

FEDERAL AID

CTEP Civil Rights Preconstruction Agenda

(Attach to Engineer's Preconstruction Minutes)

Civil Rights Agenda: Federal-Aid CTEP Projects

Part 1: Project Information

Part 2: EEO Pre-Bid Contract Compliance

Part 3: Labor Compliance

Part 4: EEO Post-Bid Contract Compliance

Part 1: Project Information

Date: _____	On-System: <input type="checkbox"/>	Off-System: <input type="checkbox"/>
Precon Attendees: _____		
Project: _____	Location: _____	
Prime Contractor: _____		
Subcontractor (written contract?): _____		
District: _____	Information Presented by: _____	
MDT's Liaison: _____	Local Entity: _____	
Estimated Start Date: _____	Estimated Completion Date: _____	

Part 2: EEO Pre-Bid Contract Compliance

- Have **wage rates** been included with all pre-bid advertising documents? This is required for all on-system federal-aid contracts of \$2,000 or more.
- Have the **PR 1273** (Required Contract Provisions: Federal-Aid Contracts) been included with all pre-bid advertising documents?
- Have Americans with Disabilities Act (**ADA**) requirements been considered and resolved? If questions, contact the MDT ADA Coordinator at (406) 444-6331.
- Have Disadvantaged Business Enterprises (**DBE**) requirements (DBE Schedule of Participation; DBE Substitution; CUF Monitoring Report; etc.) been considered and resolved? Please submit construction payment amounts to the MDT DBE Manager monthly at fax (406) 444-7685. If questions, contact the MDT DBE Manager at (406) 444-6331.

Part 3: Labor Compliance

Wage rates and the PR 1273 must be physically affixed to the prime and any subcontracts and cannot just be referenced in the contract. This is the Local Entity's responsibility to assure it is accomplished.

Zone(s):

[“... determined by measuring the road miles over the shortest practical maintained route from the County Courthouse of the following towns (see General Wage Decision) to the center of the job.” Exemptions from zone pay include: Electricians, Line Construction, Painters, and Welders. If multiple sites for the project, each site can be listed with the different appropriate zone.]

This federal aid project is located in **zone** _____. (Is it specified in contract?)

Payrolls:

- | |
|---|
| 1. Who is the Contractor's project manager ? _____ |
| 2. What is the anticipated workday ? _____ |

3. Original copy of certified payroll to Local Entity or Consultant
4. Statement of Compliance must be attached to each certified payroll. Be sure the appropriate fringe benefit box has been checked and that the statement is signed.
5. Payroll records must be retained by the contractor for a period of three years.
6. Owners and other salaried supervisors must be shown on the payroll when performing duties on the project site.
7. Prime and each subcontractor must submit **certified payrolls** on a **weekly basis**.
8. Check the payrolls weekly to ensure the right wages have been paid to each person employed on the project site.

Fringe Benefits:

The contractor has three options:

- | |
|--|
| <input type="checkbox"/> a. Fringe Benefits may be paid directly to employees each week, in cash, or |
| <input type="checkbox"/> b. Fringe Benefits may be paid to a trust fund (approved by U.S.DOL), or |
| <input type="checkbox"/> c. Fringe Benefits may be paid in a combination of a. and b. above. |
| Name of trust fund? _____ |

If fringe benefits are paid to a trust fund for which the employee is not a member, the contractor is obligated to provide information to the employee concerning access to the trust fund. This information must be submitted to the Local Entity or Consultant with the first payroll.

Work Week:

General Wage Decisions (attached to the contract) set the Base pay + zone pay + fringe benefits which equals the total wage package. A contractor may opt to pay more than the wage package. 40 hours is a standard workweek. On the 41st hour, overtime (time and a half) must be paid

Overtime is based on 1.5 x base rate + zone pay, or 1.5 x the higher wage rate the contractor has chosen to pay. Fringe benefits are always paid straight time. Fringe benefits will be indicated on the certified payroll as paid in cash and/or to an approved bona fide fund. In both straight and overtime situations, worker must be paid at least what they would have earned under Davis-Bacon wages.

Legal Deductions:

1. The only legal deductions are FICA (Social Security & Medicare), State (SIT), and Federal (FIT) Taxes.

2. Deductions other than those mentioned above must be accompanied by a deduction authorization signed by the employee. The signed and dated authorization must include the specific weekly dollar amount and the specific reason for the deduction.
3. If a deduction for child support or a garnishment occurs, a letter on the company's letterhead explaining the judicial decree must accompany the **first** payroll on which the deduction occurs.

Shifting:

Shifting from the wage rate to the fringe benefits to cover higher fringe benefits than those in the contract is permitted if it is a requirement of a bargaining agreement or other trust fund agreement. The wage/fringe package must remain the same or higher than that in the contract wage rates. Overtime must be calculated on the published Davis-Bacon wage rate or the wage actually being paid if higher than the published rate. Once the overtime rate is calculated, shifting can then occur.

Work Classifications:

What work classifications will be working on this project? _____

Are those worker classifications to work on this project covered by the applicable wage decision? Yes No

If no is answered above, does a request for authorization of additional classification and rate need to be submitted? Yes No

1. Flaggers are covered by Davis-Bacon Wage Rates. (All flaggers must be certified)
2. Foremen and supervisors working with the tools of the trade more than 20% of the time must be paid a minimum of the appropriate wage rate for the work they are performing. All foremen and superintendents **must** appear on the certified payroll, even if salaried.
3. Employees working at other than their assigned classifications for 20% or more of their time must be paid for the work they are performing or at the higher of the two rates.
4. Employees **must** be classified and paid for the work they are performing. The classification codes shown on the payroll must clearly identify the work being performed. **We request that all contractors use the MDT groups from the contract wage rates.** If your computer software will not print them, please write them in.
5. If the contractor uses a classification system other than what is provided in the contract, it must be easily comparable to the MDT group system and must identify the wage decision number. Two copies of the contractor's code conversion sheet must be provided with the FIRST payroll submitted for each project.

Example:

Contractor Code = MDT Code
 Common laborer = Laborer, Group 2

Site of Work:

(This may determine whether Federal Davis-Bacon wages apply to particular classifications of workers.)

The site of work is limited to the physical place or places where the construction called for in the contract will remain when work on it has been completed, or other adjacent property used by the contractor or subcontractor which can be reasonably said to be included in the site.

If gravel pits or batch plants are associated with this job, call Bill Anderson at the Civil Rights Bureau at (406) 444-6331 or by email at bianderson@mt.gov.

If there is a question as to whether a project is affected by Site of Work regulations, please contact Bill Anderson at the Civil Rights Bureau at (406) 444-6331 or by email at bianderson@mt.gov.

Part 4: EEO Post-Bid Contract Compliance

- Does the prime contractor with contracts of \$10,000 or more and all subcontractors have a current annual EEO submission prior to performance of any work?
 - The EEO Submission is available on the MDT Internet site at <ftp://ftp.mdt.mt.gov/contract/anneo.pdf>.
 - Annual EEO Submissions must be received in Helena and approved prior to the prime or subcontractor beginning work on the project site and annually thereafter as long as that prime or subcontractor works on the project.
- **The Prime Contractor's EEO Officer is _____.** This person is expected to:
 - attend compliance reviews;
 - demonstrate what affirmative action the prime and each subcontractor have taken;
 - provide documentation of **all** recruitment efforts (including subcontractors).
 - Minority and/or female referral sources can be obtained from MDT Civil Rights Bureau. The U. S. Department of Labor has held that it shall be no excuse if the union with which the contractor has a bargaining agreement fails to refer a minority or female.
 - Obtain the current annual EEO submissions from the prime contractor and any subcontractors that will be working on the job prior to any work starting. This is required for all prime contractor federal aid contracts of \$10,000 or more.
- Schedule the preconstruction conference. Invite the prime contractor and the CTEP Liaison. (If any questions, contact Bill Anderson at 444-6331).

After Work Has Begun:

- Is the project site **bulletin board** in place with all the correct postings from the prime contractor and each subcontractor? Bulletin Boards must be located in an area **accessible** to all employees. Three ring notebooks can only be used if the work is *mobile* such as fencing, striping, or traffic control. Subcontractors may use the Prime's bulletin board as long as the Prime's own information is posted on it.

- **Contents of Bulletin Board:**

- **Bulletin Board posters** are available at <http://www.mdt.mt.gov/publications/forms.shtml#eoo>. These include

- Dual Employment Notice
- EEO Affirmative Action Requirements
- EEO is the Law
- Employee Rights under the Davis-Bacon Act
- False Statements Notice
- FHWA 1273 – Required Contract Provisions
- USDOT Hotline Information Regarding DBE Fraud
- Wage Rate Information Federal Aid Highway Project
- Whistleblowers – Know Your Rights

- **Field Interviews** are not mandatory. However, interviews may be conducted with LC-1's during working hours by the Civil Rights Bureau staff, the CTEP Liaison, or the Local Entity.

• **On-site EEO Meetings** will be conducted: weekly, every other week, or monthly. Minutes and attendance roster must be provided to the MDT Inspector. The MDT Inspector shall be notified when the EEO on-site meeting will be held.

- Is the contractor employing a core crew or did new employees get hired for this project? If yes, what **good faith efforts** were made to recruit qualified minority and female employees?
- Did the prime pay all subcontractors within 7 days after receiving a periodic or final payment? [28-2-2103(2) MCA: No payment is required unless the subcontractor submits a billing statement or invoice.]

If you have questions during the preconstruction conference, please call Bill Anderson (406) 444-6334; TTY: (800) 335-7592; or email: bianderson@mt.gov

**Available from Montana Department of Transportation
Civil Rights Bureau or Website**

<http://www.mdt.mt.gov/business/contracting.shtml> - ADA/DBE/EEO/Labor/Title VI, or
from Civil Rights Bureau - (406) 444-6331, TTY: (800) 335-7592

- Civil Rights Bureau (CRB) Manual (labor and EEO)
- DBE Newsletter
 - <http://www.mdt.mt.gov/publications/newsletters/dbenewsletter.shtml>
- CTEP Civil Rights Agenda
 - <http://www.mdt.mt.gov/business/contracting/civil/titlevi.shtml>
- DBE Commercially Useful Function Project Site Review
 - http://mdtinfo.mdt.state.mt.us/civilrights/docs/dbe_cuf.pdf
- CTEP Investigations Handbook
- EEO-Labor Compliance Spot Check
 - http://www.mdt.mt.gov/other/civilrights/external/lc_spotcheck.pdf
- Equal Employment Opportunity (EEO) Submission Sample Format
 - <ftp://ftp.mdt.mt.gov/contract/anneo.pdf>
- Federal Wage Decisions
 - <http://www.access.gpo.gov/davisbacon/davbacsearch.html>
- Job Site/ Bulletin Board Postings
- Job Site Bulletin Board Inspection Checklist
- Required Contract Provisions – Federal Aid Construction Contracts (PR 1273)
- Seven-day Payment to Subcontractors Handout
- Site of Work Explanation
- Title VI Complaint Procedures/ Forms
 - <http://www.mdt.mt.gov/publications/docs/forms/dbe/vicomplaint.pdf>
- Title VI Contract Language
 - http://www.mdt.mt.gov/publications/docs/forms/dbe/title_vi_party.pdf
- Title VI Public Hearing Form
 - <http://www.mdt.mt.gov/publications/forms.shtml#titlevi>
- Title VI Rights Pamphlet
- Payroll Form WH-347/ Instructions
 - <http://www.mdt.mt.gov/publications/docs/forms/contracting/wh347.pdf>
 - <http://www.mdt.mt.gov/publications/docs/forms/contracting/wh347instr.pdf>