
 - No discrimination allowed
- Preapproved Contractor plan required:
 - CDOT
 - FHWA
 - USDOL - Office of Apprenticeship

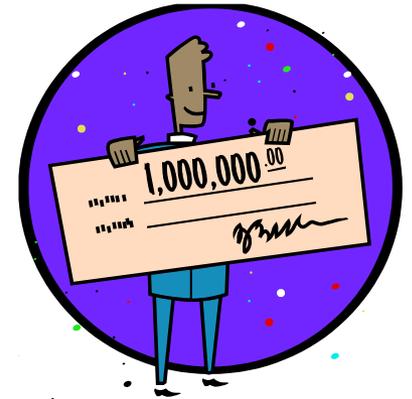


Specification date: July 29, 2011



On the Job Training

- Hours on CDOT specific project only
 - Non-CDOT hours may apply towards OJT goal
 - Applies to Apprentices only
 - Reimbursement for hours on your project only
 - RCRM approves
- Reimbursement of \$2.00 per hour on your project only
- Disincentive/monetary damages for not meeting goal
 - Hours not met
 - Begin talks early with CDOT if necessary





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
 - RCRM approves
- Pay scale (on 838)
 - Base rate and fringe benefits
 - Classification(s) and Code(s)
- Monthly submittal
 - CDOT Form 832
 - Engineer approval





OJT TRAINEE/ APPRENTICE RECORD

CDOT FORM 838

COLORADO DEPARTMENT OF TRANSPORTATION OJT TRAINEE/APPRENTICE RECORD			
Contractor Instructions: 1) Complete this form for each trainee or apprentice on the project that will be used to meet OJT requirements 2) Submit one form for each trainee/ apprentice for each project 3) Retain a copy for your records 4) Submit original to CDOT Project Engineer 5) Incomplete submittals will be rejected 6) Attach training program certificate 7) Attach training enrollment certificate			
Type of Program (check all that apply): <input type="checkbox"/> Union <input type="checkbox"/> Standard OJT Program <input type="checkbox"/> Other _____ <input type="checkbox"/> U.S. DOL - BAT			
Contractor's Name:		Project No.:	Location:
Name of Trainee's Supervisor:		Title:	
Trainee's Name:			Date this form submitted:
Trainee's Job Classification and CODE from the wage decision:			Wage Decision number, include modifications:
<input type="checkbox"/> Male <input type="checkbox"/> Female	Last 4 of SSN: [][][][]	Veteran: <input type="checkbox"/> No <input type="checkbox"/> Yes If Yes, which branch:	
Education – Check the last year of school completed: Highest Grade Completed _____ <input type="checkbox"/> GED <input type="checkbox"/> High School Diploma <input type="checkbox"/> College		Training Hours Credited: Accumulated: On-the-Job Training _____(hours) Classroom Training _____(hours)	
Technical Training or Certifications: Special Licenses:			
Ethnic or Racial Background: <input type="checkbox"/> African American <input type="checkbox"/> American Indian or Alaskan <input type="checkbox"/> White <input type="checkbox"/> Hispanic <input type="checkbox"/> Asian or Pacific Islander <input type="checkbox"/> Other			
Trainee's Previous Construction Work Experience:			
Name of Company	Location City / State	Job Classification	Dates of Employment: From: To:
Were any previous jobs at the journeyman level? <input type="checkbox"/> Yes <input type="checkbox"/> No			
If yes, explain:			
Date Trainee First employed by Your Company:		How long do you anticipate employing this trainee/apprentice?	
Date Enrolled in Training Program:			
Trainee's wage (% of journeyman work) at this time? <input type="checkbox"/> 60% <input type="checkbox"/> 75% <input type="checkbox"/> 90% <input type="checkbox"/> 100%			Trainee willing to travel? <input type="checkbox"/> Yes <input type="checkbox"/> No
Trainees current wage rate \$ _____/hr			
Signature of Authorized Contractor Representative:		Title:	Date:
Region Civil Rights Manager Signature:		Region:	<input type="checkbox"/> Approved <input type="checkbox"/> Not-Approved
			Date:
Comments or reason not approved:			

Previous editions are obsolete and may not be used.

CDOT Form # 838 12/11

Project Engineer (2) Project Engineer will provide one copy to the contractor
 Region Civil Rights Manager (3 copies – one for BPO; one for the sponsor if applicable)
 Records Center (Original)



TRAINEE STATUS AND EVALUATION

CDOT FORM 832

COLORADO DEPARTMENT OF TRANSPORTATION				Type of Approved Program Check all that apply:	
TRAINEE STATUS AND EVALUATION				<input type="checkbox"/> Standard <input type="checkbox"/> Union <input type="checkbox"/> U.S. DOL-BAT <input type="checkbox"/> Other: _____	
Contractors Name:		Project Number:	Project Code (SA#):	Reporting Month:	
Trainee's Name:			Trainee's Classification:		
Last 4 of SSN		Date Enrolled in Program:		Hourly Rate:	
Percent of Journeyman Scale:		Total Hours Required in Program:			
Status of Trainee is: <input type="checkbox"/> Working <input type="checkbox"/> Graduated <input type="checkbox"/> Temporarily Laid Off <input type="checkbox"/> Dropped Out <input type="checkbox"/> Transferred to Another Project <input type="checkbox"/> Terminated					
Federal Aid: <input type="checkbox"/> Yes <input type="checkbox"/> No	CDOT Project No.:	Project Code:	Location:	Hours Worked this Month:	
Federal Aid: <input type="checkbox"/> Yes <input type="checkbox"/> No	CDOT Project No.:	Project Code:	Location:	Hours Worked this Month:	
Federal Aid: <input type="checkbox"/> Yes <input type="checkbox"/> No	CDOT Project No.:	Project Code:	Location:	Hours Worked this Month:	
Federal Aid: <input type="checkbox"/> Yes <input type="checkbox"/> No	CDOT Project No.:	Project Code:	Location:	Hours Worked this Month:	
Non-CDOT Project Descriptions and Locations:				Hours Worked this Month:	
Total Training Hours Worked This Month:		Previous Training Hours Worked:		Total Training Hours Worked to Date:	
What were the trainee's primary job duties this month:					
The trainee's overall job performance for this month is: <input type="checkbox"/> Excellent <input type="checkbox"/> Good <input type="checkbox"/> Fair <input type="checkbox"/> Poor					
Supervisor's Comments:					
Trainee's Comments:					
Trainee's Signature (if available):			Supervisor's Signature:		
CONTRACTOR:					
The undersigned contractor hereby certifies that the listed employee is a bona fide trainee as required by the On-the-Job Training Special Provision, that s/he has worked the hours reported on this form, and the hours worked on CDOT and Federal Aid Projects reported are eligible for reimbursement. The information provided above is reasonably correct to the best of my knowledge.					
Contractor Signature/ Title				Date	
PROJECT ENGINEER:					
I hereby certify that the On-the-Job training hours reported above have been reviewed and found reasonable.					
Engineer Signature/Title				Date	



OJT Contacts

- Region Civil Rights Managers
 - See Resource Material section

- Karen Fujii-Martin
 - Region 1
 - Civil Rights External Programs Lead
 - Karen.fujii-martin@state.co.us
 - 303-757-9888





Federal-aid Highway Construction Contractor Annual EEO Report - FHWA 1391

- FHWA 1391 - Annual EEO report
- Contractors
 - All active subcontractors
- Electronic filling
 - Excel format only
- Information per project
- Last “full work week” in month of July 2016 - no June or August days





FHWA 1391 Reporting

- Contract/Labor Manager will notify Project Personnel of due date
 - Report week: last “full week” worked in July 2015 for active subcontractors
- Required of all active contractors/subcontractor
 - Inactive contractors/subcontractors need only send e-mail
 - Reporting is not tied to payrolls
- Excel format only!!!!
 - Send to Civil Rights and Business Resource Center



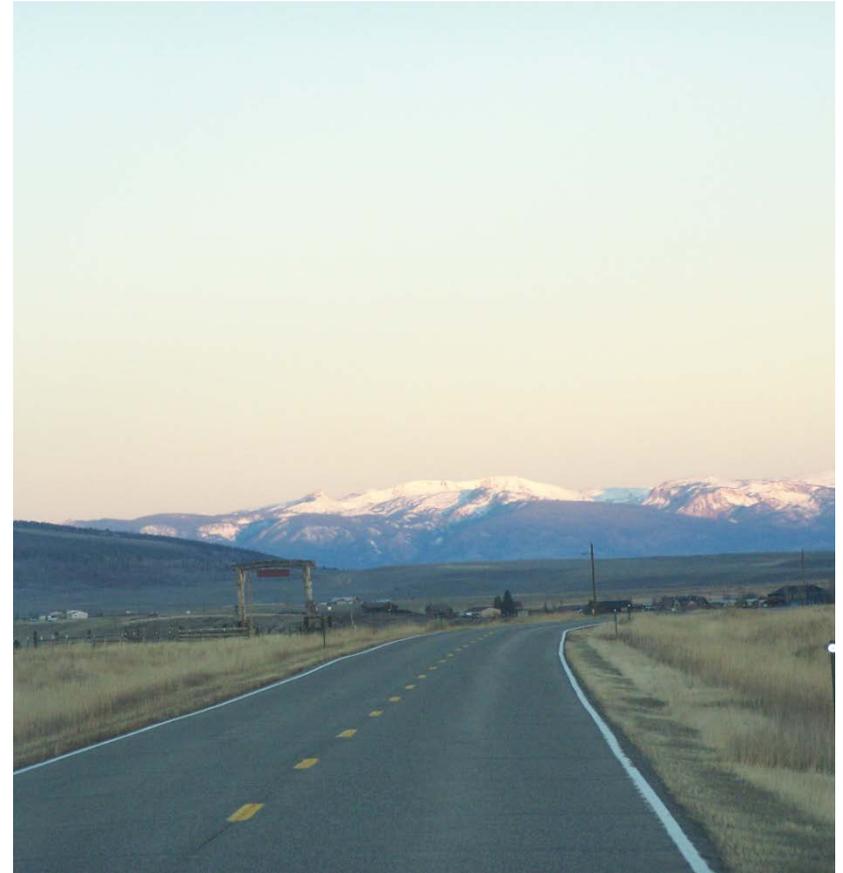
Federal-Aid Construction Annual EEO Report - FHWA 1391

FEDERAL-AID HIGHWAY CONSTRUCTION CONTRACTORS ANNUAL EEO REPORT																								
1. MARK APPROPRIATE BLOCK					2. COMPANY NAME, CITY, STATE:					3. PROJECT NUMBER:					4. DOLLAR AMOUNT OF CONTRACT: \$0.00					5. PROJECT LOCATION: (County and State)				
This collection of information is required by law and regulation 23 U.S.C. 140a and 23 CFR Part 230. The OMB control number for this collection is 2125-0019 expiring in March, 2016.																								
<input type="checkbox"/> PRIME CONTRACTOR					6. WORKFORCE ON FEDERAL-AID AND CONSTRUCTION SITE(S) DURING LAST FULL PAY PERIOD ENDING IN JULY 2014																			
<input type="checkbox"/> SUBCONTRACTOR					TABLE A										TABLE B									
JOB CATEGORIES	TOTAL EMPLOYED		TOTAL RACIAL/ETHNIC MINORITY		BLACK or AFRICAN AMERICAN		HISPANIC OR LATINO		AMERICAN INDIAN OR ALASKA NATIVE		ASIAN		NATIVE HAWAIIAN OR OTHER PACIFIC ISLANDER		TWO OR MORE RACES		WHITE		APPRENTICES		ON THE JOB TRAINEES			
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F		
OFFICIALS	0	0	0	0																				
SUPERVISORS	0	0	0	0																				
FOREMEN/WOMEN	0	0	0	0																				
CLERICAL	0	0	0	0																				
EQUIPMENT OPERATORS	0	0	0	0																				
MECHANICS	0	0	0	0																				
TRUCK DRIVERS	0	0	0	0																				
IRONWORKERS	0	0	0	0																				
CARPENTERS	0	0	0	0																				
CEMENT MASONS	0	0	0	0																				
ELECTRICIANS	0	0	0	0																				
PIPEFITTER/PLUMBERS	0	0	0	0																				
PAINTERS	0	0	0	0																				
LABORERS-SEMI SKILLED	0	0	0	0																				
LABORERS-UNSKILLED	0	0	0	0																				
TOTAL	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
TABLE C (Table B data by racial status)																								
APPRENTICES	0	0	0	0																				
OJT TRAINEES	0	0	0	0																				
7. PREPARED BY: (Signature and Title of Contractor's Representative)					8. DATE					9. REVIEWED BY: (Signature and Title of State Highway Official)					10. DATE									



Chapter 5

- **Funding Advancements for Surface Transportation and Economic Recovery (FASTER)**



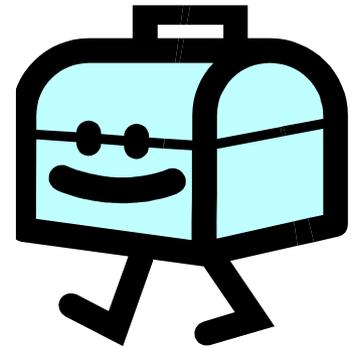


FASTER Job Data Report CDOT Form 1405

- Required on all projects with FASTER \$
 - New standard special provision
- Monthly employment reporting
 - Number of employees
 - Number of hours
 - Payroll amount associated with the hours
 - DBE monthly accumulative payments
- Applies to all contractors/subcontractors
 - Does not tie to payrolls
 - Surveyors
- Submitted to Programs.ProjectAnalysis@dot.state.co.us



Lunch





Chapter 6

- **Federal Labor Regulations**



Introduction, Goals, & Expectations

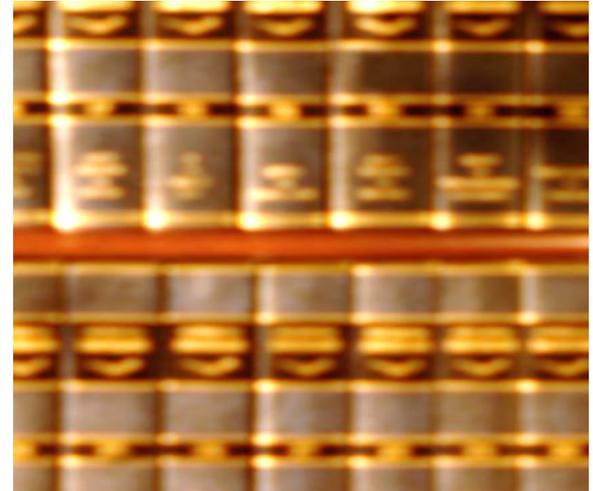
- General understanding of the regulations and contractual obligations
- USDOL is final authority on all labor questions/disputes





Federal Regulations

- Davis-Bacon Act (DBRA)
- Contract Work Hours and Safety Standards Act (CWHSSA)
- Copeland Act
- Fair Labor Standards Act (FLSA)





Chapter 7



- **Certified Payroll Requirements**



Local Agency Information

- Local agency manual available as a resource
 - Current version 2006
- FHWA 1273 applies
 - CDOT specifications
- Projects located on local roads and/or rural minor collectors may be exempt from only Sections IV and V only (labor standards)
 - Exemption based on functional classification of road
 - Davis Bacon applies on Safe Routes





Contractor's Payroll Records

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

Similar to W2 forms





CDOT's Certified Payroll Statements

- Weekly submission (7 day workweek)
- Includes CDOT Form 118 for each week
- USDOL Form WH 347 or any form that contains all the required data
- Employees/owners/salaried employees who are working on site must be shown on the payroll





Contractor Wage Compliance Statement CDOT Form 118

- Completed and attached to each payroll
 - Must be signed - no typed/stamped names
- Numbered consecutively each week
- Fringe benefit details
- May submit one CDOT Form 118 for multiple weeks of "no work"
- Last payroll "Final"





Contractor Wage Compliance Statement CDOT Form 118

- Contractor or subcontractor
 - Name
- Payroll number
- Week ending
- Day and date
- Project information
 - Project number
 - Location
 - Project subaccount





Contractor Wage Compliance Statement

CDOT Form 118

Colorado Department of Transportation CONTRACTOR WAGE COMPLIANCE STATEMENT	Project Code:
	Project Number:
	Project Location:

Contractors/subcontractors

Completion of the payroll supervisor appointment and perjury statement is required by the U.S. Department of Labor and is included on the back of this form. Contractors/subcontractors are required to pay weekly; complete both sides of this form in full and attach to each payroll for the seven day payroll period. Prime contractors are required to submit the forms within seven days of the weekly payroll period to the project engineer; subcontractors submit forms for review to the prime contractor prior to submission to CDOT. The prime contractor is responsible for subcontractor payroll submittal and compliance; by submittal of subcontractor payrolls, the prime contractor certifies that they have reviewed the submittal for compliance.

Contractor/subcontractor name	Payroll number	Payroll period	to
-------------------------------	----------------	----------------	----

Fringe benefit information:

Name(s)/addresses of fringe benefit administrator(s):

Contact person and phone number(s):

Contributions are made in cash or to the plans, funds or programs described below at least quarterly. There are no past due deposits. List the value of the fringe amount as the dollar amount per hour. Documentation of calculations used to determine hourly rates shall be available upon request. Please attach additional information as necessary if fringe contributions vary by employee.

- | | |
|---|---|
| <input type="checkbox"/> cash _____ | <input type="checkbox"/> pension _____ |
| <input type="checkbox"/> health insurance _____ | <input type="checkbox"/> vacation _____ |
| <input type="checkbox"/> dental insurance _____ | <input type="checkbox"/> holiday _____ |
| <input type="checkbox"/> life insurance _____ | <input type="checkbox"/> other (describe) _____ |

All on-the-job trainees (OJTs) employed in the above period are registered in and paid according to a bona fide training program approved by the Colorado Department of Transportation and the Federal Highway Administration. Each trainee has also been approved for work on this contract.

I declare under penalty of perjury in the second degree, and any other State or Federal laws that the statements made in this document are true and complete to the best of my knowledge.

Contractor/subcontractor payroll supervisor or signatory party	Date
--	------



CDOT Form 118

Page 2

Date	(Name of signatory party) I,	(Title)	do hereby state:
(1) That I pay or supervise the payment of the persons employed by (Contractor or Subcontractor)		(Building or work)	
on the		;	
that during the payroll period commencing on the			
day of	Month	Year	and ending the
			day of
			Month
			Year
all persons employed on said project have been paid the full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said			
(Contractor or Subcontractor)		from the full weekly wages earned by any person and that no deductions have been made either directly or indirectly	
from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part 3 (29 CFR Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948, 63 Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. 276c), and described below:			
(2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the applicable wage rates contained in any wage determination incorporated into the contract; that the classifications set forth therein for therein for each laborer or mechanic conform with the work he performed.			
(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in a State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.			
(4) That:			
(a) WHERE FRINGES BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS			
<input type="checkbox"/> in addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above referenced payroll, payments of fringe benefits as listed in the contract have been or will be made to appropriate programs for the benefit of such employees, except as noted in Section 4(c) below.			
(b) WHERE FRINGES BENEFITS ARE PAID IN CASH			
<input type="checkbox"/> Each laborer or mechanic listed in the above referenced payroll has been paid, as indicated on the payroll, an amount not less than the sum of the applicable basic hourly wage rate plus the amount of the required fringe benefits as listed in the contract, except as noted in Section 4(c) below.			
(c) EXCEPTIONS			
Exception (craft)		Explanation	
Remarks			
Name and Title		Signature	
THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 231 OF TITLE 31 OF THE UNITED STATES CODE.			



CDOT's Certified Payroll Statements

- Employee's full name
- Unique identification number
 - Employee identification number
 - Last 4 digits of social security number
- 4 digit classification number and classification description
 - 1042 - Common Laborer





CDOT's Certified Payroll Statements

- Day and Date
- Daily and weekly hours (your project only)
- Rate of pay
 - Hourly
 - Fringe
 - Overtime
- Gross wages (project and off project)
- Deductions
 - Taxes
 - Other (will need supporting document, explanation)
- Net wages paid



US DOL WH 347

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division

PAYROLL
(For Contractor's Optional Use; See Instructions at www.dol.gov/esa/whd/forms/wh347instr.htm)



Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

NAME OF CONTRACTOR <input type="checkbox"/> OR SUBCONTRACTOR <input type="checkbox"/>	ADDRESS
OMB No.: 1215-0149 Expires: 12/31/2011	

PAYROLL NO.	FOR WEEK ENDING	PROJECT AND LOCATION	PROJECT OR CONTRACT NO.
-------------	-----------------	----------------------	-------------------------

(1) NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER	(2) NO. OF WITHHOLDING EXEMPTIONS	(3) WORK CLASSIFICATION	DT. OR ST.	(4) DAY AND DATE							(5) TOTAL HOURS	(6) RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS					(9) NET WAGES PAID FOR WEEK
				HOURS WORKED EACH DAY										FICA	WITH- HOLDING TAX	OTHER	TOTAL DEDUCTIONS		
				S	S	S	S	S	S	S									
			O																
			S																
			O																
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While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a). The Copeland Act (40 U.S.C. § 3145) contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) regulations at 29 C.F.R. § 5.5(a)(3)(i) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

Public Burden Statement

We estimate that it will take an average of 55 minutes to complete this collection, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, ESA, U.S. Department of Labor, Room S3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210



Wage Decisions

- Nine decisions (Applicable wage decision in contract)
 - Not interchangeable
 - CO160016, 17, 18, 19, 20, 21, 22, 23 and 24
- Appropriate wage decision based on project location (county)
 - Multiple counties - higher decision prevails based on classification
 - CDOT requirement





Wage Decisions

- *Example: A project spans both Denver and Jefferson counties:*
- *The “19” wage decision (Denver) for carpenter (form work only) the wage is $\$24.00 + \$11.28 = \$35.28$.*
- *The “16” wage decision (Jefferson) for carpenter (form work only) the wage is $\$16.88 + \$3.81 = \$20.69$*
- *When there is carpentry work performed on the project, the Denver (19) wage decision would be used.*

- *For Traffic control (Flagger) the “16” wage decision shows wages of $\$9.73 + \$3.05 = \$12.78$*
- *For Traffic control (Flagger) the “19” wage decision shows wages of $\$9.55 + \$3.05 = \$12.60$*
- *Therefore when Flagging is performed on the project, then the Jefferson (16) wage decision would be used.*



Wage Decisions

- Contains collectively bargained rates and non-collectively bargained rates
 - Status of Contractor irrelevant
- Contract wage decision effective for duration of project
 - Wage decisions are modified periodically. Be sure to include the appropriate wage decision at the time of advertisement.
 - 10 days prior to bid letting will require a revision under ad if a revision was done to your county
 - Revision to ad with new wage decision



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								
<p>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$</p>										



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 RCRM's or Contract/Labor Compliance Manager



Decision Nos. CO140016, 17, 18, 19, 20, 21, 22, 23 and 24 dated January 03, 2014 supersedes Decision Nos. CO130016, 17, 18, 19, 20, 21, 22, 23 and 24 dated January 04, 2013.	Modifications			ID
	MOD Number	Date	Page Number(s)	
When work within a project is located in two or more counties and the minimum wages and fringe benefits are different for one or more job classifications, the higher minimum wages and fringe benefits shall apply throughout the project.	1	01/24/14	1, 10, 14, 19, 20, 25, 29, 34, 42, 50	1
	2	04/04/14	19, 25, 34, 42	2

General Decision No. CO140016 applies to the following counties: Adams, Arapahoe, Broomfield, Clear Creek, Elbert, Gilpin, Jefferson, and Park counties.

General Decision No. CO140016

The wage and fringe benefits listed below reflect collectively bargained rates.

Code	Classification	Basic Hourly Rate	Fringe Benefits	Last Mod
	ELECTRICIAN (Traffic Signalization Only):			
1000	Clear Creek	26.42	4.75% + 8.68	
	POWER EQUIPMENT OPERATOR:			
	Drill Rig Caisson			
1001	Smaller than Watson 2500 and similar	24.73	9.15	1
1002	Watson 2500 similar or larger	25.04	9.15	1
	Crane (50 tons and under)			
1003	Arapahoe, Broomfield, Clear Creek, Elbert, Gilpin	24.88	9.15	1
	Crane (51 - 90 tons)			
1004	Arapahoe, Broomfield, Clear Creek, Elbert, Gilpin	25.04	9.15	1
	Crane (91 - 140 tons)			
1005	Arapahoe, Broomfield, Clear Creek, Elbert, Gilpin	25.19	9.15	1
1006	Scraper			
1007	Single bowl under 40 cubic yards	24.88	9.15	1
1008	40 cubic yards and over	25.04	9.15	1

Davis Bacon Prevailing Wage Decision CO140016



(year)



Wage Conformance Request

- 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

REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND RATE					CHECK APPROPRIATE BOX <input type="checkbox"/> SERVICE CONTRACT <input type="checkbox"/> CONSTRUCTION CONTRACT	AUTHORIZED FOR LOCAL REPRODUCTION OMB No.: 9000-0089 Expires: 04/30/2005
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.						
INSTRUCTIONS: THE CONTRACTOR SHALL COMPLETE ITEMS 3 THROUGH 16, KEEP A PENDING COPY, AND SUBMIT THE REQUEST, IN QUADRUPPLICATE, TO THE CONTRACTING OFFICER.						
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	
TO BE COMPLETED BY CONTRACTING OFFICER (CHECK AS APPROPRIATE - SEE FAR 22.1019 (SCA) OR FAR 22.406-3 (DBA))						
<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.						
<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.						
<i>(Send copies 1, 2, and 3 to Department of Labor)</i>						
SIGNATURE OF CONTRACTING OFFICER OR REPRESENTATIVE			TITLE AND COMMERCIAL TELEPHONE NO.		DATE SUBMITTED	



Fringe Benefits

- Required in the amounts listed in wage decision
- Cash, bona fide plans, funds and/or programs or in combination
- Must be paid for all hours worked
 - No overtime calculation for fringe benefit





Typical Fringe Benefits

- Health, life or dental insurance
- Pension Plans, 401K, Approved profit sharing
- Vacation
- Sick
- Holiday





Fringe Benefits

- Must be expressed in a dollar amount per hour
 - 2080 hours divided hours = \$ value
- 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





Deductions

- Must be identified, legal, allowable
 - Taxes
 - Fringe benefits
 - Unfeasible under DBRA (deposits, PPE, equipment)
 - 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





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.”**



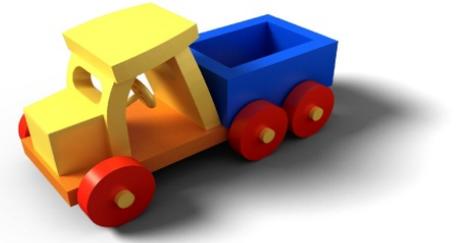
Site of Work

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





Truck Drivers



- Must have a subcontract
 - Not a service contract
 - FHWA 1273 attached to contract
- Form 205 submitted
 - Values can be based on pay x the number of appropriate hours
 - Not required to have bid item attached



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

- Wages not covered by Davis Bacon
- USDOL's enforcement position
 - Must be bona fide owners
 - Own and drive truck
 - Applies only to truck
 - Certified payrolls must include:
 - Names of owner
 - Notation "owner/operator"
 - Registration & driver's license needed for documentation
- CDOT Form 205 is submitted





Contractor's Payroll Checking Requirements

- Check all payrolls submitted from subcontractors prior to submission to CDOT
- Sign and date CDOT Form 118 that payroll was checked and wages and classifications shown are **reasonable** and correct
- Submit subcontractor's and Contractor's payroll to CDOT





CDOT's Payroll Checking Procedures

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



CDOT Procedures

- CDOT randomly check 10% of payrolls for checking and signature by Contractor (Prime Contractor check since subcontractors are checked by Prime)
- May check more if applicable
- CDOT will continue to sign all payrolls that were sampled for verification





Compliance/Certified Payroll Questions



Karen Fujii-Martin

Region 1

Civil Rights External Programs Lead

Karen.fujii-martin@state.co.us

303-757-9888



Some Helpful Websites (See Material Resource Section)

U.S. Department of Labor

www.dol.gov/esa/whd/

Special Provisions

<https://www.codot.gov/business/designsupport/construction-specifications/2011-Specs/standard-special-provisions/mics>

CDOT Poster requirements

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

CDOT Forms Catalog Website

<https://www.codot.gov/library/forms>

CDOT Pay Estimate Website

<https://www.codot.gov/business/payestimates>

DOL Wage Determinations

<http://www.wdol.gov/dba.aspx>



Region Civil Rights Managers

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 - Kathy Williams
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 - 303-757-9386
- Region 2
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- Region 3
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