|  |  |  |
| --- | --- | --- |
| DATE  |  BULLETIN NUMBER  | BULLETIN NAME  |
| May 17, 2022 | 2022 Number 1 | Juneteenth State Holiday |
| June 28, 2021  | 2021 Number 5  | Revision to Section 107 and Section 120 of the 2019 Construction Manual  |
| March 15, 2021  | 2021 Number 4  | CDOT’s MS4 inspection software, ESCAN/CARL  |
| March 10, 2021  | 2021 Number 3  | Revision to Form 1432: DBE Commercially Useful Function Questionnaire  |
| February 24, 2021  | 2021 Number 2  | Stormwater Construction Permit Mod 1  |
| January 22, 2021  | 2021 Number 1  | Revision to Section 120 of the 2019 Construction Manual  |
| August 14, 2020  | 2020 Number 2  | Electronic Signatures for Buy America Documentation  |
| March 27, 2020  | 2020 Number 1  | Temporary Electronic Signature for Change Orders Guidance  |
| August 8, 2019  | 2019 Number 2  | Change Order Price Analysis Tool  |
| March 28, 2019  | 2019 Number 3  | New Permit Requirements  |
| March 29, 2016[Rev. Oct. 20, 2016]  | 2016 Number 2  | Water Quality Control  |
| February 4, 2016[Rev. July 26, 2016]  | 2016 Number 1  | Finals Notebook and ProjectWise For Construction  |
| August 17, 2015  | 2015 Number 6  | Permanent Water Quality Mitigation Pool  |
| June 19, 2013  | 2013 Number 7  | Regional Contracts for Water Quality and Erosion Control  |
| August 18, 2010  | 2010 Number 5  | FASTER Project Signs  |
|   |   |   |

The reasons for this Construction Bulletin are that recently issued specifications have impacted Civil Rights compliance processes on construction projects. The Construction Manual has been updated to align with the issued specifications.

June 18, 2021 (Effective for projects advertised on or after July 1, 2021)

Required Contract Provisions Federal-Aid Construction Contracts

Certified Payroll Requirements for Construction Contracts

June 23, 2021 (Effective for projects advertised on or after July 1, 2021)

Section 101: Definitions and Terms

Section 106: Control of Material (106.01)

Section 108: Prosecution and Progress (108.01)

Miscellaneous: Disadvantaged Business Enterprise (DBE) Requirements (7 (b) Work Included in Commitment and/or Verified via form 205 or form 1425)

Also, in reviewing the Construction Manual it was determined that not all updates associated with the On-The-Job Training Standard Special Provision were made at the time the specification was issued in August 2018. Those elements in the construction manual are now in alignment with the specification.

**Subsection 108.08** states (in part),

The Contractor shall not carry on construction operations on Saturdays, Sundays, or holidays unless previously arranged and approved.

Considering that the month of June is part of peak construction season, it is anticipated that the majority of contractors will elect to work June 20, 2022 and forgo observing the day as a holiday; therefore, it is not recommended that any changes be made to the contract.

It is advised that Project Engineers treat June 20, 2022, as a working day. Issuing a suspension of work is not advisable as doing so would be considered an excusable, compensable delay, i.e. the Contractor may be entitled to a time extension and monetary compensation.

**Section 107**

107.1.1 Davis Bacon Act

Add the following to the existing section:

Senate Bill 19-196 requires the Department of Transportation to apply the requirements of the federal “Davis-Bacon Act” to all projects advertised on or after July 1, 2021 regardless of project size or funding type (this includes CDOT projects that are fully state-funded). Local Agency state-funded projects are excluded from this requirement.

Summary of change:

Davis-Bacon certified payrolls are required on federal-aid and state-funded construction contracts per Senate Bill 19-196 and the subsequently created Colorado Revised Statute 24-92-202.

107.1.1.1 FHWA Form 1273

Delete:

The FHWA Form 1273 – Required Contract Provisions – Federal-Aid Construction Contracts must be incorporated directly into Federal-Aid Contracts, including subcontracts, lower tier subcontracts, and purchase orders. The Contractor shall be responsible for ensuring compliance of all subcontracting entities. The Project Engineer must discuss these requirements with the Contractor and subcontracting entities at the Preconstruction Conference.

Replace with:

The FHWA Form 1273 – Required Contract Provisions – Federal-Aid Construction Contracts must be incorporated directly into Federal-Aid Contracts, including subcontracts and lower tier subcontracts. The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The Contractor shall be responsible for ensuring compliance of all subcontracting and supplying entities. The Project Engineer or Region Civil Rights Office must discuss these requirements with the Contractor and subcontracting entities at the Preconstruction Conference.

Summary of change:

Updated to clarify the various types of contractual agreements and whether the FHWA Form 1273 must be incorporated or referenced.

107.1.1.3 Weekly Payrolls

Delete:

Weekly payrolls are required from all Contractors and subcontractors. CDOT inspectors will randomly sample ten percent of the Contractor’s submittals to verify they are signed and certified. All payrolls checked by an inspector will be stamped to document they were checked. If problems are found, the Contractor will be notified immediately and the random sample frequency will be increased to 25 percent until the Contractor becomes compliant. The Contractor shall also check all project payrolls prior to submitting to CDOT. Payrolls checked by the Contractor shall be stamped to document they were reviewed.

Replace with:

Contractor and all tiers of subcontractors:  Submission of weekly payrolls (at least every seven days) is required.

Suppliers:  When the criteria outlined in Specification 106.01 is met, submission of weekly payrolls (at least every seven days) is required.

Prime Approver:  Prime Contractor reviews and approves or rejects all payrolls submitted by their own company as well as all subcontractors and applicable suppliers.

CDOT Project Engineer or designee:  Accepts or rejects all submitted payrolls

Using the payroll review checklist

(<https://www.codot.gov/business/civilrights/compliance/assets/lcptracker-payroll-review-checklist_05-21.pdf>), the CDOT Project Engineer or designee will review 100% of the first four performing payroll submissions of the Contractor, each subcontractor, and each Supplier (if required to be submitted).  If the CDOT Project Engineer or designee has determined that the firm has demonstrated compliance in payroll submissions, the individual may determine to reduce reviews to 10% of each firm’s payrolls submitted thereafter.  If the firm does not demonstrate compliance, the individual may determine to increase the percentage of reviews. All submitted payrolls must be accepted by the CDOT Project Engineer or designee in the LCPtracker system within 14 days of submission from the Prime Approver.

Summary of change:

A payroll review checklist was created to assist project staff in knowing what certified payroll information should be reviewed in the LCPtracker system. Also updated is the frequency of payrolls to be reviewed to focus on an increased number initially and a decreased number once a firm has demonstrated compliance.

107.1.3.1 Utilization Plan

Delete:

For all federal aid projects with a DBE goal greater than zero, the Contractor shall have an approved DBE Utilization Plan (UP) prior to contract award. The UP lists the DBE commitments the Contractor shall use to meet the DBE contract goal. The Project Engineer and regional staff can view the UP in B2GNow under Proposals. Additionally, when the Civil Rights and Business Resource Center creates the contract in B2GNow, the commitments presented in the UP are transferred into the contract. They are designated by a red exclamation point until a Form 205 is received and approved by the CRO. For more information, see the B2G User Manual and support section of the Civil Rights and Business Resource Center https://www.codot.gov/business/civilrights/compliance/support/b2g.

Replace with:

For all federal aid projects with a DBE goal greater than zero, the Contractor shall have an approved DBE Utilization Plan (UP) prior to contract award. The UP lists the DBE commitments the Contractor shall use to meet the DBE contract goal. The Project Engineer and regional staff can view the UP in B2GNow under Proposals. Additionally, when the Civil Rights and Business Resource Center creates the contract in B2GNow, the commitments presented in the UP are transferred into the contract. They are designated by a red exclamation point until a Form 205 or Form 1425 is received and approved by the CRO. For more information, see the [DBE Participation Training Resources](https://www.codot.gov/business/civilrights/compliance/construction/dbe-participation) section of the Civil Rights and Business Resource Center.

Summary of change:

Designated commitments in the B2GNow system that are part of the Utilization Plan are shown with a red exclamation point until a Form 205 or Form 1425 is received and approved by the Civil Rights Office.

107.1.4.2 Enrolling Trainees and Apprentices

Delete last paragraph:

When a trainee or apprentice is approved by the CRO, the Contractor shall submit the hours worked on the project by the trainee/apprentice on a Form 832 – Trainee Status and Evaluation. The form is due monthly and requires approval of the Project Engineer. The Project Engineer should review the project hours for reasonableness in comparison to the certified payrolls, daily diaries, or other project observations. The Project Engineer will initiate payment from the OJT force account for hours worked on the CDOT project site and found to be reasonable at the rate of $2.00 per hour. A copy of Form 832 shall be sent to the CRO each month. At no time should the OJT force account be paid as a lump sum pay item.

Replace with:

When a trainee or apprentice is approved by the CRO, the Contractor shall submit the hours worked on the project by the trainee/apprentice on a Form 832 – Trainee Status and Evaluation. The form is due monthly and requires approval of the Project Engineer. The Project Engineer should review the project hours for reasonableness in comparison to the certified payrolls, daily diaries, or other project observations. The Project Engineer will initiate payment from the OJT force account for hours worked on the CDOT project site and found to be reasonable at the rate of $10.00 per hour. A copy of Form 832 shall be sent to the CRO each month. At no time should the OJT force account be paid as a lump sum pay item.

Summary of change:

Reimbursement payment increased from $2.00 per hour to $10.00 per hour to align with On-The-Job Training Standard Special Provision.

107.1.4.3 Increasing OJT Hours

Delete:

If the OJT Force Account has been expended and the Contractor requests an increase in the OJT force reimbursable training hours, the Project Engineer should consider whether additional funds are available and if the request is timely. The Project Engineer should also consider if the Contractor is close to reaching the OJT goal, has significant work to perform, and training opportunities are still available. If that is the case, the Project Engineer may grant an increase in the OJT hours. Requests should not be considered if prior approval is not obtained. The Project Engineer may also reject a request if the request is premature, the Contractor is not close to reaching the current OJT goal, a request is made at the end of a project, after trainees/apprentices have worked on site, the paperwork was not submitted in a timely manner, or if the amount requested is significant. When an increase to the OJT hours is approved, the Project Engineer will determine the limit of increase and create a CMO to increase the OJT Force Account.

Replace with:

The Contractor will be reimbursed for no more than the amount outlined in the OJT force Account budget.

Summary of change:

Due to the significant increase in the hourly reimbursement rate, the Contractor will be reimbursed for no more than the amount outlined in the OJT force account budget.

107.1.4.4 Offsite OJT Hours

Delete:

If a Contractor’s apprentice is enrolled in a U. S Department of Labor approved apprenticeship program and registered with CDOT using Form 838 and working for the Contractor on a non-CDOT project, the hours worked on the non-CDOT project may be counted toward the project goal. To qualify the approved documentation on Form 832 and concurrence from the CRO is required. If a Contractor elects to use this method, the hours will not be reimbursed from the Project’s force account. Adequate documentation shall be submitted by the Contractor to the Project Engineer for approval. An example of acceptable documentation is a Certified Payroll from the other project. The Project Engineer will forward the documentation to the CRO who will have ten days to review the request and issue a decision.

Replace with:

Offsite OJT Hours will not count toward the OJT goal.

Summary of change:

Offsite OJT hours will not count toward the OJT goal per the On-The-Job Training Standard Special Provision.

107.1.4.5 OJT Goal Waiver or Modification

Delete first paragraph:

The Contractor or the Project Engineer may initiate a waiver or modification of the OJT goal. A waiver or modification is approved only in rare cases and because of this, is not discussed in the specification. If the Contractor requests that the OJT goal be waived or modified, a written explanation shall be submitted. Once a written request is received or the Project Engineer determines a waiver or modification is warranted, the Project Engineer will notify the CRO. The Project Engineer with the CRO will decide whether to approve the waiver or modification General Provisions 100-57 and if approved, a Form 1336 – Waiver Request for Contract’s On the Job Training Hours will be completed by the Project Engineer. If applicable, it should include the Contractor’s request as an attachment. The CRO will have ten working days to review and approve Form 1336. If Contractor’s request for a waiver or modification is denied, the Project Engineer will notify the Contractor in a Form 105.

Replace with:

The Contractor or the Project Engineer may initiate a waiver or modification of the OJT goal. If the Contractor requests that the OJT goal be waived or modified, a written explanation shall be submitted. Once a written request is received or the Project Engineer determines a waiver or modification is warranted, the Project Engineer will notify the CRO. The Project Engineer with the CRO will decide whether to approve the waiver or modification and if approved, a Form 1336 – Waiver Request for Contract’s On the Job Training Hours will be completed by the Project Engineer. If applicable, it should include the Contractor’s request as an attachment. The CRO will have ten working days to review and approve Form 1336. If Contractor’s request for a waiver or modification is denied, the Project Engineer will notify the Contractor in a Form 105.

Summary of change:

The OJT goal waiver or modification process and form are now outlined in the updated On-The-Job Standard Special Provision.

**Section 120**

120.10.1 FHWA Form 1273

Delete:

Item VII. 4. of FHWA Form 1273 – Required Contract Provisions – Federal-Aid Construction Contracts states the following:

No portion of the Contract shall be sublet, assigned or otherwise disposed of except with the written consent of the state highway agency contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the Contractor of any responsibility for the fulfillment of the Contract. Written consent will be given only after the state highway agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the Prime Contract.

On Federal-Aid projects where FHWA Form 1273 is applicable, the Contractor certifies on Form 205 – Sublet Permit Application that FHWA Form 1273 is attached to and incorporated in every subcontract and purchase order. The Federal Highway Administration considers contract work to include all work performed by rented or leased equipment, with or without an operator.

Replace with:

Item VI. 4. of FHWA Form 1273 – Required Contract Provisions – Federal-Aid Construction Contracts states the following:

No portion of the Contract shall be sublet, assigned or otherwise disposed of except with the written consent of the state highway agency contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the Contractor of any responsibility for the fulfillment of the Contract. Written consent will be given only after the state highway agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the Prime Contract.

On Federal-Aid projects where FHWA Form 1273 is applicable, the Contractor certifies on Form 205 – Sublet Permit Application that FHWA Form 1273 is attached to and incorporated in every subcontract and service agreement.

Summary of change:

Updated to note the section is item VI, not VII.

120.10.2 Form 205

Delete:

The Department assures compliance with subsection 108.01 of the Standard Specifications by requiring on all projects the completion, certification, and submission of Form 205 – Sublet Permit Application. CDOT also uses Form 205 to track and monitor subcontracting percentage and compliance with Disadvantaged Business Enterprise requirements.

The Contractor shall complete and submit an original Form 205 to the Project Engineer for each subcontractor on the project, but the subcontractor may not begin work until Form 205 has been approved. The Project Engineer will consult with the Region EEO/Civil Rights Specialist prior to approval.

The Contractor must submit a revised Form 205 if items of work are added to the subcontract. It is unnecessary to revise the Form 205 for over runs and under runs.

This information is used by EEO to track Contractor compliance with good faith efforts.

To expedite a subcontractor’s start date, the Contractor may fax a signed copy of Form 205 to the Project Engineer for signature approval. If this method is used, the Contractor must not delay in forwarding the signed original of Form 205 to the Project Engineer.

The Contractor must execute a written agreement with the subcontractor that includes all relevant State and Federal provisions, before the subcontractor begins work.

The following procedures should be utilized to ensure compliance with subsection 108.01:

1. Material Suppliers. Determine if the work to be performed by a firm or individual is part of the construction Contract or is supply of material. The Form 205 is not required for suppliers unless the Contractor is seeking to add a supplier for DBE participation. Instead, the Contractor must list all suppliers on Form 1425. The Engineer must ensure that the CRO receives the original and updated Form 1425. Material suppliers are exempt from the provisions of the Davis-Bacon Act and are not required to submit payrolls.
2. Subcontractors. If a firm or individual subcontractor performs the work, a written subcontract, approved Form 205, and certified payrolls are required, subject to the following conditions:
	1. Owner/Operator Truck Drivers. The U.S. Department of Labor takes a nonenforcement position on drivers who own their own trucks, thus Davis-Bacon wages are not required. An owner/operator is defined as an owner driving a truck that is registered in the owner/operator’s name. Truck drivers who are owner/operators must appear on a certified payroll. The owner/operator’s name, address, and Social Security number must be included on the payroll with the notation “owner/operator” listed under the wages column. Owners of other types of equipment must comply with Davis-Bacon requirements. Contractors may either:
		1. include owner/operators on the Contractor’s payroll with the required information, or
		2. submit Form 205 for the owner/operator and have the owner/operator certify and submit its own payroll.
	2. Truck Drivers and Site of Work Considerations. Truck drivers who are not hauling on the site of work, from the site of work, or to the site of work are not covered by the requirements of the Davis-Bacon Act. The Department recognizes the following definition of site of work: Site of Work:

The site of work shall be defined as the physical location where the project exists and any adjacent property that is set up to service the project. If the staging area, pits, or plants can be accommodated on the project site or on adjacent property, but are located elsewhere for circumventing the payment of predetermined wage, the site of work shall include the service area. For the purposes of determining site of work, adjacent shall be defined as “lying near or close to; sometimes, contiguous; neighboring. Adjacent implies that the two objects are not widely separated, though they may not actually touch.”

Project Engineers should contact the Contracts and Market Analysis Branch at (303) 757-9541 for assistance in making determinations.

* 1. Other Truck Drivers and Construction Personnel. All other truck drivers and construction personnel are covered by Davis-Bacon requirements and must appear on certified payrolls in accordance with the following:
		1. When the Contractor or subcontractor does not own the trucks or equipment, the truck drivers and equipment operators may appear on a Contractor or subcontractor certified payroll with wages shown. This includes concrete pumpers and crane operators.
		2. If the truck drivers or operators do not appear on the Contractor payroll, a written subcontract and completed Form 205 must be executed, and the truck drivers or equipment operators must appear on the subcontractor payroll.

Replace with:

120.10.1 Form 205 and Form 1425

The Department assures compliance with subsections 101.61 and 108.01 of the Standard Specifications by requiring on all projects the completion, certification, and submission of the Form 1425 (Supplier Application Approval Request) and Form 205 (Sublet Permit Application). CDOT uses the Form 1425 and Form 205 to enter suppliers and subcontractors into the B2GNow software system for prompt payment monitoring and tracking of compliance with the Disadvantaged Business Enterprise requirements. CDOT also uses Form 205 to track and oversee the subcontracting percentage. The Contractor shall complete and submit an electronic Form 1425 or Form 205 in the B2GNow system for each subcontractor and supplier on the project to the Project Engineer. The Project Engineer will recommend the supplier or subcontractor for approval in the B2GNow system. Once the Form 1425 or Form 205 receives recommended approval from the Project Engineer, the Region Civil Rights Specialist will approve or deny the supplier or subcontractor in the B2GNow system. The supplier or subcontractor may not begin work until the Form 1425 or Form 205 has been approved in the system. The Contractor must submit a revised Form 205 if items of work are added to the subcontract. It is unnecessary to revise the Form 205 for overruns and underruns. This information is used by the CRO to track Contractor compliance with good faith efforts. The Contractor must execute a written agreement with the subcontractor that includes all relevant State and Federal provisions, before the subcontractor begins work.

The following procedures should be utilized to ensure compliance with subsections 106.01 and 108.01:

1. Material Suppliers. Determine if the work to be performed by a firm or individual is part of the construction Contract or is supplying material using the definitions outlined Specification 101.81 and 101.81.5. The Form 205 is not required for suppliers. Instead, the Contractor must submit a Form 1425 for each supplier that meets the $10,000 threshold outlined in 106.01. Supplier employees, including truck drivers, are not covered by DBRA prevailing wages in the following instances (the prevailing wage requirements do not apply to these employees and are not included on a payroll):

* Employees working at and truck drivers hauling to the project from a facility not deemed part of the “site of the work” are not covered under DBRA prevailing wage requirements. The facility is not considered to be part of the “site of the work” if it does not meet the criteria of dedicated and/or adjacent to the project.
	1. For example: If truck drivers are hauling material to the project from a facility that is not adjacent or virtually adjacent to the project, they are not covered under DBRA.

* 1. For example: Truck drivers hauling materials to the project from a commercial source are not covered under DBRA. The commercial source is not a facility that is dedicated exclusively, or nearly so, to the project; Therefore, DBRA does not apply.
	2. Trucking owner-operators are not covered under DBRA.

For drivers that work (either as employees or contractors) for a bona fide material supply company the following additional guidance applies.  If the driver is making deliveries of materials to the site of work, that time is not covered for DBRA purposes. However, if the worker of a material supply company (including a driver) performs actual construction work (such as warranty or repair work) for more than an incidental amount of time (20% of a work week), and that construction work is related to an item that has been delivered to the site of work, then that time spent performing actual construction work (on site) would be covered by DBRA. Moreover, if a worker for a material supply company spends more than 20% of their workweek performing actual construction work on the site of work, at that point all time that the worker spends on the site of work, including delivery time, will be considered to be covered. The material supply company should be tracking any time that a material supply company worker spends on the site of work doing actual construction to make sure that the worker is paid the applicable prevailing wage for that work.  If the material supply worker spends more than 20% of their work week performing actual construction work, the contractor would then also need to track delivery time spent on site as at that point they are considered to essentially be a construction worker and all of their onsite time would be covered.

1. Subcontractors. If a firm or individual subcontractor performs the work, a written subcontract, approved Form 205, and certified payrolls are required, subject to the following conditions:
	1. Owner/Operator Truck Drivers. The U.S. Department of Labor takes a non-enforcement position on drivers who own their own trucks, thus Davis-Bacon wages are not required. An owner/operator is defined as an owner driving a truck that is registered in the owner/operator’s name. Truck drivers who are owner/operators must appear on a certified payroll. The owner/operator’s name, address, and Social Security number must be included on the payroll with the notation “owner/operator” listed under the wages column. Owners of other types of equipment must comply with Davis-Bacon requirements. Contractors shall:
		1. submit Form 205 for the owner/operator and have the owner/operator certify and submit its own payroll.
	2. Truck Drivers and Site of Work Considerations. Truck drivers who are not on site haulers (hauling on the site of work, from the site of work, or to the site of work) are not covered by the requirements of the Davis-Bacon Act. The Department recognizes the following definition of site of work: Site of Work: The site of work shall be defined as the physical location where the project exists and any adjacent property that is set up to service the project. If the staging area, pits, or plants can be accommodated on the project site or on adjacent property, but are located elsewhere for circumventing the payment of predetermined wage, the site of work shall include the service area. For the purposes of determining site of work, adjacent shall be defined as “lying near or close to; sometimes, contiguous; neighboring. Adjacent implies that the two objects are not widely separated, though they may not actually touch.” Project Engineers should contact their Region Civil Rights Office for assistance in making determinations.
		1. For drivers that work (either as employees or through a written agreement) for a construction contractor (or subcontractor) performing construction onsite, the following additional guidance applies. Under current DOL guidance as stated in the Field Operations Handbook at 15e22, drivers who work for the construction contractor are covered when loading or unloading materials onsite for delivery or removal if such time is not de minimis, such as just a few minutes spent at a time to pick up or drop something off. Waiting in queue on the site of work to drop off materials from a location that is not on the site of work does not contribute to the few minutes. There is no 20% requirement or cutoff for determining that work is or is not de minimis for truck drivers who work for contractors.  In the Field Operations Handbook, the 20% is only mentioned with reference to drivers who work for material supply companies.
	3. Other Truck Drivers and Construction Personnel. All other truck drivers and construction personnel are covered by Davis-Bacon requirements and must appear on certified payrolls in accordance with the following:
		1. a written subcontract and completed Form 205 must be executed, and the truck drivers or equipment operators must submit their own payroll.
2. Subcontractors that are also material suppliers on a single project: Per Specification 108.01, when a firm both sells material to a prime contractor and performs the work of incorporating the materials into the project, these two phases shall be considered in combination and as constituting a single subcontract.  The Subcontractor shall acknowledge on the Form 205 that they are operating both in the capacity of a Subcontractor and Supplier for a project.
	1. Certified Payroll considerations:When evaluating whether certified payrolls are required, the primary employer will evaluate what functions the employee is doing on the site of work. If the employee is performing active construction as part of the subcontracted work, the employee will be subject to the Subcontractor certified payroll guidance above.
		1. If the employee is operating in the capacity of fabricating or processing an item off the site of work or is delivering an item(s) to the site of work, they are acting as a supplier and will be subject to the Supplier certified payroll guidance in the Supplier section below.

Summary of change:

Suppliers will no longer be listed on a single Form 1425. The Contractor is now responsible for submitting a Form 1425 for each supplier individually that meets the $10,000 threshold in the B2GNow system (similar to the Form 205). Definitions were updated for the terms Supplier and Subcontractor. The definitions align with USDOL regulations and assist the Contractor in determining which form should be submitted for the firm or individual (205 or 1425). It is important to note that employees of construction contractors (Prime and subcontractors) and employees of bona fide material suppliers have different certified payroll tracking and monitoring requirements as outlined above in the updated section. Suppliers are now required to notify the Contractor if an individual spends more than 20% of their workweek performing actual construction work such as installation, repair or warranty work, on the site of work as that would require the submission of a Form 205 and certified payrolls.

Firms can perform as a subcontractor and also a material supplier on a single project. The Form 205 has been updated. Subcontractors must specify on the updated Form 205 if they are purchasing more than $10,000 from supply firms. This helps to inform CDOT whether to anticipate the submission of Form 1425(s) with the subcontractor’s Form 205. The Subcontractor must also acknowledge on the Form 205 if they are operating both in the capacity of a Subcontractor and Supplier for a project.

120.10.3 Use of Form 205 for Leased or Rented Equipment

Delete bullet #3:

1. Federal-Aid Projects. On Federal-Aid projects, all employees performing contract work must appear on a payroll and be paid the predetermined minimum wage.

Replace with:

1. All Projects. On all projects, all employees performing contract work must appear on a payroll and be paid at least the predetermined minimum.

Summary of change:

Updated to state all projects, not just federal-aid projects.

120.10.4.1 Project Engineer Review

Delete:

The Project Engineer will check the following items before submitting Form 205 – Sublet Permit Application to the CRO:

Replace with:

The Project Engineer will check the following items before recommending the Form 205 – Sublet Permit Application for approval to route to the CRO:

Summary of change:

Updated to reflect B2GNow system process for Form 205 approval.

120.10.4.2 Project Engineer Approval

Delete:

The Project Engineer will sign and date Form 205, which constitutes approval to sublet portions of the Contract.

Replace with:

The Project Engineer will recommend the Form 205 for approval in the B2GNow system, which constitutes approval to sublet portions of the Contract.

Summary of change:

Updated to reflect B2GNow system process for Form 205 approval.

120.10.4.3 Region EEO/Civil Rights Specialist Review

Delete bullet #3:

1. Approve Form 205 and Upload in B2GNow: The CRO will review the Form 205. If approved, the Form 205 will be uploaded in the Contract in B2GNow. The CRO shall notify the Project Engineer when the Form 205 has been approved.

Replace with:

1. Approve Form 205 in B2GNow: The CRO will review the Form 205. If approved, the Form 205 will be available in the B2GNow system. The CRO and Project Engineer have access to view the record in the system.

Summary of change:

Updated to reflect B2GNow system process for Form 205 approval.

120.10.5 Replacement of a Subcontractor

Delete:

If it is necessary to replace a subcontractor that is a certified Disadvantaged Business Enterprise, the Contractor must follow the procedures in the Standard Special Provisions included in the Contract.

Replace with:

If it is necessary to replace a DBE subcontractor that is working in a commitment as part of the Utilization Plan, the Contractor must follow the procedures in the DBE Standard Special Provisions included in the Contract.

Summary of change:

Updated to clarify replacement of a DBE subcontractor that is working as part of a commitment.

Effective Date:

The updates apply to projects that are advertised on or after July 1, 2021.

Additional Information:

Only the updated Form 1425 and Form 205 will be available on the forms website going forward. The updated Form 1425 and Form 205 can be used on current, active projects that were advertised prior to July 1, 2021.

In the event a project that was advertised prior to July 1, 2021 does not elect to use the updated forms, please contact the appropriate Region Civil Rights Office as they have been given the legacy copies of the previous Form 1425 and Form 205.

**Helpful Links:**

[Recently Updated Forms (Form 205 and Form 1425)](https://www.codot.gov/library/forms)

[CDOT Civil Rights Subletting and Suppliers Compliance Resource Guide](https://www.codot.gov/business/civilrights/compliance/assets/cdot_civil-rights-subletting-compliance-resource-guide_06-21.pdf/view)

[Payroll Review Checklist](https://www.codot.gov/business/civilrights/compliance/assets/lcptracker-payroll-review-checklist_05-21.pdf)

[Certified Payroll Requirements for Construction Contracts Frequently Asked Questions](https://www.codot.gov/business/civilrights/compliance/assets/cdot-certified-payroll-requirements-for-construction-contracts_faqs_06-21.pdf)

[Recently Issued Special Provisions](https://www.codot.gov/business/designsupport/cdot-construction-specifications/2019-construction-specifications/recently-issued-special-provisions)

Please direct any questions about this bulletin to the CDOT Civil Rights and Business Resource Center.