

EEO Worksite Topics

What is EEO? EEO Stands for Equal Employment Opportunity and is about ensuring that all employees and applicants have equal access to all employment opportunities.

1. EEO Contact Person(s)

- Project site representative and how to contact them.
- Contractor's EEO Officer and how to contact them.

2. EEO Discrimination Compliant Procedures

- Location of compliant procedures.
- Steps in the complaint procedure.
- Advise complainant to not discuss the complaint with anyone other than authorized investigators.

3. Confidentiality

- Confidentiality is a trust that the complaint will not be talked about outside the investigation process.
- Confidentiality does not mean others will not know about the complaint.
- Confidentiality is an agreement that you will not talk to others about the complaint or investigation.
- Confidentiality means the content of the complaint or investigation / interviews will be communicated to others only on a "need to know" basis.

4. Retaliation

- Retaliation is getting back at someone (getting revenge) for complaining, opposing discrimination, or assisting in an investigation.
- Retaliation is against the law.
- Retaliation is denying the legal right to complain to someone; a right you wouldn't want someone to deny you.
- If you retaliate against a person who has complained or someone close to them, it can be met with severe disciplinary action.

5. "Known or Should have known"

- Supervisors have to be aware of inappropriate actions in their work area and to act on situations that violate policy, contract provisions, or may lead to a complaint.
- If a supervisor knows or "should have known" about it, he or she has to take appropriate action even if someone does not complain about a situation.
- For a supervisor to not act is considered "willful disregard" and penalties against the firm and supervisor are more severe.

6. Protected Classes

- **Race** – Race discrimination involves treating someone (an applicant or employee) unfavorably because he or she is of a certain race or because of personal characteristics associated with race (such as hair texture or certain facial features). Race discrimination also can involve treating someone unfavorably

because the person is married to (or associated with) a person of a certain race or because of their connection with a race-based organization or group.

- **Color** – Color discrimination involves treating someone (an applicant or employee) unfavorably because of skin color. Color discrimination can also involve treating someone unfavorably because the person is married to (or associated with) a person of a certain color or because of their connection with an organization or group that is generally in association with people of a certain color. Court decisions have held that color discrimination exists on its own irrelevant from race in many cases. The color of a person’s skin can, in many cases, be separated from their race or national origin.
- **National Origin** – National Origin discrimination involves treating people (an applicant or employee) unfavorably because they are from a particular country or part of the world, because of ethnicity or accent, or because they appear to be of a certain ethnic background (even if they are not). National origin discrimination also can involve treating people unfavorably because they are married to (or associated with) a person of a certain national origin or because of their connection with an ethnic organization or group.
- **Religion** – Religious discrimination involves treating a person (an applicant or employee) unfavorably because of his or her religious beliefs. The law protects not only people who belong to traditional, organized religions, such as Buddhism, Christianity, Hinduism, Islam, and Judaism, but also others who have sincerely held religious, ethical, or moral beliefs. Religious discrimination can also involve treating someone differently because that person is married to (or associated with) an individual of a particular religion or because of his or her connection with a religious organization or group.
- **Creed** – Creed is also a protected status in Montana. Creed is defined as a formal statement of religious belief, confession of faith, or a system of belief, principles, or opinions.
- **Sex** (includes gender, sexual orientation, gender identification or expression, and sexual harassment) – Sex discrimination involves treating someone (an applicant or employee) unfavorably because of that person’s sex. Sex discrimination also can involve treating someone less favorably because of his or her connection with an organization or group that is generally associated with people of a certain sex. Harassment can include offensive remarks about a person’s sex.
- **Disability** (mental or physical) – Disability discrimination occurs when an employer or other entity covered by the Americans with Disabilities Act (ADA of 1991 or ADA Amendments of 2008) or the Rehabilitation Act of 1974 treats a qualified individual with a disability who is an employee or applicant unfavorably because they have or are regarded as having a disability.
- **Age** – The Age Discrimination in Employment Act (ADEA) forbids age discrimination against people who are age 40 or older. Montana Law protects workers of any age.
- **Marital Status** – In Montana it is unlawful to discriminate against someone in employment because of their marital status.
- **Genetic Information / Material** – Under Title II of the Genetic Information Nondisclosure Act (GINA), it is illegal to discriminate against employees or applicants because of genetic information. GINA prohibits the use of genetic information in making employment decisions, restricts acquisition of genetic information by employers and insurers, and strictly limits the disclosure of genetic information.

7. Harassment – An individual is protected from harassment from within or outside the workforce

- Harassment is unwelcome conduct that is based on a protected status or class.

- Harassment becomes unlawful when:
 - i. Enduring the offensive conduct becomes a condition of continued employment, or
 - ii. The conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.
- The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.

8. Retaliation

- Retaliation is materially adverse action.
- Retaliation occurs when an employer takes a materially adverse action because an applicant or employee asserts rights protected by the EEO laws ("protected activity")
- Protected activities include:
 - i. Participating in an EEO process (filing a discrimination complaint, testifying, or participating in any way in an investigation, proceedings, or lawsuit); and
 - ii. Reasonably opposing conduct made unlawful by an EEO law
- Protection applies whether or not the EEO allegation is based on a reasonable, good faith belief that a violation occurred.
- The law forbids retaliation (Materially Adverse Action) in any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, and any other term or condition of employment.
- All employees of an employer, including applicants, current employees (full-time, part-time, probationary, seasonal, and temporary), and former employees are protected from retaliation.
- Retaliation laws do not shield employees from discipline or termination for poor performance or improper behavior.

9. Hiring Minorities & Women

- Applications are scored the same for all applicants.
- Positions are offered to most qualified applicant.
- Process applies to all personnel actions.

10. EEO Covers

- Employment or Hiring
- Upgrading
- Demotions or Transfers
- Layoff or Termination
- Selection for Training
- Rates of pay or other forms of compensation
- Recruitment or recruitment advertising

11. Affirmative Action Programs

- Affirmative Action is based on equalizing work crew with available labor force and ensuring equal opportunity.
- Affirmative Action obligations include good faith efforts to hire minority, female, disabled, and veteran applicants.
- How Affirmative Action processes are documented
- "Good Faith Effort" means providing evidence of effort

12. EEO Officer's Duties

- Effectively administering and promoting an active program of equal employment opportunity.

- Coordinate EEO efforts of superintendents, supervisors, foremen, and all others with authority to hire, advance, demote, or discipline personnel.
- Make recommendations, where appropriate, to correct any deficiencies found in the Company's program.
- Ensure that EEO policies and procedures are being carried out.
- Establish and administer company's affirmative action program.
- Maintain open communication with minorities and women's groups.
- Disseminate Company's EEO policy and hiring preferences to unions and other training programs, requesting their cooperation in assisting the company meeting their EEO obligations.
- Train supervisory personnel relative to their EEO responsibilities.
- Perform complaint investigations.
- Provide information through:
 - i. Handbooks
 - ii. Meetings
 - iii. Notices and posters
 - iv. Other appropriate means (i.e. videos).

13. Bulletin Board

- See <https://www.mdt.mt.gov/business/contracting/civil/cc-bulletin.aspx> for required materials.
- Ensure all employees know the location and contents of the bulletin board.
- Required accessibility 24 hours a day.

14. Subcontractors

- Must abide by the same provisions as the prime contractor does.
- EEO contract provisions apply to all interactions between the prime contractor and:
 - i. Subcontractors
 - ii. Material Suppliers
 - iii. Vendors
 - iv. State Personnel
 - v. General Public
- Must submit to the inquiries of the prime's EEO officer.
- Must provide documentation of EEO compliance.
- Subcontractor employees may join prime contractor's employees for EEO meetings.

15. DBE Firms

- DBE program is an affirmative action program to assist minority and/or woman owned businesses
- Prime contractors have to monitor DBE to ensure that:
 - i. The DBE firm is doing its own work
 - ii. The Prime knows and has access to the DBE firm's owner
 - iii. Qualified DBE firms are certified by MDT/Office of Civil Rights
 - iv. If an issue arises: call the EPM, and DBE Program Manager at (406) 444-6331

16. On-the-Job Trainees

- The objectives of the OJT Program are to:
 - i. Provide training and improve the skills of women, minorities, and disadvantaged individuals so that they have the opportunity and access to the higher paying skilled trade jobs and journeyman positions, and
 - ii. Broaden the labor pool to meet the projected future labor needs in the construction industry.

- Primary objective is to target recruitment of minorities and women.
- Trainees may be new to highway construction.

17. EEO Discrimination Complaints

- If uncomfortable discussing issues with the firm or superintendent you can contact any of the following:
 - i. Montana Department of Transportation (MDT) Inspector
 - ii. Call MDT/Office of Civil Rights at 444-6311
 - iii. Write to:
MDT/Office of Civil Rights
PO Box 201001
2701 Prospect Avenue
Helena MT 59620-1001

YOU ARE PROTECTED FROM RETALIATION FOR REPORTING.

Resources for additional information

Federal Highways Administration Home Page

<https://highways.dot.gov/>

US Equal Employment Opportunity Commission

<https://www.eeoc.gov/>

US Department of Labor

<https://www.dol.gov/>

US Department of Justice, Americans with Disabilities Act Home Page

<https://www.ada.gov/>

Montana Human Rights Bureau

<https://erd.dli.mt.gov/human-rights/>

Office of Federal Contract Compliance Programs

Technical Assistance Guide for Federal Construction Contractors

<https://www.dol.gov/sites/dolgov/files/ofccp/Construction/files/ConstructionTAG.pdf>

Montana Department of Transportation Office of Civil Rights

<https://www.mdt.mt.gov/business/contracting/civil/>