

STATE OF OHIO



DEPARTMENT OF REHABILITATION
AND CORRECTION

SUBJECT:	PAGE <u>1</u> OF <u>6</u>
Equal Employment Opportunity Construction Compliance	NUMBER: 32-EEO-04
RULE/CODE REFERENCE: Title VII Contract Compliance Reviews 123:2-3-05 CER Chapter 60-1.4(a) or (b)	SUPERSEDES: 32-EEO-04 dated 01/26/08
RELATED ACA STANDARDS:	EFFECTIVE DATE: February 11, 2016
RELATED AUDIT STANDARDS:	APPROVED: 

I. AUTHORITY

This policy is issued in compliance with Ohio Revised Code 5120.01 which delegates to the Director of the Ohio Department of Rehabilitation and Correction the authority to manage and direct the total operations of the Department and to establish such rules and regulations as the Director prescribes.

II. PURPOSE

The purpose of this policy is to outline the procedures and guidelines relative to the implementation of an equal employment opportunity program on DRC construction contracts; establish a uniform procedure for administering Title VII Contract Compliance Reviews (CCR). Primary users of the SOP are all DRC personnel working in the area of EEO and Contract Compliance.

III. APPLICABILITY

This policy is applicable to all locally administered construction projects. This SOP is to be adhered to by all the Ohio Department of Rehabilitation and Correction (DRC) contractors and the DRC personnel responsible for contract compliance.

IV. DEFINITIONS

Administering Agency - Any department, agency and establishment in the executive branch of government, including and wholly owned Government Corporation, which administers a program involving Federal and State assisted construction contracts.

Affirmative Action - The efforts exerted towards achieving equal opportunity through continuous result oriented measures to correct past and present discriminatory practices and their effects on the conditions and privileges of employment. These measures include but are not limited to recruitment, hiring, promotion, upgrading, demotion, transfer, termination, compensation and training.

Compliance - The condition existing when a contractor has implemented all the standards set forth in the applicable rules and regulations governing equal opportunity and affirmative action laws of State and Federal government or can demonstrate that every good faith effort toward achieving this end has been made.

Construction, Activation, Maintenance and Sustainability (CAMS) - A section of the Office of Administration for the Ohio Department of Rehabilitation and Correction.

Contract - Any state assisted business arrangement for the supply of certain goods or services at a fixed price.

Contractor - Any person, corporation, partnership, or unincorporated association that holds a State assisted construction contract or subcontract regardless of tier.

Contractors' Workforce - All employees on the payroll of and whom the contractor directly supervises.

Corrective Action Plan - A contractor's written and signed commitment outlining actions taken or proposed within the time limits and goals where appropriate to correct, compensate for and remedy each violation of the equal opportunity requirements as specified in a list of deficiencies.

Discrimination - The act (or action), whether intentional or unintentional, through which a member of a protected class, solely because of race, color, religion, sex or national origin, has been otherwise subject to unequal treatment under any program or activity receiving financial assistance from state government

Equal Employment Opportunity (EEO) - The absence of partiality in employment treatment on the basis of a protected class, so that the right of all persons to work and advance on the basis of merit, ability, and potential is maintained.

Equal Employment Opportunity Construction Compliance Officer (EEOCCO) - DRC employee who conducts random Equal Opportunity Construction Compliance reviews of DRC's contract construction sites.

Equal Opportunity Clause - The contract provisions set forth in CFR Chapter 60-1.4(a) or (b), as appropriate.

Equal Opportunity Compliance Review - An evaluation and determination on non-exempt direct government or State contractor, or subcontractor's compliance with equal opportunity requirements based on:

1. Project workforce- employees at the physical location of the construction activity
2. Area workforce- employees at all government projects in a specific geographic
3. Home office workforce – employees at the physical location of the corporation, company, or other ownership headquarters or regional managerial offices, including “white collar” personnel (managers, professional, technicians and clerical) and any maintenance of service personnel connected thereto.)

Equal Opportunity Requirements - A general term used throughout this document to mean all contract provisions relative to equal employment opportunity (EEO), sub-contracting and training.

Good Faith Effort - Affirmative action measures designed to implement the established objectives of an Affirmative Action Plan.

Hometown Plan - A voluntary area wide plan which was developed by representatives of affected groups (usually labor unions, minority organizations, and contractors)

Journeyman - A person who is capable of performing all the duties within a given job classification or craft.

Noncompliance - The condition existing when a recipient or contractor has failed to implement the requirements of equal opportunity and affirmative action laws.

Permit Person - A person signed with the Union who receives full benefits, but is pre full member status, earning journeyman's wages working for a specific time period (generally 78 weeks) after which the permit person is sold full membership.

Persons/Protected Class - Where designation of persons by race, color, age, disability and national origin is required, the following designations ordinarily may be used:

1. "Black Americans," which includes persons having origins in any of the black racial groups of Africa.
2. "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race.
3. "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians.
4. "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma(Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands(Republic of Pala), the commonwealth of the northern Marianas Islands, Macao, Fiji, Tonga, Kirbati, Julalu, Nauru, Federated States of Micronesia, or Hong Kong.
5. "Subcontinent Asian Americans," Which includes persons whose origins are from India, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka.

Preconstruction (Precon) Meeting - This meeting attended by the Prime Contractor and DRC personnel is for a discussion of the details on constructing the project, bid proposal, specifications, plans, method of payment, and the Prime Contractor's progress schedule.

Recalls - Individuals who have worked for the contractor in the previous construction season or a person who was laid off during the previous construction season(s) and this is the first opportunity the contractor has had to bring the employees back on the job.

Rehire - To re-engage a formerly employed worker after a complete break in employment status.

Trainee - A person who receives on-the-job training, whether through an apprenticeship program, or other programs approved or accepted by DRC.

V. POLICY

It is the policy of the Ohio Department of Rehabilitation and Correction to execute the enforcement/compliance activities associated with EEO on construction contracts and to require full utilization of all available training and skill-improvement opportunities to assure the increased participation of minorities in all phases of adult corrections.

VI. PROCEDURES

A. Preconstruction Meeting:

It is DRC's responsibility to make sure that EEO Construction Compliance is made a part of the Preconstruction Meeting and that all aspects of EEO, pertinent to the project, are covered. During the meeting, the following should be discussed and/or disseminated:

1. A summary of the EEO requirements as outlined in the contract.
2. All applicable EEO posters:
 - a. "Equal Employment is the Law" poster (Federal) in English and Spanish.
 - b. "Summary Provisions of Ohio Fair Employment Practices Law" poster (State) in English and Spanish.

Note: Poster must be posted on all sites or in an area that all contractors and subcontractors are able view on the site.
3. Form Federal Circular PR 1273.
4. Appendix A & B of the Ohio Bid Conditions.
5. Instructions for completing CR-2 report, including a blank CR-2 form.
6. A sample of Subcontractors notification letter outlining the contract EEO requirements.
7. Bulletin Board requirements. Bulletin Boards should be placed in a location easily accessible to both the contractor and subcontractor and the public and should include, but not limited to the following:
 - a. Contractor's EEO Policy.
 - b. Company's EEO Officer's name and phone number.
 - c. EEO Poster.
 - d. Schedule of predetermined wage rates.

Note: Mobile operations (asphalt paving, raised pavement markers, stripping, etc.) may keep the bulletin board information in the foreman's truck provided all of the employees are informed of the location and are given the opportunity to look at the contents without fear of reprisal.

B. Project Reviews

The EEOCCO conducts onsite visits on DRC locally administered construction projects to interview contractor's foreman/superintendent and field employees to ensure the following:

1. Prime and subcontractors are complying with the terms of the standard construction bid conditions relative to equal employment opportunity.
2. An environment free of discrimination, harassment, and intimidation on state construction project sites.
3. EEO posters and policies are visible in conspicuous locations on state and state assisted construction project sites.

C. Project Review Process and Duties:

The following procedures shall be followed during an onsite project review:

1. Locate and interview the project superintendent (Lead Contractor/Construction Manager).
 - a. Obtain a list of all prime and subcontractors onsite.
 - b. Review percentage complete.
2. Locate and interview the foreman /superintendent of each prime contractor and subcontractor. Identify the contractor's construction trades, number of employees, number of minorities, and women onsite.
3. Locate and interview field personnel onsite. If any individual alleges discrimination during an interview, he/she shall be informed of his/her rights as it relates to filing a discrimination complaint and shall be provided with contact information relative to the agencies he/she can file a charge of discrimination.
4. Observe job trailers to ensure EEO posters, contractor's EEO and sexual harassment policies are posted.
5. Observe project site to ensure obscene or offensive material and/or markings are not displayed onsite. If obscene or offensive materials and/or markings are found onsite, the foreman/superintendent shall be informed to remove the material and/or markings immediately by the EEOCCO.
6. Project reviews shall be conducted for the duration of the project by the EEOCCO.
7. Interviews usually take approximately two (2) minutes to conduct with each person by the EEOCCO.
8. All interviews by the EEOCCO shall take place away from the individual's assigned work activity to allow them a distraction free environment.
9. Any findings determined by the EEOCCO that need immediate attention shall be called into the DRC/EEO Chief immediately.

The information gathered during a project review by the EEOCCO will assist DRC EEO in determining whether a contractor is exerting good faith efforts to comply with the State of Ohio's EEO requirements.

D. Electronic Reporting

1. All information gathered by the EEOCCO shall be electronically submitted monthly on the DAS EEOC website by the 15th of each month.

2. All new contracts shall be submitted electronically monthly by the DRC Office of Administration to DAS.

E. All Projects

1. Project/contract information is obtained from:
 - a. Agency's Facility Planning Department
 - b. Procurement Division of Ohio Facilities Construction Commission
 - c. Bid Notifications (Advertisement)
 - d. Bid tabulations/recommendation/notice to precede letters
2. All contract letting agencies must report to EOD, Project/Contracts of \$50,000 or more and bid through the formal bidding process.
3. Reporting Locally Administered Projects/Contracts should be submitted electronically to the Equal Opportunity Division by the 15th of each month.