

Chapter 12

Civil Rights and Davis Bacon Programs

(EEO Contract Compliance, Title VI, Labor Compliance, DBE, ADA)

12.1 General Discussion

(See the Civil Rights section at <http://www.mdt.mt.gov/business/contracting/civil.shtml> for further information.)

The Montana Department of Transportation (MDT) Civil Rights Bureau will monitor both the local agency and its contractors for compliance with all Civil Rights Programs as required by FHWA. Monitoring will be done as a part of normal project management reviews and through informal contract compliance reviews of selected contracts.

The local agency must designate an individual who is accountable for implementation of and compliance with all civil rights programs including Titles VI and VII, EEO Contract Compliance, Davis Bacon (current prevailing wage rates), Americans with Disabilities Act (ADA), and the Disadvantaged Business Enterprise (DBE) Program. This person will hereafter be referred to as the Local Agency Compliance Officer (LACO). The LACO must assure that all programs and services offered by the local agency are accomplished in a non-discriminatory manner in accordance with Titles VI and VII of the Civil Rights Act of 1964, the Restoration Act of 1987, the Americans with Disabilities Act, and the Montana Governmental Code of Fair Practices Title 49.

The Required Contract Provision: Federal-aid Construction Contracts (FHWA 1273) must be included in all federal-aid contracts (both prime and subcontractors of any tier) of \$2,000 or more executed by the local agency. These can be found at:

http://www.mdt.mt.gov/publications/docs/forms/dbe/eo_board/fhwa-1273.pdf

All civil rights related programs must be discussed at the preconstruction conference that will be held prior to any project site construction being accomplished. Attendees at the conference should include the LACO, the prime contractor and all subcontractors. MDT Civil Rights Bureau is available to attend as necessary. The Civil Rights CTEP Preconstruction Agenda is available at:

http://www.mdt.mt.gov/other/civilrights/external/ctep_agenda.doc or

http://www.mdt.mt.gov/other/civilrights/external/ctep_agenda.pdf.

12.2 Contract Administration – EEO Contract Compliance

Federal nondiscrimination provisions apply to all federal aid contracts, prime and/or sub, where the prime contract is \$10,000 or more.

The LACO must develop a written compliance plan, with goals and timetables, to assure that:

- The project site bulletin board (see MDT CRB Manual for assistance), http://www.mdt.mt.gov/publications/docs/manuals/crb_manual.pdf contains all appropriate postings. See checklist at http://www.mdt.mt.gov/publications/docs/forms/dbe/eo_board/eo_bulletin_board_checklist.pdf
- Approved annual submissions consisting of the Company's EEO policy statement, identification

of the company's EEO Officer and that person's EEO authority and responsibility, and the company's discrimination complaint procedures and form have been received by the local agency. See EEO submission forms at - <http://www.mdt.mt.gov/publications/docs/forms/dbe/annualeeo.pdf>

- The contractor has complied with the requirements of the FHWA 1273
- All subcontracts physically attach the FHWA 1273
- The contractor has complied with section I through III of the FHWA 1273.

12.3 Contract Administration - Davis Bacon Compliance

Payment of Prevailing Wage provisions (Davis Bacon) apply to all federal aid contracts, prime and/or sub, where the prime contract is \$2,000 or more.

The LACO must develop a written compliance plan, with goals and timetables, to assure that:

- Current wage rates are physically attached to the prime's contract as well as each subcontract. The current wage rates applicable to the project will be included with project CTEP documentation.
- The prime and each subcontractor are paying appropriate Davis Bacon wage rates.
- The prime and each subcontractor's payrolls have been collected, are complete and reviewed for accuracy.
- A procedure is in place to investigate wage complaints, complaints are investigated promptly, and appropriate action is taken.
- The contractor has complied with Sections IV through VII of the FHWA 1273.

12.4 Contract Administration – Disadvantaged Business Enterprise (DBE)

MDT's DBE website: <http://www.mdt.mt.gov/business/contracting/civil/dbe.shtml>

The LACO must ensure that:

- They confer with the MDT DBE Program Manager on a project-by-project basis to determine the appropriate DBE goal that is to be established on any given project. Project DBE goals must be established in the contract PRIOR to advertising.
- The apparent low bidder has committed to the use of a specific MDT-certified DBE firm prior to contract award if a numeric goal greater than 0% (zero percent) is required on the contract.
- Copies of all bid documents are submitted to the MDT DBE Program Manager. Any DBE working on the project site is performing a commercially useful function (CUF). The CUF report is available at: http://mdtinfo.mdt.mt.gov/other/civilrights/external/forms/MDT-CIV-024_DBE_Commercially_Useful_Function.pdf.
- The total dollar amount of any work performed by all subcontractors is reported to the MDT DBE Program Manager, including a description of the type of work and date paid. The reporting form is available at: http://www.mdt.mt.gov/publications/docs/forms/contracting/contract_payments.pdf.

12.5 Contract Administration – Title VI

The local agency will confer with the MDT Public Involvement Unit or Title VI Coordinator to ensure all Title VI requirements for projects are met including, but not limited to, notice to affected members of the public, opportunity for public input, substantive response to that input, all consultant contracts contain appropriate physically attached Title VI wording, etc. See applicable Title VI forms at <http://www.mdt.mt.gov/business/contracting/civil/titlevi.shtml>.

12.6 Contract Administration – ADA

Local Agency will comply with all regulations relative to implementation of the Americans with Disabilities Act.

- The regulations include but are not limited to the Public Rights of Way Accessibility Guidelines [PROWAG] constructability requirements. For assistance in this area, please contact the MDT – ADA Coordinator
- Website for PROWAG - <http://www.mdt.mt.gov/business/contracting/civil/ada.shtml>
- [“Local Agency”] will incorporate or communicate the intent of the following statement in all publications, announcements, video recordings, course offerings or other program outputs: “[The local agency] will provide reasonable accommodations for any known disability that may interfere with a person in participating in any service, program or activity offered by [the Local Agency]. In the case of documents, recordings or verbal presentations, alternative accessible formats will be provided. For further information, contact the Local Agency or the MDT – ADA Coordinator.

Publications Statement

MDT attempts to provide accommodations for any known disability that may interfere with a person participating in any service, program or activity of the Dept.

Alternative accessible formats of this information will be provided upon request.

For further information call (406) 444-6331 TTY (800) 335-7592, or Montana Relay at 711 or by contacting the ADA Coordinator at (406) 444-9229

Please remember to change the number highlighted to match the individual printing the documents or facilitating the meeting

- All video recordings produced and created under the Agreement will be closed captioned.

**ADA Coordinator
(406)444-9229 (voice) or 1-800-335-7592 (TDD)
Montana Relay - 711
P.O. Box 201001
2701 Prospect Avenue
Helena, MT 59620-1001
Office hours: Monday-Friday 8:00 A.M. – 5:00 P.M.**

12.7 Tools

Link to FHWA trainings regarding Civil Rights:

<http://www.fhwa.dot.gov/federal-aidessentials/catmod.cfm?id=71>

12.8 Appendices

All information and forms relating to Labor, EEO, Title VI, DBE and ADA is located on the web at <http://www.mdt.mt.gov/business/contracting/civil.shtml>. For most up-to-date procedures and forms, please contact the Civil Rights Bureau, (406) 447-6331.

12.8.1 Title VI/ADA Language

12.8.2 Form 1273

Appendix 12.8.1 Annual EEO Submission

(Excerpt from the Civil Rights Manual):

Annual EEO Submission

Every prime and subcontractor must submit the Annual EEO Submission **EACH YEAR PRIOR TO ANY CONTRACT-RELATED WORK BEING PERFORMED.**

The submission consists of:

- (1) Company Policy Statement, signed by management and currently dated.
- (2) Identification of the company EEO Officer and outlines that person's authority and responsibility, signed by management level and currently dated
- (3) Discrimination Complaint Procedure, currently dated and signed by management level.
- (4) Discrimination Complaint Form

Please submit your company's annual EEO submission electronically:

<http://www.mdt.mt.gov/publications/docs/forms/dbe/annualeeo.pdf>

The "Required Contract Provisions for Federal-Aid Construction Projects are available at

http://www.mdt.mt.gov/publications/docs/forms/dbe/eo_board/fhwa-1273.pdf

Appendix 12.8.2 Form 1273

<http://www.fhwa.dot.gov/programadmin/contracts/1273/1273.pdf>