Purpose

To review prime contractor & subcontractor responsibilities toward complying with the Civil Rights contract provisions related to nondiscrimination in performance of work and employment practices on New Jersey Department of Transportation (NJDOT)'s Local Aid construction contracts funded with federal or state monies. Sponsors and Sponsor’s REs have a responsibility to monitor and enforce contract provisions related to:

- DBE, ESBE or SBE Subcontracting
- EEO (Equal Employment Opportunity)
- On-the-Job Training (OJT)
- Labor/Wage Rate
PROGRAM AUTHORITIES

49 C.F.R. Part 26 - Participation By Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs
  * DBE Program regulations

Executive Order 11246 – Equal Employment Opportunity
  * EEO regulations

  * Affirmative Action Regulations

Davis-Bacon Act & Related Acts
  * Payment of prevailing wage rate to all laborers and mechanics on all Federal Aid construction projects.

Certifications

<table>
<thead>
<tr>
<th>Disadvantaged Business Enterprise (DBE)</th>
<th>Emerging Small Business Enterprise (ESBE)</th>
<th>Small Business Enterprise (SBE)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federally Funded Contracting Opportunities</td>
<td>Federally Funded Contracting Opportunities</td>
<td>State Funded Contracting Opportunities</td>
</tr>
<tr>
<td>Race Conscious - Measures of programs focusing on specifically assisting only DBEs.</td>
<td>Race Neutral – Activities/programs benefitting/assisting all small businesses, including DBEs.</td>
<td>Activities/programs benefitting/assisting all small businesses,</td>
</tr>
<tr>
<td>Women &amp; minority owned</td>
<td>Non-minority, male owned</td>
<td>Race and gender neutral</td>
</tr>
</tbody>
</table>

Certification decisions address the nature of a firm’s ownership and structure.
DBE, ESBE OR SBE PARTICIPATION
VERIFICATION OF FIRMS
COUNTING PARTICIPATION TOWARD CONTRACT GOAL
COMMERCIAL USEFUL FUNCTION (CUF)
DBE, ESBE OR SBE SUBCONTRACTOR UTILIZATION
PROMPT PAYMENT/VERIFICATION OF PAYMENTS TO DBE, ESBE OR SBE FIRMS
REVISIONS TO DBE, ESBE OR SBE PROGRAM
TERMINATION, SUBSTITUTION, REPLACEMENT OF DBE/ESBE OR SBE FIRMS
GOOD FAITH EFFORTS
ENFORCEMENT ACTIONS
FALSE OR FRAUDULENT STATEMENTS
CR-266 Schedule of DBE/ESBE/SBE Participation

Plan of the certified DBE/ESBE or registered SBE firms to be utilized on the Contract to meet the contract’s DBE, ESBE or SBE goal. Once Sponsor/NUDOT issues approval of the Plan prior to award, there can be no changes without the written approval from NUDOT Civil Rights.

- Complies with 49 CFR part 26.53 (b)(2) & 26.55
- Same form is used for:
  - Both Federal & State funded projects

- Only the DBE, ESBE or SBE firms providing confirmation of intent to participate (Form CR-273) can be listed on the CR-266, and counted toward the goal commitment

- Form CR-266 is required every time there is a revision to the Contractor’s DBE, ESBE or SBE Plan for a project.

- NUDOT’s Civil Rights must approve all changes to the CR-266 prior to implementation in changes to subcontractors (termination, substitution or replacement), work items, and dollar value of subcontracts, and before the Contractor can implement the changes.

CR-266 Schedule of DBE/ESBE/SBE Participation

SCHEDULE OF DISADVANTAGED BUSINESS ENTERPRISE / EMERGING SMALL BUSINESS ENTERPRISE / SMALL BUSINESS ENTERPRISE (DBE/ESBE/SBE) PARTICIPATION

Distinguish all First Tier, Second Tier and Third tier firms identified on the CR 266.
CR-266 Schedule of DBE/ESBE/SBE Participation

The form must be completely filled out with the following information:

1. Classification of the DBE/ESBE or SBE's role on the contract. The firm will be acting as a:

<table>
<thead>
<tr>
<th>Subcontractor</th>
<th>Trucker/Hauler</th>
<th>Equipment Lessor</th>
<th>Manufacturer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dealer/Installer</td>
<td>Regular Dealer/Supplier</td>
<td>Broker/Transaction Expeditor</td>
<td></td>
</tr>
</tbody>
</table>

2. Firm's certification status – Indicate whether they are a DBE, ESBE or SBE.

3. Firm's information as shown in the UCP or SAVI directories – complete name, address, phone number, etc.

4. NAICS Codes (North American Industry Classification System Code - the standard used for classifying business establishments) for the type of work the firm will perform on the project. Establishments (e.g. 561730 - Landscaping Services; 238120 – Structural Steel & Precast Concrete Contractors) (only needed for Federally funded projects.)

**NOTE:** When using DBE or ESBE firm to meet a contract goal, the type of work the Contractor utilizes the DBE or ESBE firm to perform, **MUST** be the type of work that the firm is certified to perform that is listed under certified business description in the UCP Directory.

CR-266 Schedule of DBE/ESBE/SBE Participation

5. List the type of work. (e.g. supplying and installing construction signs; supply of rebar, hauling of excavated material; landscaping, concrete work, electrical work for traffic signals; etc.)

6. List specific work items (Contract sequence number & Item Name). Clearly identify all partial work items with (P) after each specific item.

   For example: Item 12(P) – Clearing Site; Item 52 - Concrete Sidewalk; Items 56 – Chain Link Fence;

7. Dollar amount of subcontract work. **NOTE:** This is **NOT** the bid price, but the actual price agreed upon between the Contractor and the DBE, ESBE, SBE firm for the work to be or being performed on the contract.

8. Projected start date and completion date of DBE, ESBE or SBE firm's work on the contract.
Verification of DBE, ESBE or SBE Firms

Verification is needed that each DBE, ESBE or SBE firm will be performing the kind and amount of work the Contractor will utilize them for, and that the DBE, ESBE or SBE is performing a commercially useful function (CUF).

NJDOT's forms for the verification process that each DBE, ESBE or SBE must complete in entirety, and sign, are:

- CR-273 – Confirmation of DBE/ESBE/SBE Firm
- CR-272-DBE/ESBE/SBE Regular Dealer/Supplier Verification
- CR-274-DBE/ESBE/SBE Trucking Verification

Falsifying the information on forms constitutes fraudulent behavior.
Under 49 C.F.R. 28.107 dated February 2, 1999 and January 28, 2011, if at any time, the Department or a recipient has reason to believe that any person or firm has willfully and knowingly provided incorrect information or made false statements, the Department may take enforcement action under 49 C.F.R. Part 31, Program Fraud and Civil Remedies, and/or refer the matter to the Department of Justice for criminal prosecution under 18 U.S.C. 1001, which prohibits false statements in Federal programs.

CR-273 Confirmation of DBE/ESBE/SBE Firm

- Complies with 49 CFR part 26.53 (b) (2) (v)
- Obtain a completed confirmation Form CR-273 from each DBE, ESBE or SBE firm listed on the CR-266. Each DBE, ESBE or SBE must complete the form in entirety, as well as sign the form.
- A firm listed on Form CR-266 will not be counted toward DBE, ESBE or SBE goal commitment unless a completed Form CR-273 is submitted. The firm must be certified to perform the kind and type of work the Contractor has listed them to perform.
- Same form will be used for:
  - Both Federal & State funded projects
  - Both original submissions and any post-award revisions
- Form CR-273 must be submitted at time of bid, or within 5 days of bid opening, and post award with CR-266 revisions, when there are new DBE, ESBE or SBE firms added to the CR-266, or changes in work items to the DBE, ESBE or SBE.
CR-273 Confirmation of DBE/ESBE/SBE Firm

CR-272 DBE/ESBE/SBE Regular Dealer/Supplier Verification

- Complies with 49 C.F.R. Part 26.55 (e)
- A Regular Dealer/Supplier firm owns, operates or maintains a store warehouse where the materials, supplies, etc. of the type required under the contract are bought, stocked & sold/leased.
  - Federal Aid contracts: Contractor receives 60% credit for the cost of materials and supplies purchased from a DBE, ESBE or SBE Regular Dealer/Supplier
  - Wholly State-funded contracts: Contractor receives 100% credit for SBE Regular Dealer/Supplier
- Same form will be used for:
  - Both Federal & State funded projects
  - Both original submissions and any post-award revisions
  - Form CR-272 is to accompany the CR-273, when applicable, and must be completed in entirety as well as signed by the DBE, ESBE or SBE firm.
CR-272
DBE/ESBE/SBE
Regular
Dealer/Supplier Verification

CR-274 DBE/ESBE/SBE Trucking Verification

- **Form must be completed in entirety and signed by the 1st Tier DBE, ESBE or SBE.** Information is required for all DBE or ESBE/Non-DBE or ESBE trucking firms. It will subcontract or lease from, such as:
  - Name of Owner/Operator/Trucking Company
  - No. of trucks
  - For each truck:
    - VIN#
    - Make, Model and Year
- Subcontracting to a Non-DBE or ESBE trucker means that the Non-DBE or ESBE will perform a portion of the DBE or ESBE firm's subcontract.
- 2nd Tier DBE or ESBE trucking firms must perform 100% of their total subcontract value.
- All DBE/ESBE-leased trucks are required to reflect the DBE or ESBE firm's company name and identification number.
- For Non-DBE or ESBE leased trucks, credit will only be given for the fee/commission that is received for arranging the transportation services.
CR-274 DBE/ESBE/SBE Trucking Verification

- Registration cards
- Insurance cards
- Hazardous waste license, if applicable
- Apportioned cab cards, if applicable

- Lease agreement
- Title
- Registration cards
- Insurance cards
- Hazardous waste license, if applicable
- Apportioned cab cards, if applicable
Counting Participation Toward Contract Goal

DBEs and SBEs generally perform work on a contract either as a prime or subcontractor, trucker, regular dealer or a manufacturer.

When a DBE or SBE participates in a contract, only the value of work actually performed by the DBE or SBE is counted toward the DBE or SBE goal.

1. Work performed by DBE’s or SBE’s own forces
   - Cost of supplies and materials obtained by the DBE or SBE for the work of the contract.
     - Supplies purchased or equipment leased by the DBE or SBE;
     - Not supplies or equipment purchased or leased from the prime contractor or its affiliates.

   Federal Aid Contracts: Contractor receives 60% credit for the cost of materials and supplies purchased from a DBE Regular Dealer/Supplier.

   Wholly State-funded Contracts: Contractor receives 100% credit for SBE Regular Dealer/Supplier.
Counting Participation Toward Contract Goal

2. The entire amount of fees or commissions charged by a DBE or SBE firm for providing a bona fide service, provided it is determined that the fee is reasonable and not excessive as compared with fees customarily allowed for similar services.
   - professional, technical, consultant, or managerial services,
   - providing bonds or insurance specifically required for the performance of a DOT-assisted contract provided
3. When a DBE or SBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward DBE or SBE goals only if the DBE's or SBE's subcontractor is itself a DBE or SBE. Work that a DBE or SBE subcontracts to a non-DBE or non-SBE firm does not count toward DBE or SBE goals.
4. When a DBE or SBE performs as a participant in a joint venture, count a portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the DBE or SBE performs with its own forces toward DBE or SBE goals.
5. Expenditures to a DBE or SBE contractor are counted only if the DBE or SBE is performing a commercially useful function (CUF) on the contract.

Contractors are not entitled to payment for work they perform that a DBE or SBE was approved to perform, unless there is written approval from DCA/AA. Also that work is not counted toward the contract goal.

Counting Participation Toward Contract Goal

**Trucking**

- 100% goal commitment credit for transportation services provided by the 1st tier firm, and the 2nd tier DBE firm
- Additional credit for 2nd tier Non-DBE firms (not to exceed the value of the credit provided by the 1st tier DBE/SBE firm)
- For Non-DBE/ESBE leased trucks, credit will only be given for the fee/commission that is received for arranging the transportation services.
- Subcontracting to a Non-DBE/ESBE trucker means that the Non-DBE/ESBE will perform a portion of the DBE/ESBE firm's subcontract.
- 2nd Tier DBE/ESBE trucking firms must perform 100% of their total subcontract value.
- All DBE/ESBE-leased trucks are required to reflect the DBE/ESBE firm's company name and identification number.
- For Non-DBE/ESBE leased trucks, credit will only be given for the fee/commission that is received for arranging the transportation services.
Commercially Useful Function

Verifies:
1. that every DBE or SBE firm on the contract are actually performing the work they were hired for, and:
2. the role the firm has played in a particular transaction.

Is obtained: When a DBE or SBE firm is responsible for execution of a distinct element of the work of a contract and is carrying out its responsibility by actually performing, managing and supervising the work involved.

Is NOT obtained: When the DBE's or SBE's role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of participation.

To determine whether a DBE or SBE subcontractor is performing a CUJ, five (5) distinct operations are considered:

- management
- workforce
- equipment
- materials
- performance
Commercially Useful Function

- No sharing of employees with non-DBE contractors, particularly the prime contractor.
- Perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force.
- Must not subcontract 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.
- Supervision of DBE, ESBE or SBE employees by another contractor.
- Actual work is performed by personnel normally employed by the prime contractor or another business.
- Employees are paid by the DBE, ESBE or SBE and the prime contractor.

Commercially Useful Function

<table>
<thead>
<tr>
<th>Equipment</th>
<th>Red Flags</th>
</tr>
</thead>
<tbody>
<tr>
<td>- May lease specialized equipment from a contractor, but not the prime contractor, if it is consistent with normal industry practices &amp; at rates competitive for the area.</td>
<td>- Equipment used by the DBE, ESBE or SBE belongs to the prime contractor or another contractor with no formal lease agreement.</td>
</tr>
<tr>
<td>- Lease must specify the terms of the agreement.</td>
<td>- Equipment signs and markings cover another owner's identity, usually through the use of magnetic signs.</td>
</tr>
<tr>
<td>- Lease must be for a short period of time &amp; involve a specialized piece of equipment to be used at the job site.</td>
<td>- A DBE, ESBE or SBE trucking business uses trucks owned by the prime contractor.</td>
</tr>
<tr>
<td>- Lease may include an operator for the equipment who remains on the lessor's payroll if this is a generally acceptable practice within the industry.</td>
<td></td>
</tr>
<tr>
<td>- Operation of the equipment must be subject to the full control of the DBE, ESBE or SBE.</td>
<td></td>
</tr>
</tbody>
</table>
### Commercially Useful Function

**For DBE, ESBE or SBE contractors (furnish and install) to receive credit for supplying materials, they must perform all of the following four functions:**

1. Negotiate price;
2. Determine quality and quantity;
3. Order the materials; and
4. Pay for the material itself

**If they do not, they aren't performing a CUF with respect to obtaining the materials and the cost of the materials may not be counted toward the DBE, ESBE or SBE goal.**

**Invoices for the material should show the payer as the DBE, ESBE or SBE.**

**Materials for the DBE, ESBE or SBE are ordered, or paid for, by the prime contractor;**

**Two party checks or joint checks are sent by the prime to the supplier or manufacturer, instead of sent by the DBE, ESBE or SBE;**

**Materials or supplies necessary for the DBE, ESBE or SBE's performance are delivered to, billed to, or paid by another business;**

**Materials are delivered to the jobsite by a party separate from the DBE, ESBE or SBE;**

**Payment for materials is deducted by the prime contractor from payments to the DBE, ESBE or SBE for work performed;**

**A DBE, ESBE or SBE prime contractor only purchases materials while performing little or no work.**

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### Commercially Useful Function

**DBE, ESBE or SBE must be responsible for the performance, management and supervision of a distinct element of the work, in accordance with normal industry practice (except where such practices are inconsistent with the DBE regulations)**

**Work is being done jointly by the DBE, ESBE or SBE and another contractor;**

**The work to be performed by the DBE, ESBE or SBE is outside of the DBE, ESBE or SBE's known experience or capability;**

**Any portion of the work designated to be performed by a DBE, ESBE or SBE subcontractor is performed by the prime contractor or any other firm;**

**The DBE, ESBE or SBE is working without a subcontract approved by the department, except in the case of trucking;**
Commercially Useful Function

<table>
<thead>
<tr>
<th>Red Flags cont’d. (Performance)</th>
<th>What is Normal Industry Practice?</th>
</tr>
</thead>
<tbody>
<tr>
<td>• A DBE, ESBE or SBE prime contractor subcontracts more than 50% of the contract value;</td>
<td>• Determining if the DBE, ESBE or SBE is performing the work or services in the manner normally performed by all contractors—DBE, ESBE or SBES and non-DBE, ESBE or SBES.</td>
</tr>
<tr>
<td>• The agreement between the prime contractor and DBE, ESBE or SBE artificially inflates the DBE, ESBE or SBE participation;</td>
<td>• Even if a DBE, ESBE or SBE is performing pursuant to normal industry practices if those practices, in fact, erode the ability of the DBE, ESBE or SBE to control its work and remain independent, the practice may affect how much can be credited toward the DBE, ESBE or SBE goal and may raise questions about the DBE, ESBE or SBE eligibility.</td>
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<tr>
<td>• An agreement that erodes the ownership, control or independence of the DBE, ESBE or SBE subcontractor;</td>
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<tr>
<td>• A DBE, ESBE or SBE works for only one prime contractor, or a large portion of the firm’s contracts are with one contractor;</td>
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</tr>
<tr>
<td>• The volume of work is beyond the capacity of the DBE, ESBE or SBE</td>
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</tbody>
</table>

- Subcontracts/written contracts
- Leases
- Equipment titles of ownership
- Equipment lease/rental agreements
- Purchase Orders
- Invoices
- Shipping tickets
- Delivery tickets
- Material/supply agreements
- Invoices of materials/supplies
- Hauling tickets
- Bill of lading
- Daily inspection reports and project diaries
- Certified Payrolls & Payroll records
- Copies of cancelled checks
**RE Responsibilities**

Commercially Useful Function (CUF)

- Complete CUF review (CR-275 Form) on each DBE or SBE firm listed on the CR-266.
  - Perform within the 1st 10 days of the DBE working on the project, after their first payroll on the project.
  - Review is to be performed initially on-site using observation, then completed in the office for the portion requiring that information.
  - If possible, obtain photographs to support the observation of each firm.
  - Keep the original CUF review (CR-275) and associated documentation on file. Submit a copy of it to DCR/AA.
- When it is discovered that a firm is not performing a CUF, immediately contact DCR/AA for guidance.
- Ensure that you have subcontract agreements for DBE and SBE subcontractors working on the project.

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**Prompt Payment**

- 49 CFR Part 26 and the New Jersey Prompt Payment Statute require the Prime Contractor to promptly pay subcontractors, including full payment of retainage, no later than 30 days from receipt of each payment NJDOT makes to the prime contractor, after the subcontractor satisfactorily completes their work.
  - Subcontractor’s work is satisfactorily completed when all tasks called for in the subcontract have been accomplished and documented as required by NJDOT
  - When NJDOT makes an incremental acceptance of a portion of the Contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.
- Contractors certification to NJDOT regarding payments to subcontractors and suppliers is via Form DL-72 Contractor Certification of Payment to Subcontractors and Suppliers.

REs must document all prompt payment complaints brought to their attention, and immediately report the complaint to DCR/AA for investigation and resolution.
1. Review Change Order/Field Order to determine whether there are any adjustments to bid items, or contract items being deleted, that a DBE or SBE has been approved to perform.

2. Ensure that the DBE, ESBE or SBE Firm performs the work they have been identified to perform.

3. Process Change Orders or Field Orders involving DBE, ESBE or SBE work items in a timely manner so that prompt payment complaints related to those work items can be minimized.
Verification of Payments to DBE, ESBE or SBE Firms

- NIDOT must verify Contractor payments to DBE, ESBE or SBE firms. DCR/AA can request that Contractors submit documented evidence of payments they made to DBE/SBE firms, including:
  o Copies of cancelled checks (front & back) with supporting documentation proving the payment was tied to the specific project
  o Invoices/receipts from DBE, ESBE or SBE firms
  o Other supporting documentation proving the payment was tied to specific invoices from the DBE, ESBE or SBE firms.
  o Accounting records, etc. supporting evidence that the payments made is tied to the specific project.
- Only actual monies paid to DBE, ESBE or SBE firms can be credited toward the Contractor’s attainment of the contract goal.
  o Contractors are not entitled to payment for work they perform with their own forces that a DBE, ESBE or SBE was approved to perform, without the written consent of NIDOT Civil Rights/AA.
- The participation of a DBE, ESBE or SBE firm cannot count toward the Contractor’s final compliance of the goal until the DBE, ESBE or SBE has been paid by the Contractor.

Termination, Substitution or Replacement of DBE/ESBE or SBE Firm

Prime contractors cannot terminate a DBE, ESBE or SBE subcontractor (or approved substitute) without written consent from NIDOT Civil Rights. This includes instances when the prime contractor seeks to perform work originally designated for the DBE, ESBE, or SBE with its own forces, or affiliate, a non-DBE, ESBE or SBE firm, or with another DBE, ESBE or SBE firm.

- Prime contractors must have good cause to terminate the DBE, ESBE or SBE firm. Good cause includes the DBE, ESBE or SBE’s:
  > refusal/failure to execute a subcontract agreement
  > failure or refusal to perform subcontracted work consistent with normal industry standards, as long as the failure to perform the work is not based on bad faith or discriminatory action of the prime contractor.
  > bankruptcy/insolvency or credit unworthiness
  > voluntarily withdrawal from the project, and provided prior written notice to NIDOT Civil Rights of their withdrawal.
  > inability to work on public works projects due to suspension or debarment proceedings pursuant to 2 CFR Parts 180, 215 and 1,200 or applicable state law.
  > determination of not being a responsible contractor.
  > inability to receive DBE, ESBE or SBE credit for type of work required.
Monthly DBE/ESBE/SBE Utilization Report – CR.267

The Monthly DBE/ESBE/SBE Utilization Report (CR.267) is used to track payments to the prime contractor, and to DBE, ESBE or SBE subcontractors on a project.
Prime contractors are required to submit a signed, original form to the RE each month, whether or not there is work, and whether payments were made to DBE, ESBE or SBE firms or not.
The form should always include the following information:

- Every subcontractor/firm being utilized toward meeting the project goal.
- Check box indicating type of project goal – DBE, EBE or SBE
- Specific contract item (sequence number & description) for each item paid during the month, including the identification of all Partial items identified with “1(1)” after each.
- Actual $ value of subcontract work of DBE, ESBE or SBE
- Amount Paid to the DBE, ESBE or SBE that particular month for the specific items indicated on the form. If there was no payment, use $0.
- Amount Paid to Date to the DBE, ESBE or SBE

If there are any differences on this form from the latest approved CR.266, a Revised CR.266 and corresponding documents is needed, and must be submitted to the RE for review and concurrence, then transmitting to Civil Rights for final review and approval/disapproval, otherwise any revisions will not be approved.

CR.267 Monthly DBE/ESBE/SBE Utilization Report

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<thead>
<tr>
<th>DBE</th>
<th>ESBE</th>
<th>SBE</th>
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<table>
<thead>
<tr>
<th>Project Name</th>
<th>Prime Contractor</th>
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<thead>
<tr>
<th>1. DBE</th>
<th>2. ESBE</th>
<th>3. SBE</th>
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<tr>
<th>Project Address</th>
<th>4. Total Payment in Amount of</th>
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<tr>
<th>5. Total</th>
<th>6. Total of Subtotal Period 1</th>
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<tr>
<th>Estimated Contract Completion Date</th>
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<thead>
<tr>
<th>Total</th>
<th>12. Percent of DBE/ESB or SBE participation or date</th>
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**NOTE:** Signature of the Contractor/Liaison Officer,adatafcertification that this information presented on this form is true and accurate.
**Revisions to DBE, ESBE or SBE Program**

A revised CR 266 is needed prior to implementation of any changes in subcontractors, work items, or significant $ changes to any executed agreements between the prime contractor and the DBE, ESBE or SBE firms.

Prior to implementing any revisions to the Contract’s DBE, ESBE or SBE Program, contractors must:

- Submit the RE for review and approval by NIDOT Civil Rights, a DBE, ESBE or SBE Plan revision package, to include:
  - Revised CR-266 form, with revision # and date for revision clearly identified
  - Cover memo requesting revision to DBE, ESBE, or SBE Plan for the project, to include detailed written explanation of each revision and reason for the revision.
  - Form CR-273, and if applicable, the CR-272 & CR-274 forms, for new DBE, ESBE or SBE firms being added to the DBE, ESBE or SBE Plan.
  - Form CR-273, and if applicable, the CR-272 & CR-274 forms, for each DBE, ESBE or SBE firm where there are any changes related to work items or dollar amounts of subcontractes.
  - Documented evidence of good faith efforts verifying the circumstances for the revision(s).
Process for DBE, ESBE or SBE Program Revisions

1. Contractor wants to make revisions to DBE, ESBE or SBE Program
   Changes to subcontractor, work items, 3% value of subcontract

2. Request completed and signed CR-273 forms, and applicable CR-272 and CR-274 forms from each DBE, ESBE, SBE, and NDOT of the Contractor’s intent to replace, substitute, or reduce work of DBE, ESBE or SBE, and include the specific reason(s) why

3. Prepare Revised CR-273 with cover memo of major changes and additional explanation of each change, with the section number(s) for each change

4. Submit Revised DBE, ESBE or SBE Program Revision Package including the Revised CR-273, CR-272, CR-274 forms, good faith efforts, and supporting documentation to NDOT

5. Upon written approval from NDOT Civil Rights, implement changes to the revised DBE, ESBE or SBE Program

Termination/Substitution & Replacement of DBE, ESBE or SBE Firm

- A DBE, ESBE or SBE firm cannot be terminated without written consent of DCR/AA. This includes, but is not limited to, instances in which a Contractor seeks to perform work originally designated for a DBE, ESBE or SBE subcontractor with its own forces or those of an affiliate, a non-DBE, ESBE or SBE firm, or with another DBE, ESBE or SBE firm.

- Before transmitting to NDOT its request to terminate and/or substitute a DBE, ESBE or SBE subcontractor, the Contractor must give notice in writing to the DBE, ESBE or SBE subcontractor, with a copy to NDOT, of its intent to request to terminate and/or substitute, and the reason for the request.

- The Contractor must inform the DBE, ESBE or SBE that they have five (5) days to respond to the Contractor’s notice and advise NDOT and the Contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why NDOT should not approve the Contractor’s action.

- NDOT DCR/AA must review and approve the termination, substitutions and replacement of DBE, ESBE or SBE firms prior to implementation, otherwise the Contractor will not receive credit toward the Contract goal.
Good Faith Efforts

- Contractors and subcontractors working on NJDOT projects must make every effort (good faith effort) to comply with all of the Civil Rights EEO, DBE, ESBE or SBE subcontracting and training contract provisions, including meeting the established project goal and work hour goals for minorities and females.

- If the prime contractor, and/or subcontractors cannot meet these provisions, they MUST submit documented evidence of good faith efforts through the RE, to NJDOT - Civil Rights Civil Rights, for final review and approval/disapproval as to why they are not able to meet these provisions.

- Good faith documentation must be provided immediately when it is recognized the provisions will not be met/satisfied, not after the fact.

- Submission of good faith documentation does not automatically absolve prime contractors and subcontractors of their contract EEO, DBE, ESBE or SBE subcontracting and Training obligations.
Good Faith Efforts - DBE, ESBE or SBE Utilization

Types of Actions to consider as part of Good Faith efforts for DBE, ESBE or SBE Utilization:

- Soliciting through all reasonable & available means, the interest of all certified DBEs, ESBEs or SBEs capable of performing the contract work.
  - Attendance at pre-bid meetings
  - Advertising
  - Written notices
- Allow DBEs, ESBEs or SBEs sufficient time to respond to solicitation
- Bidder must take appropriate steps to follow up initial solicitations to determine with certainty if DBEs, ESBEs or SBEs are interested.
- Provide interested DBEs, ESBEs or SBEs with adequate information about contract documents and requirements in a timely manner.
- Selecting portions of work to be performed by DBEs, ESBEs or SBEs

Good Faith Efforts - DBE, ESBE or SBE Utilization

- Breaking out contract work items into economically feasible units to facilitate DBE, ESBE or SBE participation, even when Prime Contractor might otherwise prefer to perform the work.
- Negotiating in good faith with interested DBEs, ESBEs or SBEs. Evidence of such negotiation includes:
  - Names, addresses, and telephone numbers of considered DBEs, ESBEs or SBEs
  - Description of the information provided regarding the plans and specifications for the work selected for subcontracting
  - Evidence as to why additional agreements could not be reached for DBEs, ESBEs or SBEs to perform the work.
- Making efforts to assist interested DBEs, ESBEs or SBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.
- Making efforts to assist interested DBEs, ESBEs or SBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
Good Faith Efforts - DBE, ESBE or SBE Utilization

- Not rejecting DBEs, ESBEs or SBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. Causes which are not legitimate for the rejection or non-solicitation of bids in the contractor’s efforts to meet the project goal:
  - Contractor’s stand within its industry
  - Membership in specific groups, organization, or associations
  - Political or social affiliations (for example union vs. non-union employee status)
- Effectively using the services of the following available resources as allowed on a case-by-case basis:
  - Minority/women community organizations
  - Minority/women contractors’ groups
  - Local, state, and Federal minority/women business assistance offices
  - Other organizations providing assistance in the recruitment and placement of DBEs, ESBEs or SBEs.

Good Faith Efforts - DBE, ESBE or SBE Utilization

- A Contractor using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE, ESBE or SBE subcontractors.
  - A firm’s price and capabilities
  - Contract goals
- The fact that there may be some additional costs involved in finding and using DBEs, ESBEs or SBEs is not in itself sufficient reason for a contractor’s failure to meet the contract DBE, ESBE or SBE goal, as long as such costs are reasonable.
- The ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder/contractor of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes for DBEs, ESBEs or SBEs if the price difference is excessive or unreasonable.

Good faith effort documentation should be detailed to include dates, times, names of people spoken to, copies of correspondence such as letters, emails, etc. It is not to be created after the fact, but should be documented evidence of on-going effort(s) to comply with meeting the civil rights contract requirements.
Enforcement Actions

Enforcement action may be taken under 49 CFR Part 31, Program Fraud and Civil Remedies, against any participant in the DBE program whose conduct is subject to such action under 49 CFR part 31.

Suspension or debarment proceedings may be made against a firm under 2 CFR parts 180 and 1200 when:

- A firm not meeting the eligibility criteria attempts to participate in a DOT-assisted program as a DBE on the basis of false, fraudulent, or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty.
- A firm that, in order to meet DBE contract goals or other DBE program requirements, uses or attempts to use, on the basis of false, fraudulent or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, another firm that does not meet the eligibility criteria.

False or Fraudulent Statements

Any person who makes a false or fraudulent statement in connection with participation of a DBE in any DOT-assisted program or otherwise violates applicable Federal statutes may be referred to the Department of Justice, for prosecution under 18 U.S.C. 1001 or other applicable provisions of law.
## Required Posters

Posters are required to be prominently displayed where they can readily be observed by applicants for employment, the general public, as well as employees working on the project.

### Contractors/Subcontractors
- Must display these posters at on-site trailers for each construction project.
- If no on-site trailer is available, they must be displayed at an on-site location where they are readily/freely accessible to employees working on the project.

### Local Public Agencies/Consultants
- Display these posters (in English, Spanish & any other appropriate language) at your respective facilities and locations.
- Ensure that contractors display them at their on-site trailers for each construction project.

Laminate versions of the various posters sold by companies are **NOT** acceptable and cannot be used.
# Required Posters – Federal Aid Contracts

<table>
<thead>
<tr>
<th>Document Title</th>
<th>Required to</th>
<th>Revisions</th>
<th>Notes</th>
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<tbody>
<tr>
<td>Mandatory Supplement to BESC-PS-1 (Rev. 9/16)</td>
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<td>Executive Order 11246 (July 21, 1971)</td>
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<td>Notice Federal Aid Project (e.g. Project Specific Notice)</td>
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# Required Posters – State Funded Contracts

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<tr>
<td></td>
<td>Chapter 175, Laws of New Jersey, 1980 Relating to Employment</td>
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</tbody>
</table>
Additional Required Postings

- NIDOT Title VI Notice to Sub-recipients
- Contractor’s Emergency # for EEO Officer (Corporate & On-Site) & Safety Officer
- NIDOT Policy & Procedure # 208 – “Sexual Harassment on Construction Projects”
- Contractor’s Sexual Harassment Policy
- Contractor’s EEO Policy Statement
- Identification of Contractor’s EEO Officer

In addition to the above, the following must be available for use:

- NJ Dept. of Labor-Prevailing Wage Rate Determination (Federal & State Projects) - Actual Davis-Bacon wage rates pertinent to project

http://fwd.dol.state.nj.us/labor/wagehour/wagerate/prevailing_wage_determinations.html

Annual EEO & D/ESBE Affirmative Action Plan

On an annual basis, submit the following to NIDOT’s Division of Civil Rights & Affirmative Action for review and approval:

- Equal Employment Opportunity (EEO)/Affirmative Action Program
- EEO Policy Statement
- Sexual Harassment Policy & Sexual Harassment Policy Statement
- EEO Legend
- Document designating company’s Corporate EEO Officer, including name, address & telephone number of the Officer
- D/E/ESBE Affirmative Action Plan, the explanation of affirmative action methods used in seeking out DBE, ESBE or SBEs as subcontractors, material suppliers or equipment lessors.

These packages should be submitted to:

New Jersey Department of Transportation
Division of Civil Rights & Affirmative Action - Contract Compliance Unit
P.O. Box 600
Trenton, New Jersey 08625-0600
Annual EEO & D/ESBE Affirmative Action Plan

Once the plan is approved, each firm will receive an approval letter from NJDOT Civil Rights/Affirmative Action, indicating the timeframe for which the plan(s) has/have been approved. This/these letter(s) must be provided to each NJDOT RE for each specific project on which the prime contractor and subcontractor perform work.

- NJDOT requires the annual EEO/Affirmative Action Plan submission from the following:

<table>
<thead>
<tr>
<th>Prime Contractor</th>
<th>Subcontractors</th>
<th>Professional Service Firms / Consultant Firms</th>
</tr>
</thead>
<tbody>
<tr>
<td>Service Firms such as Towing Companies/Sweeping Companies</td>
<td>Truckers/Haulers that are not Individual owner/operators</td>
<td></td>
</tr>
</tbody>
</table>

- Businesses/companies **EXEMPT** from the annual EEO/Affirmative Action Plan submission are:

<table>
<thead>
<tr>
<th>Manufacturer</th>
<th>Suppliers</th>
<th>Regular Dealer/Installers</th>
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</thead>
<tbody>
<tr>
<td>Equipment Lessors</td>
<td>Truckers/Haulers that are individual owner/operators</td>
<td></td>
</tr>
</tbody>
</table>

Initial EEO Submittals

The Contractor must submit the following documentation to the project RE prior to beginning work on the project:

1. Copy of Contractor’s EEO/AA Program and D/ESBE Affirmative Action Program approval letter issued by NJDOT Civil Rights (Prime Contractor)

2. Copy of subcontractor’s EEO/Affirmative Action Plan approval letter issued by NJDOT Civil Rights (Subcontractors with subcontracts of >$10,000 - Federally funded projects) / > $2,500 - State funded projects)

3. Contractor’s EEO Officer, including contact information (Prime Contractor)

4. Contractor’s project EEO & D/ESBE Officer, including contact information (Prime Contractor)

5. EEO Legend showing firm is an Equal Opportunity Employer i.e.: letterhead, envelope, advertisement, check, etc. (Prime Contractor & Subcontractor)
Initial EEO Submittals

Submit the following documentation to the project RE prior to beginning work on the project:

6. Record of Initial EEO Meeting (Include date of meeting, name(s) of attendees which should including on-site supervisory personnel, subject matter discussed & disposition of the subject matter.) (Prime Contractor & Subcontractor)

7. Letters from Prime & subcontractors contractors to Unions/Referral Agencies for man-power needs, even if not hiring at present time. (These must be signed, dated and referencing the specific project.) (Prime Contractor & Subcontractor)

8. Response letters (signed, dated & referencing the specific project) from Unions/Referral Agencies indicating their cooperation (Prime Contractor & Subcontractor)

Workforce Employment Goals

For all NDOT projects, both Federal funded, & State funded, attempt to attain the project specific minority and female workforce employment goals for each trade or craft working on the project. Firms meet their EEO goal by hiring and retaining a sufficient number of minority and female employees to satisfy the listed goal (%) in terms of aggregate hours for its workforce.

• Workforce Goals: % of total craft hours worked in each month in each craft
• Goal for participation of females - 6.9% Statewide
• Goal for participation of minorities - Established for geographical area where work is actually performed.
  □ Varies statewide per county.
• Provide equal employment opportunities whenever there are new hire opportunities/job openings in your work force. You are not expected to lay off permanent employees to provide new hire opportunities.
• Be prepared to show that those employees are part of your core work force. To do so, you must show documentation that the employees have been employed over the past two years.
**Workforce Employment Goals**

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<th>COUNTY</th>
<th>MINORITY % PARTICIPATION</th>
<th>FEMALE % PARTICIPATION</th>
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<tr>
<td>Warren</td>
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<td>6.9</td>
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**Workforce Reporting to NJDOT**

- Monthly Workforce (manpower) data must be reported to NJDOT electronically on a CC-257R via the web-based application "Vendor Workforce Reporting Manager" through the NJ Portal at: http://www.state.nj.us.

- To access the application, contractors need:
  1. to be registered with the NJ Portal
  2. receive an authorization code to receive a link to the application

- Reporting must be done using the project specific job code # provided to the prime. Start reporting the month the firm starts work, and each month until firm's work is 100% complete. If no work for a particular month, report 0's. Reporting period must = each calendar month.

<table>
<thead>
<tr>
<th>Required to Report</th>
<th>Not Required to Report</th>
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<td>Prime contractors</td>
<td>Manufacturers</td>
</tr>
<tr>
<td>Subcontractors</td>
<td>Regular dealer/suppliers</td>
</tr>
<tr>
<td>Truckers/haulers that are NOT individual owner/operators</td>
<td>Regular dealer/installer if NO installation work is being performed at the job site</td>
</tr>
<tr>
<td>Professional service firms</td>
<td>Equipment Leaser</td>
</tr>
<tr>
<td>Regular dealer/installer if employees are doing installation work at the job site</td>
<td>Single owner/operator trucker/hauler</td>
</tr>
</tbody>
</table>
The document contains a table with various categories and columns. The table appears to be a record of employment utilization for different categories, including Professional Services, Administrative Support Workers, Laborers and Operators, Carpenters, and Operating Engineers. Each category contains columns for specific details such as Federal, Non-Federal, Total Hours, and Total Employees. The table also includes a section for Submission Information with a phone number and email address for contact.
Workforce Reporting to NJ L&WD 100% Wholly State Funded Contracts

For all NJDOT 100% Wholly State State Funded Construction Contracts:

The New Jersey Department of Transportation does not have delegated authority to monitor and enforce EEO Workforce Compliance on State Funded construction projects. The New Jersey Department of the Treasury, Division of Public Contracts EEO Compliance has jurisdiction for EEO monitoring and enforcement.

Therefore, in addition to reporting workforce data online via the CC 257R, prime contractors must also complete the following NJ Department of Treasury forms:

1. Initial Project Workforce Report Construction (AA-201)
   The prime contractor must complete the form pre-construction (prior to signing the contract), retain a copy and submit the first two copies to:
   - NJ Department of Labor & Workforce Development
   - Construction EEO Compliance Monitoring Unit
   - P.O. Box 209
   - Trenton, NJ 08625-0209

   Submit the 3rd copy to:
   - NJDOT – Division of DCR/AA & Affirmative Action,
   - Contract Compliance Unit
   - P.O. Box 600
   - Trenton, NJ 08625-0600
Workforce Reporting to NJ L&WD 100% Wholly State Funded Contracts

For all NJDOT State-funded projects:


The prime contractor must complete this form monthly, by one of two methods:

A. Manual Method:
   - Complete form manually & mail to:
     1. NJDOT - Division of DCR/AA & Affirmative Action, Contract Compliance Unit
        P.O. Box 600, Trenton, NJ 08625-0600
     2. NJ Department of Labor & Workforce Development Construction EEO Compliance Monitoring Unit
        P.O. Box 209, Trenton, NJ 08625-0209

B. Electronic Submission - Via NJ Portal & NJ Department of Treasury’s Website:
   - Type: www.state.nj.us/treasury/contract_compliance/
   - Select the “Premier Business Services Online Forms Account Instructions” link.
   - Follow all the instructions to set up online access to the New Web Application.

The New Web Application will provide access to current and past reports that can be printed and submitted to the Public Agency awarding the contract as required.

AA 202 - Monthly Project Workforce Report, Construction
Workforce Reporting
Required Monthly Submissions

The following must be submitted every month from the firm's start of work, until their work is 100% complete on project.

- E-mail confirmation receipt "NJDOT - Monthly Employment Utilization Report - Submission Receipt - Construction" indicating work hour info was entered in the system, showing the project identifier as the job code # (CEN#)
- A copy of the report/screen shot (CC-257R) of the work hour information entered into the system, showing the project specific job code (CEN#)
- Running Log of Minorities & Females.
  - Name, address & telephone number of applicants/referrals & action taken with each individual.
- EEO Inspection Report – showing date of inspection, who performed the inspection, findings, and individuals interviewed. (If there are minorities and females working on the project, they should be interviewed.)
- Log of Walk-In Applicants
  - Name, address & telephone number of applicants/referrals & action taken with each individual

Employment Discrimination & Sexual Harassment Complaints

N.J.S.A. 10:5-1 et seq., 10:2-1 et seq., 42 U.S.C. 2000(d) et seq., 42 U.S.C. 2000 (e) et seq. and Executive Order 11246 prohibit contractors, subcontractors, professional service firms and others working on the contract from discrimination in their performance on the Contract. This applies to:

- Employment, upgrading, demotion, or transfer
- Recruitment or recruitment advertising
- Layoff or termination
- Rates of pay or other forms of compensation
- Selection for training, including apprenticeships.

In instances where a person working on a project complains either verbally, or in writing, of employment discrimination or sexual harassment, the RE must immediately notify Civil Rights, preferably in writing.

NJDOT's Special Provisions outline the process for investigation, reporting and resolving employment discrimination and sexual harassment complaints on NJDOT's projects, including:

- Investigation of the complaint
- Documenting investigation
- Reporting of investigation to NJDOT
- Corrective/disciplinary action
On-the-Job Training

TRAINING PROGRAM COMPLIANCE
TRAINING PROGRAM REQUIREMENTS
TRAINING PROGRAM APPROVAL PROCESS
APPRENTICE/TRAINEE APPROVAL
TRAINING REPORTS – BIWEEKLY & QUARTERLY
TRAINING CERTIFICATE

TRAINING PROGRAM COMPLIANCE

The On-the-Job (OJT) Training Program, used on NJDOT federally funded projects, establishes on-site apprenticeship and training programs primarily for minority & female applicants to assist women and minorities into journey-level positions in order to increase their participation in skilled and semi-skilled crafts.

If the project has a training requirement, the prime contractor is responsible for submittal of the following items to the Sponsor's RE during the life of the contract:

- Initial Training Program/Revised Training Program, if applicable
- Apprentice/Trainee Approval Memo (CR-1) for each trainee candidate
- Training Program Progress Reports for each trainee
  1) Bi-Weekly Training Report (CR-2)
  2) Contractor's 1409 Quarter Training Report (CR-1409)
  3) Training Certificate (CR-3)
Training Program Compliance

Contractor submits Training Program to Sponsor's RE

RE reviews program & if concurs, forwards to NJDOT Local Aid who then forwards to DCR/AA for final review & approval.

If approved, DCR/AA issues Training Program Approval memo & sends to NJDOT Local Aid who then sends to Sponsor's RE. RE sends to Contractor.

Contractor submits CR-1 to RE. RE reviews, signs off & transmits to NJDOT Local Aid who sends to DCR/AA for final review & approval.

Note:
The On-the-Job Training Program is primarily for minority & female applicants. If a candidate is not a minority or female, submit documented evidence of good faith efforts to find a minority or female for the position, when submitting the CR-1.

When each trainee/apprentice completed the training program, the Contractor issues a CR-1 to them, with a copy to the Sponsor’s RE, who sends a copy to NJDOT Local Aid who sends to DCR/AA.

Contractor submits required reports: CR-2, CR-3-4 & CR-3 for each approved trainee/apprentice working on the project.

Once approved, Trainee can start work.

TRAINING PROGRAM REQUIREMENTS

Submit the Initial Training Program/Plan to the NJDOT RE prior to beginning work on the project.

Each program (plan) should include:

- Proposed training positions (work classifications to be used on the project (Ironworker, Form Setter, Truck Driver, Landscaper, etc.)
- # of each type of training position in each classification
- Standard Program hours for each position
- Minimum available hours for each position
- Estimated start dates of each position
- Identification of which positions will be trained by the Contractor, and which by subcontractors

Refer to Revised Standard Training Guidelines 2007 for information about each training position.

Contractors should NOT begin working until the Initial Training Program is submitted to the RE.

Contractors are NOT permitted to make changes in their approved training programs without first requesting in writing and receiving, written approval from NJDOT Civil Rights via NJDOT Local Aid & the Sponsor’s RE, who will concur or disagree with the Contractor’s revision plan in writing.
TRAINING PROGRAM APPROVAL PROCESS

Prior to starting work on the contract, submit the Initial Training Program to the Sponsor's RE for review and concurrence/non-concurrence. If the RE concurs, he or she will submit the Training Program to NJDOT Local Aid for review, who then submits to NJDOT DCR/AA for final review and approval/disapproval. If the RE does not concur with the Training Program submitted, he or she will inform the contractor, and the contractor should reexamine their proposed program and revise and resubmit to the Sponsor's RE.

Once the Sponsor's RE concurs with the Training Program, it is submitted to NJDOT Local Aid for review, then NJDOT DCR/AA for final review and approval/disapproval. If disapproved by NJDOT Civil Rights, the Training Program must be re-worked until a plan is submitted and approved by NJDOT Civil Rights.

Individuals candidates for the trainee positions should not begin work on the project prior to approval by NJDOT Civil Rights. If they do, the prime contractor will not receive credit for those hours.

APPRENTICE/TRAINEE APPROVAL

Prior to a trainee starting on the project, submit the CR-1 form to the Sponsor's RE for review. If the RE concurs, he or she will submit the CR-1 to NJDOT Local Aid for review, who then transmits to NJDOT DCR/AA for final approval/disapproval. If NJDOT Civil Rights does not approve the candidate, they are not eligible to participate as a trainee on the contract.

Information on the form must be legible and complete, including the gender, ethnic category, hourly rate of pay, start date, standard program hours, minimum available hours & Local Union #. The form must be signed by the apprentice/trainee.

Note: If the candidate submitted is not a minority or a female, detailed and specific good faith documentation must be submitted with the CR-1 form in order for the candidate to be approved.

NOTE: Candidates should not begin work on the project prior to approval by Civil Rights. If they do, the prime contractor will not receive credit for the hours toward the contract training requirement.
Payroll Requirements – Federal Contracts

- Weekly Certified Payrolls on form CR-347 for the prime and others working on the project, are to be completed for each employee, including:
  - Employee's full name and last four digits of the employee's SSN
  - Ethnicity & gender
  - Specific work classification(s) the employee is performing, making sure it is identical to NJDOH’s Wage Decision listing of various classifications applicable for the project. For truckers, specify whether driver or material delivery.
  - Hourly wage rate(s), and where applicable, overtime hourly wage rate(s)
  - Any fringe benefits paid to approved plans, funds or programs on behalf of the employee.
  - Fringe benefits paid to the employee in cash
  - Daily & weekly hours worked in each classification, including actual overtime hours worked (not adjusted)
  - Gross wage
  - Itemized deductions made
  - Net wages paid

- Report only the worker's hours for the appropriate project. Do not include any worker's hours from other company projects.

- Submit with each weekly certified payroll, a Statement of Compliance on form CR-347-2, with the appropriate Fringe Benefit method selected, 4(a) or 4(b). If employees are being paid with different fringe benefits, separate payrolls must be filled out for each payment type.

- Deadline for submittal of payrolls & Statement of Compliance forms to the RE is ten (10) days after payment.

- Prime contractor is responsible for the timely submittal of its subcontractors' certified payrolls.

CR 347 Weekly Certified Payroll

List the Work Classification of the work the employee is performing, identical to NJDOH's "Wage Decision Listing"
Payroll Requirements – State Contracts

- Weekly Certified Payrolls on the NJ Dept. of Labor & Workforce Development’s "Payroll Certification for Public Works Projects" form for the prime and all subcontractors working on the project are to be completed for each employee, including:
  - Employee's full name & address
  - Ethnicity & gender
  - Specific work classification(s) the employee is performing, making sure it is identical to NUDOT Wage Decision listing of various classifications applicable for the project. For truckers, specify whether driver or material delivery.
  - Basis Hourly wage rate(s), and where applicable, overtime hourly wage rate(s)
  - Any fringe benefits paid to approved plans, funds or programs on behalf of the employee.
  - Fringe benefits paid to the employee in cash
  - Daily & weekly hours worked in each classification, including actual overtime hours worked (not adjusted)
  - Gross wage
  - Itemized deductions made
  - Net wages paid

- Submit with each Weekly Certified Payroll, a Statement of Compliance on form R 05-35-17 (on the basis of the Payroll Certification for Public Works Projects), with the appropriate Fringe Benefit method selected, 4(a) or 4(b). If employees are being paid with different fringe benefits, separate payrolls must be filled out for each payment type.

Note: The Statement of Compliance form to be used on NUDOT's state funded projects must make reference to "New Jersey Prevailing Wage Act, N.J.S.A. 34:11-56.25 et seq. and Regulation N.J.A.C. 12:60 et seq, and the Payment of Wages Law, N.J.S.A. 34:11-4.1 et seq."

Deadline for submittal of above documents to the RE is ten (10) days after payment.

The Prime Contractor is responsible for the timely submittal of their subcontractors' certified payrolls.

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Payroll Certification for Public Works Projects

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[Payroll Certification Form Image]
Statement of Compliance

Make sure reference is to the Copeland Act, and only one of the fringe boxes is checked.

Make sure reference is to the New Jersey Prevailing Wage Act, N.J.S.A. 34:11-56.35 et seq. and Regulation N.J.A.C. 12:46 et seq., and the Payment of Wages Law, N.J.S.A. 34:11-2.1 et seq., and only one of the fringe boxes is checked.

Prevailing Wage Information – Truckers

- Truckers hired by a contractor to pick up materials from an off-site location (asphalt plant, quarry, contractor's yard, etc.) and deliver them to a public works project are subject to Prevailing Wage.

- Truckers hired by a material supplier (asphalt plant, quarry, etc.) to deliver materials to and pick up materials from a public works project are subject to Prevailing Wage when picking up and hauling materials from the jobsite, but not while delivering to the jobsite.

- Truckers hired by a material supplier only to deliver materials to the project are exempt from Prevailing Wage, unless they are also acting as a contractor.

- In instances when a contractor has excess fill dirt on a public works site, and offers to give it away for free, truckers picking up the free dirt are considered a subcontractor, and therefore are subject to Prevailing Wage.

- The hauling of materials from a public works site to an off-site stockpile (located on private property) is subject to Prevailing Wage.
**Prevailing Wage Information – Truckers**

- Delivery of tools or equipment (items that will not become a permanent part of the site) to a public works jobsite is NOT subject to Prevailing Wage.

- The delivery of items that require set-up or installation is subject to Prevailing Wage, if the items are required by the contract.

- When a trucker is picking up materials from a public works site in one county, and hauling to a county in which the rates are different, the rates applicable to the county in which the public works site is located are used.

- In instances when a truck arrives at an asphalt plant to pick up materials to be transported to a public works site, and spends an hour waiting in line to be loaded, Prevailing Wage begins as soon as the driver arrives at the plant.

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**WAGE RATE INTERVIEWS**

Sponsor REs are required to conduct Wage Rate interviews of prime and sub-contractor's employees working on the project.

Interviews are conducted on-site, in order to ensure that the work actually being performed by construction workers and mechanics (employees) is consistent with the corresponding job titles and wages being reported on certified payrolls.

Inform employees that they may be approached in order to conduct these interviews.

- Make employees available for such interviews;
- Employee's participation is voluntary.
- Interviews are confidential, and should be conducted individually, and in private.
- Employees are asked about the kind of work they perform, and their rate of pay for the project the interview is being conducted on.
- Interviews are not to be conducted by the Contractor.
# NJDOT Civil Rights - Contract Compliance

## Contact Information

**Contract Compliance Unit**

<table>
<thead>
<tr>
<th>Local Aid District 1</th>
<th>Thomas Jones: (609) 530-5657</th>
<th><a href="mailto:Thomas.Jones@dot.nj.gov">Thomas.Jones@dot.nj.gov</a></th>
</tr>
</thead>
<tbody>
<tr>
<td>Local Aid District 2</td>
<td>Cheryl Tallaferro: (609) 530-5678</td>
<td><a href="mailto:Cheryl.Tallaferro@dot.nj.gov">Cheryl.Tallaferro@dot.nj.gov</a></td>
</tr>
<tr>
<td>Local Aid District 3</td>
<td>Anthony Ricciardi: (609) 530-2058</td>
<td><a href="mailto:Anthony.Ricciardi@dot.nj.gov">Anthony.Ricciardi@dot.nj.gov</a></td>
</tr>
<tr>
<td>Local Aid District 4</td>
<td>Kwincy Brown: (609) 530-6578</td>
<td><a href="mailto:Kwincy.Brown@dot.nj.gov">Kwincy.Brown@dot.nj.gov</a></td>
</tr>
</tbody>
</table>

**Wage Rate Unit:** Daniel Stern: (609) 530-6115 Daniel.Stern@dot.nj.gov

Civil Rights forms can be found at: [http://www.state.nj.us/transportation/eng/#Forms](http://www.state.nj.us/transportation/eng/#Forms)

New Jersey Department of Transportation

*Division of Civil Rights & Affirmative Action*

Contractor Compliance Unit

P.O. Box 600

Trenton, NJ 08625-0600