

CONSTRUCTION CIVIL RIGHTS AND LABOR COMPLIANCE CHAPTER 10

Introduction

The Local Agency shall monitor the Contractor's day-to-day conformity to EEO, Title VI and labor compliance contract requirements. The Region Civil Rights Office is available to the Local Agency as a resource. The CDOT Title VI Coordinator is also available as a resource on Title VI and Environmental Justice issues. An overview of construction compliance requirements in this chapter and links to civil rights process flowcharts are found on the [Civil Rights Program](#) web page. The following table lists the forms in this chapter, the applicable funding requirements/monitoring system and the corresponding civil rights process flowchart.

Table 10A - Construction Civil Rights	Local Agency Projects					Civil Rights Process Flowchart
	w/ Federal-aid Highway Funds	w/other Federal Funds - Recovery	w/ Non-fed eral (State) Funds	Monitoring System		
				B2GNow	LCP- tracker	
Disadvantaged Business Enterprise Requirements						
Form 1419 - DBE Participation Report	X			X		Form 1418 and Form 1419 are eliminated if the project is in B2GNow and reporting of prompt payment is what monitors the DBE participation. LA-B-9.0 Monitor Prompt Payment (All Subcontractors & suppliers)
Form 1420 - DBE Participation Plan Modification Request	X			X		LA-B-11.0 Monitor DBE Commitment Modifications (Form 1420)
Form 1432 - Commercially Useful Function Questionnaire	X			X		LA-B-10.0 Validate DBE Counting (Form 1432)
On-the-job Training Requirements						
Form 200-OJT Training Questionnaire	X				X	n/a Used to monitor the Contractor's compliance with the Training Special Provision by interviewing the trainee. It is not required.
Form 832 - Trainee Status and Evaluation Report	X				X	LA-B-7.0 Monitor OJT Participation (form 838 and Form 832)
Form 838 - On-the-Job Trainee/Apprentice Record	X				X	LA-B-7.0 Monitor OJT Participation (form 838 and Form 832)
Form 1337 - Contractor Commitments to meet OJT Requirements	X				X	LA-B-7.0 Monitor OJT Participation (form 838 and Form 832)
Davis Bacon & Related Acts (unless exclusions apply)						
Form 118 - Contract Wage Compliance Statement	X				X	LA-B-4.0 Accept Weekly Payrolls
US DOL Standard Form 1444	X				X	LA-B-5.0 Wage Conformance Request
EEO / Labor Compliance						
Form 205 - Sublet Permit Application	X	X	X	X		LA-B-8.0 Approve Subletting & Accept Suppliers LA-B-9.0 Monitor Prompt Payment (All Subcontractors / suppliers)
Form 1425 - Supplier List	X	X	X	X		LA-B-8.0 Approve Subletting & Accept Suppliers LA-B-9.0 Monitor Prompt Payment (All Subcontractors / suppliers)
Form 280 - EEO and Labor Compliance Verification (EEO section)	X	X	X			LA-B-6.0 Labor Interviews: Form 280(Monitor EEO)
FHWA Form 1391 - Federal-aid Highway Construction Contractor's Annual EEO Report	X				X	n/a
Davis Bacon & Related Acts (unless exclusions apply)						
Form 280 - EEO and Labor Compliance Verification (Labor Compliance section)	X	X			X	LA-B-4.0 Accept Weekly Payrolls LA-B-4A Prime Payroll Approval
Prompt Payment						
CDOT Form 1418 - Monthly Payment Summary	X	X	X	X		Form 1418 and Form 1419 are eliminated if the project is in B2GNow and reporting of prompt payment is what monitors the DBE participation. LA-B-9.0 Monitor Prompt Payment (All Subcontractors & suppliers)
Contract Compliance per 23 CFR§230.409 & E.O.11246	X	X			n/a	LA-B-13.0 Close-out Civil Rights Project Elements
Project Site Reviews	X	X	X		n/a	n/a
EEO Certification Acceptance Letter (from LA PM)	X	X	X		n/a	LA-B-13.0 Close-out Civil Rights Project Elements

Local Agency projects advertised on or after July 1, 2022 will begin using electronic tracking and submission systems, LCPtracker and B2GNow. B2GNow is a cloud-based software system used to monitor compliance with award letting of DBE participation, subletting, and prompt payment. LCPtracker is used to manage certified payrolls and on-the-job training hours. As these systems are implemented, Contractors and Local Agencies will transition to electronic or revised versions of forms referenced in this section. Contact the CDOT Project Manager or Region Civil Rights Office for assistance or questions regarding use of the electronic version of the forms.

This Desk Reference uses “CDOT Project Manager” to refer to the CDOT staff member responsible for providing assistance to the Local Agency. The CDOT Project Manager is also referred to as the CDOT Local Agency Coordinator.

10.1 Fulfill Project Bulletin Board and Preconstruction Packet Requirements

After the Local Agency has awarded the project, the Local Agency's Project Manager must contact the CDOT Project Manager or the Resident Engineer to obtain the preconstruction packet. See subsection 8.3 of this *Desk Reference* or the *CDOT Construction Manual* for information on conducting the Preconstruction Conference and for required Contractor submittals. A sample [Preconstruction Agenda](#) is included in Appendix B of this *Desk Reference*.

The packet will include forms, a checklist of submittals required from the Contractor, and the information the Contractor must post on the project bulletin board. Required posters vary depending on the project funding. A Bulletin Board checklist can be found at the following link: [Required Posters for Job Site Bulletin Boards](#) .

On Federal-aid Highway projects, in accordance with FHWA Form 1273, the bulletin board must be located in an accessible and conspicuous place on the project. All employees must be informed as to the location of this information. A notebook, by itself, is not acceptable. If there is no tool yard or project field area for the project, the Contractor may produce a “sandwich” type board with the appropriate posters. The board must be near the active work site.

Additional forms will be included in the packet depending on the requirements for each project. The following forms, if required, shall be submitted to the Region Civil Rights Office (see Appendix A for copies of the forms):

1. [CDOT Form 118](#) – Contract Wage Compliance Statement. This form is used on projects requiring Davis-Bacon wages and must be submitted with every weekly payroll from the Contractor and subcontractors.

Projects advertised on or after July 1, 2022 will be required to use compliance software systems. The current compliance software utilized to monitor certified payrolls is LCPtracker. If the project is using the LCPtracker software, the Form 118 is embedded in the system. Certified payrolls are submitted by the prime contractor and accepted by the Local Agency in the system. Contact the CDOT Project Manager or the Region Civil Rights Office for assistance or questions.

This form is not required on state funded projects or Federal Recovery Fund projects.

2. [CDOT Form 280](#) – EEO and Labor Compliance Verification. This paper form is used to interview Contractor/subcontractor employees on the project to monitor EEO/Labor compliance. The Project Engineer completes the form. The EEO section must be completed on all projects. The Labor Compliance section is only completed when Davis-Bacon requirements apply on the project. Instructions for completion of this form and an example of this form can be found in the Appendix B of the [CDOT Construction Manual](#).

Once the Form 280 is completed, it is sent to the CDOT Project Manager and the Region Civil Rights Office who will upload into the system.

3. On-the-Job Training Program to include:
 - CDOT [Form 200](#) – OJT Training Questionnaire (optional)
 - CDOT [Form 832](#) – Trainee Status and Evaluation Report
 - CDOT [Form 838](#) – On-the-Job Trainee/Apprentice Record, and
 - CDOT [Form 1337](#) – Contractor Commitments to meet OJT Requirements

Projects advertised on or after July 1, 2022 will be required to use compliance software systems. The current compliance software utilized to monitor the OJT program is the LCPtracker system. If the project is using LCPtracker, the OJT hours will be tracked in the system and only the initial submittals of these forms are required in hard copy format. The Form 832 is required to be submitted monthly as it documents the trainee status and evaluation. Contact the CDOT Project Manager or the Region Civil Rights Office for assistance or questions.

On-the-Job Training Program requirements do not apply to projects funded with state or Federal Recovery funds.

4. [CDOT Form 1419](#) – DBE Participation Report – This report is used to summarize all DBE participation on the contract. See Chapter 8 for additional information.

Projects advertised on or after July 1, 2022 will be required to use compliance software systems. The current compliance system utilized to monitor DBE participation is the B2GNow system. If the project is using B2GNow software, this report is embedded in the system and a Form 1419 is not required to be submitted.

DBE Program requirements do not apply to projects funded with state or Federal Recovery funds.

5. [CDOT Form 1418](#) – Monthly Payment Summary – This form is used to record all payments due to subcontractors and suppliers.

Projects advertised on or after July 1, 2022 will be required to use compliance software systems. The compliance software system currently used to monitor prompt payment is the B2GNow system. If the project is using B2GNow software, by the 15th of each month, the prime contractor is required to record all payments to subcontractors by completing an audit in the system. The subcontractor or supplier will receive a notice to confirm payment within fifteen days from the notice. The Form 1418 is not required to be submitted in hard copy formant if using the B2GNow system. Contact the CDOT Project Manager or the Region Civil Rights Office for assistance or questions.

6. [CDOT Form 1420](#) – DBE Participation Plan Modification Request – This form is used to request changes to the approved DBE Participation Plan. See Chapter 8 for additional information.

DBE Program requirements do not apply to projects funded with state or Federal Recovery funds.

The Local Agency must document that the bulletin board has been checked for compliance.

10.2 Process [CDOT Form 205](#) – Sublet Permit Application and [CDOT Form 1425](#) – Supplier Application Approval Request

The Contractor shall complete and submit an original Form 205 to the Local Agency for each subcontractor on the project. The subcontractor may not begin work until the Form 205 has been approved by CDOT. The Local Agency will review each Form 205 for accuracy prior to signing and forwarding the form to the Region Civil Rights Office for approval.

To expedite a subcontractor's start date, the Contractor may email a signed copy of the Form 205 to the Project Engineer for signature approval. If this method is used, the Contractor must not delay in forwarding the signed original Form 205 to the Project Engineer. Refer to the [CDOT Construction Manual](#) for instructions on completing and checking the Form 205.

The CDOT Region Civil Rights Office is a resource for all questions relating to compliance with EEO, DBE, On-the-Job Training and Davis-Bacon Act. The Region Civil Rights Managers are listed in Appendix D. For Title VI, LEP and Environmental Justice questions or complaints, please contact the [CDOT HQ Civil Rights and Business Resource Center \(CRBRC\)](#). The Discrimination Complaint Form is available on the CDOT website at [Discrimination Complaint Form](#).

The Contractor must submit a completed Form 1425 for each direct supplier that meets the \$10,000 criteria outlined in CDOT specification 106.01. The form must be submitted

to the Project Engineer prior to beginning any work on the project, incorporating materials into the project or at such time that the \$10,000 amount is known to be exceeded.

If an individual, firm or corporation is responsible for the installation of supplies, a Form 205 is required for the subcontractor. Additional information regarding differentiating between suppliers and subcontractors can be found on the [Civil Rights and Business Resource Center](#) webpage.

Projects advertised on or after July 1, 2022 will be required to use compliance software systems. The current compliance software utilized to monitor subcontractors and suppliers is the B2GNow system. If the project is using the B2GNow software, the Form 205 and Form 1425 are submitted by the prime contractor and recommended for approval by the Local Agency - both actions taken in the system. Once the Local Agency has recommended the Form 205 and/or Form 1425 for approval, they should notify the Region Civil Rights Office and copy the CDOT Project Manager. The Region Civil Rights Office approves, denies, or returns the form for updates. Contact the CDOT Project Manager or the Region Civil Rights Office for assistance or questions.

10.3 Conduct Equal Employment Opportunity and Labor Compliance Verification Employee Interviews

These interviews shall be conducted with Contractor and subcontractor employees on the project to monitor EEO/labor compliance. The [CDOT Form 280](#) - Equal Employment Opportunity and Labor Compliance Verification shall be used. The Local Agency Project Engineer or designee will complete the form. The interview provides verification of compliance and knowledge with Equal Employment Opportunity requirements and confirms that the Contractor or subcontractor is paying the correct contract wage rate. The “Equal Employment Opportunity” section is completed for all projects. The “Labor Compliance” section is only completed when Davis-Bacon wages are required on the project. The Local Agency shall compare the information received regarding wage compliance to the certified payroll upon its receipt. The interviews shall be conducted monthly throughout the life of the project; the number required monthly is based on the size of the contract. Please refer to section 107.1.5.2 of the [CDOT Construction Manual](#) for the number of interviews required.

Completed Form 280s shall be submitted to the CDOT Project Manager or Region Civil Rights Office. See Appendix A for a copy of the form.

Projects advertised on or after July 1, 2022 will be required to use compliance software systems. Once the Form 280 is completed, it is uploaded into the system.

10.4 Monitor Disadvantaged Business Enterprise (DBE) Participation to Ensure Compliance with the “Commercially Useful Function” Requirements

Expenditures to a DBE contractor will only count towards the DBE contract goal if the DBE is performing a “commercially useful function” ([CDOT Form 1432](#) – Commercially Useful Function Questionnaire). A DBE performs a commercially useful function when it is responsible for execution of the work of the Contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. Work performed by the DBE includes the cost of supplies and materials obtained by the DBE for the work of the contract, including supplies purchased or equipment leased by the DBE. This excludes supplies and equipment the DBE subcontractor purchases or leases from the Contractor or its affiliates. With respect to materials and supplies used on the contract, the DBE must be responsible for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself in order to perform a commercially useful function.

A DBE is presumed not to be performing a commercially useful function if it does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own workforce, or if it subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved. In these instances, the DBE may present evidence to rebut this presumption.

The Region Civil Rights Office and CRBRC may conduct commercially useful function interviews as appropriate. DBE participation shall not count towards the DBE contract goal if CDOT determines that the DBE has not performed a commercially useful function. Additionally, participation by a DBE firm will only count towards the contract goal if the DBE is certified in the area of work it is performing on the contract and has received payment for the work, including the release of its retainage.

If the Local Agency or CDOT Project Manager has concerns about the DBE subcontractor's performance in this or in any other area, the Project Manager is encouraged to consult with the CDOT Region Civil Rights Office immediately for assistance.

Projects advertised on or after July 1, 2022 will be required to use compliance software systems. The current compliance software utilized to monitor DBE participation is the B2GNow system. All Form 1432s must be uploaded into the B2GNow system. Contact the CDOT Project Manager or the Region Civil Rights Office for assistance or questions.

DBE Program requirements do not apply to projects funded with state or Federal Recovery funds.

10.5 Conduct Interviews When Project Utilizes On-the-Job Trainees

It is best practice to conduct interviews with registered trainees on the project to provide verification of compliance and knowledge with Equal Employment Opportunity requirements.

The Contractor shall complete and submit the [CDOT Form 1337](#) - Contractor Commitment to Meet OJT Requirements prior to starting work and be submitted by the Local Agency to the CDOT Region Civil Rights Office. The Local Agency will forward a copy of the Contractor's OJT plan to the CDOT Project Manager who forwards to the CDOT Region Civil Rights office. The Contractor shall complete and submit [CDOT Form 838](#)(s) - OJT Trainee/Apprentice Record to the Local Agency. An incomplete Form 838 will not be accepted. The Local Agency will forward the Form 838(s) to the CDOT Project Manager who forwards to the Region Civil Rights Office for review and approval. The Region Civil Rights Office will return the approved or rejected copy to the CDOT Project Manager and Local Agency. The Local Agency shall not make payment or give credit toward the OJT goal for trainee hours until an approved Form 838 has been received by the Region Civil Rights Office. The Region Civil Rights office will scan and upload the Form 838 into LCPtracker. If a new wage is to be used for the OJT candidate, a DOL Form 1444 - Request for authorization of additional classification and rate, must be filled out. This process can take months to complete.

The [CDOT Form 200](#) – OJT Training Questionnaire may be utilized when On-the-Job Trainees are on the project. The interview may be conducted by project personnel, the Region Civil Rights Office, or the CRBRC. If utilized, the form shall be completed and submitted to the CDOT Project Manager or Region Civil Rights Office. The Local Agency is responsible for verifying the trainee wage.

Projects advertised on or after July 1, 2022 will be required to use compliance software systems. The current compliance software utilized to monitor the OJT Program is the LCPtracker system. If the project is using LCPtracker, the OJT hours will be tracked in the system and only the initial submittals of these forms are required in hard copy format. The Form 832 is required to be submitted monthly as it documents the trainee status and evaluation. Contact the CDOT Project Manager or the Region Civil Rights Office for assistance or questions.

On-the-Job Training Program requirements do not apply to projects funded with state or Federal Recovery funds.

10.6 Check Certified Payrolls

The Local Agency shall verify the Contractor's and subcontractor's compliance with Davis-Bacon Act Contract requirements. Certified payrolls are required to be checked by on-site personnel who have attended the certified payroll checking class.

Prior to the beginning of construction, the Local Agency must contact the CDOT Project Manager or Region Civil Rights Office to schedule a meeting to obtain detailed payroll monitoring training. The Local Agency is responsible for monitoring activities throughout the course of the project. If the Contractor is not complying with the requirements, the Local Agency must take appropriate action to obtain compliance. If there is no training scheduled, the CDOT Project Manager is available to assist with payroll questions.

Projects advertised on or after July 1, 2022 will be required to use compliance software systems. The current compliance software utilized to monitor the certified payroll program is the LCPtracker system. The Prime Contractor is responsible for approving all certified payrolls using the Prime Approver module. The Local Agency is responsible for accepting the certified payrolls in the system on a weekly basis. All other submittals

will be entered in the system. Contact the CDOT Project Manager or the Region Civil Rights Office for assistance or questions.

Certified payrolls requirements do not apply to projects funded with state or Federal Recovery Funds.

10.7 Submit FHWA Form 1391 - Federal-aid Highway Construction Contractor's Annual EEO Report

[FHWA Form 1391](#) includes information on the number of minority, women, and non-minority employees in each work classification. The report will include all staffing data represented on the project work force. The Form 1391 reflects only workers for the designated week that are working on site.

The Contractor and all active subcontractors must complete FHWA Form 1391. The Local Agency is responsible for forwarding all CDOT requests for this information to all Contractors on a given project. Contractors must submit the completed forms directly to the CRBRC. The FHWA Form 1391 information may be submitted to the CRBRC directly by generating a software system report from LCPtracker.

See Appendix A for a copy of the form.

The Form 1391 is not required on state or Federal Recovery fund projects.

10.8 Contract Compliance and Project Site Reviews

Contractors working on federally assisted projects are required to comply with Equal Opportunity requirements. Contractor compliance provides for continuous monitoring of the employment process and to inform and assist Contractors with the requirements on federally-assisted projects. Local Agency projects may be subject to a contract compliance review at any time during the project. If chosen for a compliance review, the Region Civil Rights Office will notify the Contractor, the Local Agency, and the CDOT Project Manager. Neither the Local Agency nor the CDOT Project Manager are required to participate in the review. Reviews are conducted in accordance with *Title 23 CFR § 230.409 - Contract compliance review procedures*. A compliance review generally consists of the following elements: review scheduling, Contractor notification,

preliminary analysis, on-site verification and interviews, exit conference, and a compliance determination and formal notification.

Local Agency projects may also be subject to less formal project site reviews at any time by the CRBRC, Regional Civil Rights Office, or the Local Agency. The purpose of these informal reviews is to identify or address any issues related to the DBE Program, On-the-Job Training (OJT), bulletin board postings, certified payrolls, FHWA Form 1273 adherence, and other areas of concern. If chosen for these project site reviews, the Contractor will be notified by the party conducting the review.

10.9 Roles and Responsibilities on projects Federal Projects, except as noted.

- **Local Agency** – Responsible for:
 - Monitoring the Contractor's day-to-day conformity to EEO, Title VI and labor compliance contract requirements using B2GNow and LCPtracker compliance monitoring systems on contracts advertised on or after July 1, 2022. Monitoring the Contractor's day-to-day conformity with requirements (in hard copy format) on contracts advertised prior to July 1, 2022. Monitoring includes, but is not limited to the following:
 - Reviewing and approving each Sublet Permit Application, for accuracy prior to signing and forwarding the form to the Region Civil Rights Office for approval.
 - Reviewing and approving each Supplier Application Approval Request, for accuracy prior to signing and forwarding the form to the Region Civil Rights Office for approval.
 - On all projects, including state funded projects, conducting, reviewing and documenting interviews with the Contractor and subcontractor to verify compliance with Equal Employment Opportunity requirements and forwarding these interviews to the Project Manager monthly.
 - Receiving and reviewing DBE Forms and reports from the contractor and providing them to the CDOT Project Manager. Monitoring the project to ensure DBEs are performing a Commercially Useful Function, including the completion of the Form 1432 for each DBE counting toward the DBE contract goal.

- Receiving and reviewing OJT Forms from the contractor and forwarding to the CDOT Project Manager. Conducting interviews as appropriate.
 - On all projects, including state funded projects, receiving and reviewing each pay estimate for compliance with Prompt Payment requirements.
 - Receiving, conducting detailed checks, and accepting certified payroll submissions and working with the Contractor to resolve any issues. Forwarding requests for determination of appropriate Davis-Bacon prevailing wage rates to the CRBRC.
- **Contractor** – Responsible for using B2GNow and LCPtracker compliance monitoring systems for Civil Rights requirements on contracts advertised on or after July 1, 2022. Responsible for compliance with Civil Rights requirements in hard copy format on contracts advertised prior to July 1, 2022. This includes, but is not limited to the following:
 - Compliance with all Subcontractor and Supplier requirements.
 - On all projects, including state funded projects, compliance with Prompt Payment requirements.
 - Compliance with all DBE requirements.
 - Completing the OJT training hours listed in the Project Special Provision for each project.
 - Submitting certified payrolls within 7 days of the payroll payment date and for seeking determination for appropriate David-Bacon rates as necessary.
 - Completing and submitting the Federal-aid Highway Construction Contractors Annual EEO Report (form FHWA-1391).
 - Submitting required documentation to parties in accordance with this Desk Reference and in accordance with Civil Right process flowcharts.
- **CDOT**
 - **Region Civil Rights Office (RCRO)** – Responsible for the implementation of internal and external Civil Rights functions in the Regions including, but not limited to, the following:
 - Reviewing and approving Subcontractor and Supplier applications.
 - Conducting additional Commercially Useful Function interviews, if needed.
 - Conducting payroll checks at project closure as appropriate.

- Submitting requests for determination of appropriate Davis-Bacon prevailing wage rates to the US Department of Labor and coordination/dissemination of decisions.
- Reviewing and approving OJT Forms as required. Conducting interviews as appropriate.
- Notifying the Contractor, Local Agency and CDOT Project Manager when a project is selected for a contract compliance review or a project site review. Reporting data to FHWA as required.
- Receiving project documentation during the life of the project and conducting a final audit of the project to ensure that requirements have been met for EEO, DBE, OJT, subletting, certified payrolls, etc.
- Issuing a Civil Rights Certificate of Compliance after review of final documentation.
- **Civil Rights and Business Resource Center (CRBRC)** – Responsible for implementation of performance and overall quality control of all aspects of Civil Rights on LA projects including, but not limited to, the following:
 - Conducting additional Commercially Useful Function interviews, if needed.
 - Conducting OJT interviews as appropriate.
 - Submitting Federal-aid Highway Construction Contractors Annual EEO Report to FHWA.
- **Project Manager/Local Agency Coordinator** – Responsible for providing oversight on Local Agency projects including, but not limited to, the following:
 - Conducting random review of wage decisions, classifications and employee's payments for work performed.
 - Reviewing the Equal Employment Opportunity and labor Compliance Verification forms and forwarding to the RCRO.
 - Receiving, reviewing, and forwarding OJT Forms to the RCRO.
- **FHWA** – Responsible for providing technical assistance and regulatory guidance as needed/ requested. Overall responsibility for the Federal-aid Highway Program including those project actions which cannot be assumed by the CDOT or the Local Agency.

