

2020-2024

EEO/AFFIRMATIVE ACTION PLAN

Prepared by

NORTH DAKOTA

DEPARTMENT OF TRANSPORTATION

Bismarck, North Dakota

www.dot.nd.gov

William T. Panos, Director

CIVIL RIGHTS DIVISION

Ramona Bernard, Director

November 1, 2020

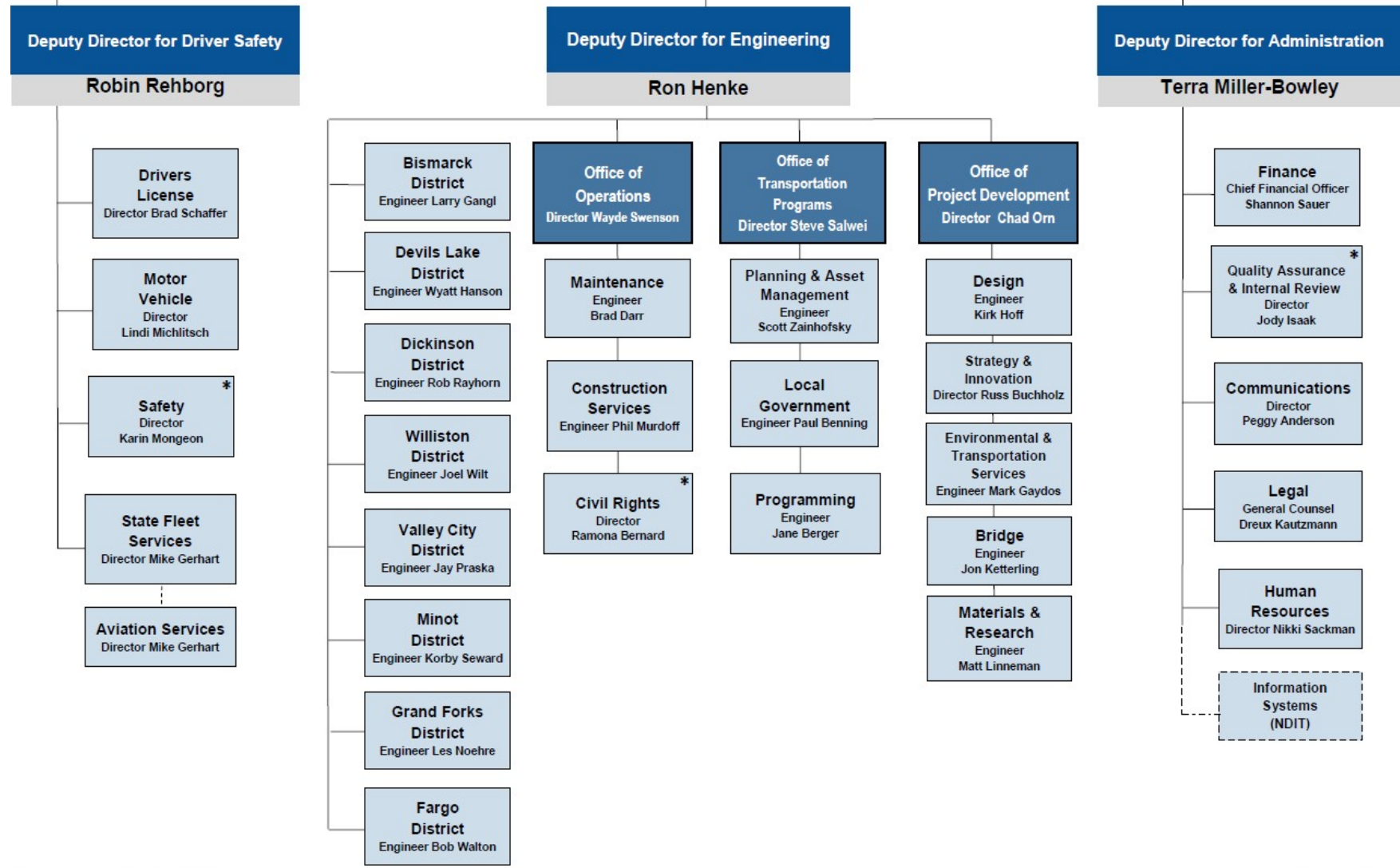
Part I

POLICIES AND CHARTS

NDDOT Director

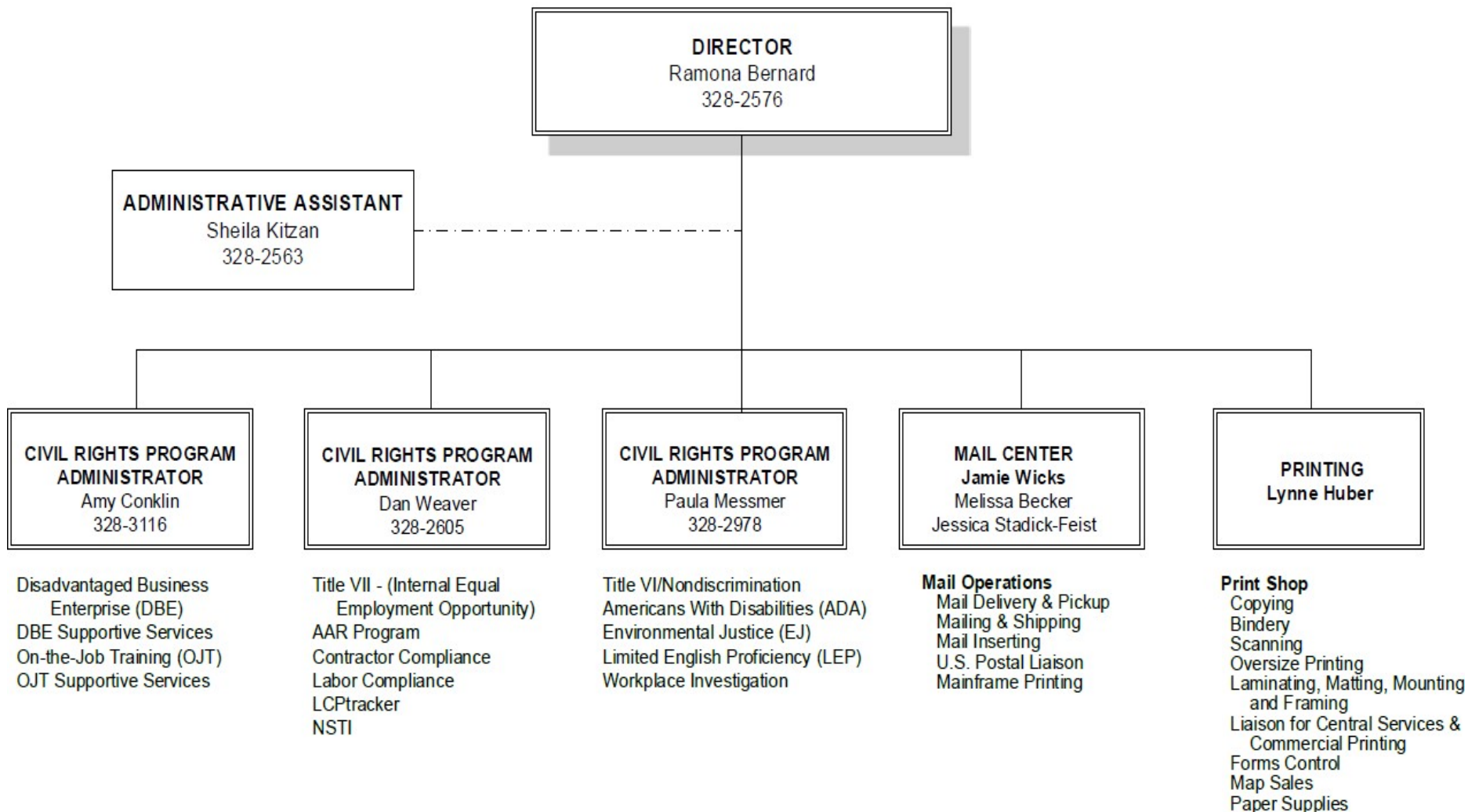
William T. Panos

Total = 982 employees



* Indirect report to the Director

**CIVIL RIGHTS & PRINTING/MAIL SERVICES
ORGANIZATIONAL CHART
September 2020**



*****Note*** Beginning in January 0f 2020, Printing/Mail Services employees were transferred into the Civil Rights Department.**

Agency: North Dakota Department of Transportation
Division: Civil Rights
Group: Executive Policy Manual
Category: I-Organization
Policy Number: I 2-1.25
Title: Civil Rights Division
Original Date: 10/23/2006
Revised Date: 07/16/2020
Review By Date: 07/01/2021

PURPOSE: To establish the duties of the Civil Rights Division and grant the Civil Rights Division authority to carry out the duties assigned.

POLICY: The Civil Rights Division shall report to the Office of Operations and be responsible for performing and overseeing the following tasks:

- Administer the Disadvantaged Business Enterprise (DBE) Program
- Administer and Review Contractor Compliance Program
- Administer FHWA 1391/1392 Reporting
- Administer the On-the-Job Training (OJT) Program
- Administer the Title VI/Nondiscrimination and ADA Program
- Oversee the DBE/OJT Supportive Services Programs
- Administer Workplace Investigation process (with Human Resources Division)
- Oversee Reporting to USDOL
- Oversee National Summer Transportation Institute Program

MAINTAIN:

- ADA Transition Plan
- Affirmative Action Representative Newsletter – Yearly
- Automated Payroll Special Provision
- B2Gnow/NDDOT Certification and Compliance System
- Davis-Bacon Wage and Payroll Requirements Handbook
- US DOL Wage Determinations and Conformances
- DBE and OJT Contract Special Provisions
- DBE Project Payments Special Provision
- DBE Semi Annual Report
- DBE Triennial Goal Setting
- DBE and OJT Supportive Services Contracts
- DBE/ACDBE Certifications, Renewals, Removals and Withdrawals
- DBE Newsletter
- DBE Program Administration Manual

- EEO/Affirmative Action Hiring Goals (updated yearly)
- EEO/Affirmative Action 5 Year Plan and Yearly updates
- EEO/Affirmative Action Requirements Contract Provision
- EEO State Assurances with regard to EEO as Required by the Federal-Aid Highway Act of 1968
- EEO Hiring Goals
- External Civil Rights Manual
- Guidelines for Conducting a Workplace Investigation (with HR)
- Labor Rates from U.S. Department of Labor
- LCPtracker/Electronic Certified Payroll System
- LCPtracker Contractor Manual
- LCPtracker Procedure Manual
- Limited English Proficiency Plan
- On-the-Job (OJT) Training Program
- On-the-Job (OJT) Administration Manual
- Resources for Affirmative Action Representatives Manual
- Title VI/Nondiscrimination and ADA Program Implementation Plan
- Title VI/Nondiscrimination and ADA Program Goals and Accomplishments Report
- Title VI and ADA Investigations
- US DOT Standard Title VI/Nondiscrimination Assurances
- Advocacy Group Mailing List
- External Complaints of Discrimination Log
- Title VI Specialists

William T. Panos
Director

Agency: North Dakota Department of Transportation
Division: Civil Rights
Group: Executive Policy Manual
Category: II-Management, Project and Program Development
Policy Number: II 4-1
Title: Equal Employment Opportunity
Original Date: 08/22/1985
Revised Date: 04/24/2018
Review by Date: 07/01/2021

PURPOSE: The purpose of this policy is to establish the authority of the Civil Rights Division to enact and enforce equal employment opportunity (EEO) procedures for the North Dakota Department of Transportation (NDDOT).

POLICY: The NDDOT provides EEO so that no NDDOT employee or applicant for employment will be discriminated against because of:

- race, color, religion, national origin, sex, age, physical disability, mental disability, sexual orientation or genetics.
- political opinion or affiliation
- status with regard to marriage or public assistance
- participation in any lawful activity off the employer's premises during non- working hours, which is not in direct conflict with the essential business- related interests of the employer

The EEO Program applies to all employees of and applicants for positions with NDDOT and requires that they be treated equally. The program allows no discrimination of any kind in:

- recruitment, placement, advertising or solicitations for employment
- training during employment or selection for training (including apprenticeship)
- rates of pay or other forms of compensation
- promotions, transfers, demotions, layoffs, or terminations
- recognition or awards
- any related function

NDDOT also guarantees all employees the right to work in an environment free of sexual and other harassment based on race, color, religion, sex, age, national origin, or disability. Specifically, sexual harassment is deliberate or repeated, unsolicited, and unwelcome verbal comments, gestures, graphic materials, or physical contacts of a sexual nature. Unlawful sexual harassment occurs when these actions are made a condition of employment, are used as the basis for an employment decision affecting the employee, interfere with an employee's work performance, or create an intimidating, hostile, or offensive work environment. In addition, it is unlawful harassment for any employee to engage in any conduct or activity or to display any graphic material that is based on an employee's race, color, religion, sex, age, national origin, and disability or when it is offensive or shows hostility or aversion toward an employee or the employee's relatives, friends, or associates; it adversely affects an employee's employment opportunities; it unreasonably interferes with an employee's work performance; or it creates an intimidating, hostile, or offensive work environment. NDDOT also protects employees from sexual and other harassment by non-NDDOT employees during working hours.

Discrimination and workplace harassment are grounds for disciplinary action.

NDDOT's EEO and workplace harassment policies are **good management practice**, and all employees—but especially NDDOT managers—are expected to support them.

Anyone who believes that he or she has been discriminated against or harassed should contact either the Civil Rights Division Director at 701-328-2576 or any NDDOT Affirmative Action Representative. TTY users may call Relay North Dakota at 711 or 1-800-366-6888.

The Civil Rights Division, which is part of the Office of Operations, is responsible for administering this program.

The EEO Affirmative Action Plan and provisions for providing an environment free of sexual and other harassment must be included in the EEO Affirmative Action Program.

The Human Resources Division along with the Civil Rights Division must establish operational policies and procedures in the Personnel Manual covering the proper areas.

Each division and district must designate an Affirmative Action Representative (AAR) who may be the local contact in matters involving apparent violations of this policy. The AAR will report these matters to the Civil Rights Division.

NDDOT will maintain a Workplace Investigation Process to conduct investigations and prepare a final report and summary of findings to the Director when a discrimination complaint is filed.
HR Policy Number 20.2.

William T. Panos
Director

**STATE ASSURANCE WITH REGARD TO EQUAL EMPLOYMENT OPPORTUNITY
AS REQUIRED BY THE FEDERAL-AID HIGHWAY ACT OF 1968**

Pursuant to the requirements of Section 22(a) of the Federal-aid Highway Act of 1968, the State of North Dakota, desiring to avail itself of the benefits of Chapter 1, Title 23, United States Code, and as a condition to obtaining the approval of the Secretary of Transportation of any programs for projects as provided for in Title 23, United States Code, Section 105(a), hereby gives its assurance that employment in connection with all proposed projects approved on or after August 23, 1968, will be provided without regard to race, color, creed, or national origin.

More specifically, and without limiting the above general assurance, the North Dakota Department of Transportation (NDDOT) hereby gives the following specific assurances:

1. NDDOT will establish an Equal Employment Opportunity Program in furtherance of the above General Assurance, which shall include a system to ascertain whether contractors and subcontractors are complying with their equal employment opportunity contract obligations and the degree to which such compliance is producing substantial progress on the various project sites in terms of minority group employment. NDDOT will furnish such information and reports regarding contractor and subcontractor compliance as may be requested by the Federal Highway Administration.
2. The NDDOT program shall include effective procedures to assure that discrimination in employment on the grounds of race, color, creed, or national origin will not be permitted on any projects; and if discrimination exists at the time this assurance is made, it will be corrected promptly.
3. NDDOT has appointed an Equal Employment Opportunity Coordinator whose primary duty shall be to administer NDDOT's Equal Employment Opportunity Program as established pursuant to these assurances.
4. NDDOT will, on its own initiative, take affirmative action, including the imposition of contract sanctions and the initiation of appropriate legal proceedings under any applicable state or federal law, to achieve equal employment opportunity on federal-aid highway projects and will actively cooperate with the Federal Highway Administration in all investigations and enforcement actions undertaken by the Federal Highway Administration.
5. NDDOT will establish and maintain effective liaison with public and private agencies and organizations which are, or should be, involved in equal employment opportunity programs. Such agencies and organizations include, but are not limited to labor unions, contractor associations, minority group organizations, the U.S. and State Employment Service, and the U.S. and State Department of Labor.
6. NDDOT hereby agrees that it will seek the cooperation of unions, contractors, appropriate state agencies, and other related organizations in the establishment of skill training programs and will assure that all persons will have an opportunity to participate in such programs without regard to race, creed, color, or national origin.

7. NDDOT hereby agrees that its own employment policies and practices with regard to NDDOT employees, any part of whose compensation is reimbursed from federal funds, will be without regard to race, color, creed, or national origin.
8. NDDOT shall include in the advertised specifications notification of the specific equal employment opportunity responsibilities of the successful bidder as those responsibilities are currently defined and required by the Federal Highway Administration. No requirement or obligation shall be imposed as a condition precedent to the award of a contract for a project unless such requirement or obligation is otherwise lawful and is specifically set forth in the advertised specifications. Procedures for the prequalification of federal-aid contractors and subcontractors to determine their capability to comply with their equal employment opportunity contract obligations will be issued as a supplement to this interim assurance for implementation by December 1, 1968.
9. NDDOT will obtain and furnish to the Federal Highway Administration such information and reports as may be requested to enable the Federal Highway Administration to determine compliance by NDDOT with this assurance.



William T. Panos
Director

11-5-20

Date

Part II

CONTRACTOR COMPLIANCE

PART II-Contractor Compliance

1. Organization and structure.

A. State highway agency EEO Coordinator (External) and staff support.

1. Describe the organizational location and responsibilities of the State highway agency EEO Coordinator. (Provided organization charts of the State highway agency and of the EEO staff.)

The office of the External EEO Coordinator is located in the Civil Rights Division of the North Dakota Department of Transportation, Bismarck, Burleigh County, North Dakota. The external EEO Coordinator's duties include Contractor Compliance Reviews as well as follow-up reviews.

2. Indicate whether full or part-time; if part-time, indicate percentage of time devoted to EEO.

The position of External EEO Coordinator is full time. The position description duties included External EEO, Labor Compliance, and Contractor Compliance.

3. Indicate length of time in position, civil rights experience and training, and supervision.

The External EEO Coordinator is Daniel Weaver. He has functioned in the position for 5 months. Daniel has trained under the Civil Rights Division Director due to the previous coordinator retired on short notice. He retired from the United States Navy after serving 25 years.

4. Indicate whether compliance program is centralized or decentralized.

The External EEO program is centralized.

5. Identify EEO Coordinator's staff support (full- and part-time) by job Title and indicate areas of their responsibilities.

Staff support for the position is part-time. The part-time position is titled Administrative Assistant II and is filled by Sheila Kitzan. Sheila is responsible for the Affirmative Action Representatives (AAR) program, Affirmative Action newsletters, and annual PR-1391 solicitation and compilation,

6. Identify any other individuals in the central office having a responsibility for the implementation of this program and describe their respective roles and training received in program area.

Ramona Bernard, Director of the Civil Rights Division, oversees both External and Internal EEO functions, including Contractor Compliance, DBE, DBE Supportive Services, OJT, OJT Supportive Services, Title VI, and ADA. Mrs. Bernard has a Bachelor's Degree in Business Management and Information Technology.

and has trained extensively on EEO matters through FHWA, other training programs, and WASHTO/AASHTO conferences. Determination made by the EEO Program Coordinator must have the concurrence of the division director prior to finalization.

B. District or division personnel.

1. Describe the responsibilities and duties of any district EEO personnel. Identify to whom they report.

District construction personnel and consultant staff are responsible for a variety of EEO activities, including provide EEO/Contractor Compliance information at Pre-job Construction Conferences, ensuring that required posters and policies are posted on the Project Bulletin Board and reviewed on a regular basis, completing EEO/LC interviews, and ensuring overall compliance with all required and special contract provisions.

The duties are generally performed by the Project Engineer, who reports to the Assistant District Engineer where the project is located. Project Engineer can be either a NDDOT employee or a Consulting Engineer employee. The Assistant District Engineers are the primary liaisons between the district staff and the Civil Rights Division.

2. Explain whether district EEO personnel are full-time or have other responsibilities such as labor compliance or engineering.

District personnel have EEO responsibilities, but are primarily engineers and engineering technicians and consultants, and work full-time in the field. The Civil Rights Division responds to emails and phone calls from the construction staff.

3. Describe training provided for personnel having EEO compliance responsibility.

The CRD produces an External Civil Rights Manual for use by construction personnel explaining all facets of Contractor Compliance, Labor Compliance, DBE, OJT, and Title VI. Each spring, the Division holds External Civil Rights training on the manual for 3 hours for all city engineers, county engineers, consultant engineers, and NDDOT staff. CRD also participates in the monthly Construction Coordinators meetings hosted by Construction Services Division. The intent of the meeting is to provide a forum for the Districts to discuss issues or topics related to construction, as well as update the Districts on items in our office (Construction Services). CRD provides updates and mini training sessions on various programs within CRD.

The Civil Rights Division staff participates in all training sessions offered by FHWA and FTA pertaining to Civil Rights Programs.

CRD Director Ramona Bernard:

Leadership everywhere for everyone	3/2020
External Civil Rights Training	4/2020
Affirmative Action Rep	5/2020
Annual Safety Training	5/2020
Defensive Driving course	9/2020
External Civil Rights Training	4/2020
NDDOT Safety Policy Review	5/2020
Risk Management Incident Reporting	5/2020
Title VI Annual Employee Training	7/2020
Change management	10/2020
Security Awareness Training	10/2020

Civil Rights Admin. Paula Messmer:

External Civil Rights Training	3/2020
Working from home	3/2020
Ethics	4/2020
Annual Safety Training	5/2020
Affirmative Action Rep.	5/2020
Teams 100	5/2020
Risk Management Incident Reporting	6/2020
NDDOT Safety Policy Review	6/2020
NDIT Master Microsoft Teams	6/2020
ND Advanced Microsoft Teams	6/2020
Title VI Annual Employee Training	7/2020
Title VI Civil Rights Connect	9/2020
Security Awareness Training	10/2020

Admin. Sheila Kitzan:

Work from a distance	3/2020
NDDOT Safety Policy Review	5/2020
Risk Management Incident Reporting	5/2020
Annual Safety Training	5/2020
Affirmative Action Rep.	7/2020
Performance and Development Process Training	10/2020
Security Awareness Training	10/2020

Civil Rights Admin. Daniel Weaver:

Procurement Level 1	2/2020
Affirmative Action Rep.	5/2020
Annual Safety Training	5/2020
FHWA 1391 Training	7/2020
Title VI Annual Employee Training	8/2020

Civil Rights Admin. Amy Conklin

Work from a distance	3/2020
NDDOT Safety Policy Review	5/2020
Affirmative Action Rep.	5/2020
Risk Management Incident Reporting	5/2020
Annual Safety Training	5/2020
Title VI Annual Employee Training	9/2020
Security Awareness Training	10/2020
Security Awareness Training	10/2020

C. *Project personnel. Describe the EEO role of project personnel.*

All project personnel have the responsibility for and the duty to report known or suspected EEO abuses by contractors and subcontractors doing federal-aid highway projects. The Project Engineer has a responsibility to note any noncompliance issue in their project diary and to immediately report to the Assistant District Engineer (ADE). The ADE has a responsibility to immediately report any known EEO violation to the Civil Rights Division Director. The course of action required, which would range from informal counseling to withholding of payment or possibly reporting to the OFCCP or other agency, is decided between the ADE and the Civil Rights Division.

II. *Compliance procedures.*

A. *Applicable directives.*

DIRECTIVE	ENTITLED	COMPLIANCE
23 USC 140 (a)	Federal-Aid Highway Act 1968	FHWA / EEO Assurances
23 CFR 230 Subpart AIB	Equal Opportunity (EO) Program	Contract Compliance Supportive Services
23 CFR 230 Subpart D	Construction Contract Compliance Procedures	Contractor Compliance Reviews
23 CFR 230.311 Appendix A to	Organizational Structure of	NDDOT External

Subpart C, Part I	the External Program	Organization and Duties
23 CFR 230.313	STA EO Program Approval	AAP to FHWA
23 CFR 230 Appendix A to Subpart c	STA EO Program	Current Practice
23 CFR 230, Appendix A to Subpart C, Part 1, Item #VI-Complaints	EEO Complaints Against Contractors	Annual Submission Complaint Procedure
23 CFR 230.121	PR-1391/PR-1392	Yearly contractor reporting <EE0-5)
23 CFR 230 Subpart A, Appendix AIB FHWA-1273	Required Contract Provisions	FHWA-1273 in all contracts

FHWA Order 4710.8	EEO Goal Authority / OFCCP	Utilize GFE
FHWAA Order 4710.8	Notify OFCCP	Report violation of goal attainment
23 CFR 230.121	Report Contractor Training	PR1391 and Supt. Mo. Training Report

In addition, NDDOT Director William T. Panos signed the FHWA "State Assurances" on November 5, 2020.

B. Implementation.

1. Describe process (methods) of incorporating the above FHWA directives into the NDDOT Contractor Compliance program.

FHWA Form 1273, the EEO/Affirmative Action requirements, and the Appendix A of the Title VI Assurances are physically incorporated into every federal-aid project proposal. After the bid is awarded, the federal requirements and provisions are discussed at each pre-job construction conference. Each requirement and provision is read and discussed with the contractors and they sign an acknowledgment of each provision. Prime contractors are thereafter required to attach the above provisions to every executed subcontract. Additionally, every subcontract must contain language requiring contractor EEO compliance.

2. Describe the methods used by the State to familiarize State compliance personnel with all FHWA contract compliance directives. Indicate frequency of workshops, training sessions, etc.

The Civil Rights Division publishes and maintains the External Civil Rights manual, which is updated and published early each year. The manual is a very detailed and comprehensive guide to all required special provisions and all other laws/regulations applicable to District and project personnel in OJT, DBE, Contractor Compliance, Labor Compliance, and Title VI/ADA. The Civil Rights Division plans and presents External Civil Rights training each spring for approximately 3 hours.

3. Describe the procedure for advising the contractor of the EEO contract requirements at any preconstruction conference held in connection with a Federal-aid contract.

The District or Consultant Project Engineer presents pertinent EEO information to the contractor and all subcontractors during the pre-job conference. NDDOT utilizes SFN 9423, Pre-Job – EEO, Title VI, Labor Standards, and DBE Participation information. In general, the form covers all Special Provisions, Labor Compliance, Contract Compliance (EEO), DBE. Contractors are required to invite all subcontractors to the Pre-Job Conference, and to send the minutes to those who didn't attend.

III. Accomplishments.

Describe accomplishments in the construction EEO compliance program during the past fiscal year.

Regular project compliance review program.

1. Number of compliance reviews conducted	10
2. Number of contractors reviewed.	10
3. Number of contractors found in compliance.	10
4. Number of contractors found in noncompliance.	0
5. Number of show cause notices issued.	0
6. Number of show cause notices rescinded.	0
7. Number of show cause actions still under conciliation and unresolved.	0
8. Number of follow-up reviews conducted.	0

B. Consolidated compliance reviews.

NDDOT has done no consolidated reviews.

C. Home office reviews. If the State conducts home office reviews, describe briefly the procedures followed by State.

NDDOT does not do home office reviews.

D. Major problems encountered. Describe major problems encountered in connection with any review activities during the past fiscal year.

NDDOT experienced no major problem related to Contractor Compliance during the reporting period. Contractors provided all information required, and where any incompliance was noted, promptly complied or completed Voluntary Action Plans.

IV. Areawide plans/Hometown and Imposed (if applicable).

Not applicable.

V. Contract sanctions.

A. Describe the procedures used by the State to impose contract sanctions or institute legal proceedings.

NDDOT uses the following process described in 23 CFR 230.409(h) to ensure contractor compliance:

Step 1 – Show Cause Notice – Within 15 days of the exit conference, a contractor found in noncompliance is sent a Show Cause Notice.

Step 2 – A contractor found in noncompliance has 30 days in which to submit an acceptable written Corrective Action Plan (CAP). The CAP must be adequate to correct deficiencies noted.

The NDDOT and the contractor will engage in a Conciliation Conference or negotiations designed to assist the contractor in its efforts to correct deficiencies and be in compliance. If a CAP is arrived at, a follow-up review may be scheduled.

Step 3 – If the CAP is adequate, a show cause recession letter is sent finding the contractor in compliance contingent upon effective implementation of the CAP.

Step 4 – If the CAP is not adequate or cannot be agreed upon, the NDDOT will take formal action under its EEO Assurance.

Step 5 – If the Contractor fails to or refuses to comply, the NDDOT may refer the matter to the FHWA for further action.

At this point, a formal hearing request may be issued through FHWA to the OFCCP. A non-responsive declaration is issued concurrently with the formal hearing request.

NDDOT imposed no sanctions for EEO abuses. There were no administration actions taken against a contractor for failure to comply with EEO laws, regulations, or contract requirements beyond the show cause level.

B. Indicate the State or Federal laws which are applicable.

- Executive Order 11246, Part II, Subpart D.
- 23 CFR 230.409
- FHWA-1273,

C. Does the Stat withhold a contractor's progress payments for failure to comply with EEO requirements? If so, identify contractors involved in such actions during the past fiscal year. If not, identify other actions taken.

Under NDDOT guidelines, contract progress payments may be withheld any time a contractor has failed to adequately fulfill the contract, including ongoing EEO violations or other violations of FHWA 1273.

No such violations were noted in the reporting period and no progress payments were withheld for failure to comply with EEO.

VI. Complaints.

A. Describe the State's procedures for handling discrimination complaints against contractors.

When a complaint is received by a Project Engineer, it is noted in the project diary and referred to the Assistant District Engineer, who consults with the Civil Rights Division in terms of possible noncompliance issues and a remedial course, if necessary. In certain instances, a duty to report to the OFCCP may be present.

Every contractor is required to have the most current and post in a clearly visible area an EEO Grievance Procedure as part of the pre-job conference and initial review of the bulletin board. If the issue cannot be addressed informally through contract compliance procedures, the complaining party is encouraged to use the EEO Grievance procedure. This typically involves an internal grievance with the right to file with either the ND Department of Labor or the EEOC.

B. If complaints are referred to a State fair employment agency or similar agency, describe the referral procedure.

The complainant is advised that he or she should follow the EEO Grievance Procedures adopted by the contractor. This typically involves some type of internal process, followed by the right to file a complaint with the NDDOL or the EEOC. The complainant is provided complaint procedures by the contractor EEO Officer. Contact information for both agencies must be posted in the EEO Grievance Procedure.

C. Identify the Federal-aid highway contractors that have had discrimination complaints filed against them during the past fiscal year and provide current status.

Based on the information provided in their Contractor Compliance Review, the following was identified. One Contractor reported one internal charge of age and gender discrimination processed on 08/19/19 with the Minnesota Department of Human Rights. During the 2020 Contractor Compliance review this complaint was discussed and is still ongoing.

VII. External training programs, including supportive services.

A. Describe the State's process for reviewing the work classifications of trainee to determine that there is a proper and reasonable distribution among appropriate craft.

NDDOT participates in the FHWA OJT program which allows us to place trainees with Contractors, not with projects. NDDOT determines the distribution of work classifications of trainees utilizing many factors. These include contract complexity, contract amounts, and contractor workforce size.

The OJT assignments for the most part compose of one or more trainees per qualifying contractor. NDDOT allows the contractor to choose which classifications those trainees are best placed and where the trainee best meets the needs of the firm.

The contractor is required to submit a training plan for approval before beginning work which details the classification placement and the training hours. The submitted plan is reviewed and approved by the NDDOT OJT Program Administrator to ensure appropriateness of the classification and the training hours.

B. Describe the State's procedures for identifying the number of minorities and women who have completed training programs.

Contractors must provide NDDOT weekly status reports regarding the accumulated trainee hours of all trainees assigned. The trainee status – hours, location, and progress – is gathered through weekly phone contacts with the contractor. These reports are reviewed and monitored to determine the number of minorities and women who have completed training programs.

The State recently conducted a review of the trainee program. A summary of that review is attached.

Training Program	2017		2018		2019	
	Women	Minorities	Women	Minorities	Women	Minorities
Equipment Operators	4	5	10	3	5	8
Truck Drivers	1	1	1	0	1	2
Carpenters	1	2	0	0	0	0
Concrete Finishers	0	2	0	4	1	3
GPS Survey Technician	0	0	0	0	0	0
Totals	6	10	11	7	7	13

C. Describe the extent of participation by women in construction training programs.

NDDOT had 23 trainees in skilled craft training programs during 2020, of which 5 were non-minority females and 1 minority female.

The following represents, by percentage, the history of participation by women and minorities in the training program.

	Women	Women Percentage	Minority	Minority Percentage	Annual Total Trained
2017	6	37%	9	63%	16
2018	11	61%	8	39%	18
2019	7	35%	11	65%	20

NDDOT compiles information from contractor FHWA PR-1392 reports to determine the level of female and minority participation on federal-aid highway construction projects.

For 2020, the following represents all participation of females and minorities, including trainees:

Classification	Total Workforce	Females in Workforce	2020 % of Female in Workforce
Operator	862	27	3.2%
Truck Driver	448	25	5.6%
Carpenter	55	0	0%
Laborer	1202	66	5.5%
TOTALS for all Classifications	2567	118	4.6%

The contract goal of 6.9% for women set by the OFCCP is used here as a benchmark.

Classification	Total Workforce	Minorities in Workforce	2020 % of Minorities in Workforce
Operator	862	97	11.6%
Truck Driver	448	73	16.3%
Carpenter	55	32	58.2%
Laborer	1202	335	27.9%
TOTALS for all Classifications	2567	537	20.92%

North Dakota's minority participation is greater than the OFCCP goal of 4.4% set in the contract special provisions. NDDOT acknowledges it has no authority to enforce OFCCP goals. They are used here only to provide a basis of comparison.

D. Describe the efforts made by the State to locate and use the services of qualified minority and female supportive service consultants. Indicate if the State's supportive service contractor is a minority or female-owned enterprise.

NDDOT uses an On the Job Supportive Services Contractor. An RFP was issued March 31, 2020 and the selected firm is a non-minority male owned consultant engineering firm. There is one 12 month extension to this contract if NDDOT chooses to utilize it, otherwise another RFP will be issued in the early spring of 2021 for the 2021-2022 contract period.

VIII. Disadvantaged Business Enterprise Program

A. Describe the method used for listing of minority contractors capable of, or interested in, highway construction contracting or subcontracting. Describe the process used to circulate names of appropriate minority firms and associations to contractors obtaining contract proposals.

NDDOT maintains a DBE/ACDBE Directory on our Internet site. It is instantaneously updated when any changes have been made, firms removed or new firms added within our Certification and Compliance System. Contractors can search the site by name of the firm, NAICS code, or work type. In addition, NDDOT produces, distributes and notifies contractors of minority firms that have been certified as DBEs through its DBE Newsletter. The Newsletter is published 10 working days prior to each Department bid opening.

Contractors bidding on federal-aid highway projects are required to communicate their intentions to subcontractors. The DBE Special Provision requires contractors to complete one of the following options when bidding on Race Gender Conscious projects:

- 1) Advertise in the NDDOT DBE Newsletter which NDDOT circulates 10 days before a bid opening to the DBE Community.
- 2) Advertise in the project location newspaper at least 7 days before the day of the bid opening when a contractor misses the deadline for the DBE Newsletter.

If the project is Race Neutral, they are encouraged to do one or the other.

B. Describe the State's procedure for insuring that all contractors take action to affirmatively solicit the interest, capability, and prices of potential minority subcontractors.

NDDOT reviews every apparent low bidder in a bid opening to determine if the contractor is making a Good Faith Effort to utilize DBE firms. If they are found to not have made a Good Faith Effort, the committee recommends to executive management that the bidder not be awarded the project. Executive management makes the final decision to award or not award.

C. Describe the State's procedure for ensuring that contractors have designated liaison officers to administer the minority business enterprise program in an effective manner. Specify resource material, including contracts, which the state provides to liaison officers.

Prior to the commencement of all projects, a Pre-Job Conference is held. At each Pre-Job Conference the contractor identifies its EEO Officer and its DBE Officer. The names are included in the pre-job conference minutes which are distributed to all DBEs and non-DBE subcontractors, suppliers, manufacturers, and any other providers of services on the project.

The DBE Special Provision is included in every plan and proposal plus is included in the actual construction contract.

Prime contractors are to supply DBE firms with progress charts that adequately notify them of the predetermined time they are expected to fulfill their part of the contract. DBEs should be notified of any changes to the chart accordingly.

If a DBE needs to be replaced on a project, for any reason, NDDOT has a replacement approval process that must be followed prior to any action being taken.

D. Describe the action the State has taken to meet its goals for prequalification or licensing of minority business. Include dollar goals established for the year and describe what criteria or formula the State has adopted for setting such goals. If it is different from the previous year, describe in detail.

NDDOT calculated the DBE achievement goal using the criteria in 49 CFR Part 26.45. The determination is based on a level of DBE participation relative to all businesses ready, willing and able to participate on Federally-assisted contracts, and reflects a level NDDOT would expect in the absence of discrimination. NDDOT's methodology is based on demonstrable evidence of local market conditions and is designed to ultimately attain a goal that is narrowly tailored to the relative availability of DBE's in the North Dakota market. The current goal is 4.66%.

NDDOT doesn't set dollar goals nor does it set goals for prequalification or licensing of minority businesses.

E. Outline the State's procedures for evaluating its prequalification and licensing requirements.

In accordance with the North Dakota Department of Transportation (NDDOT) Standard Specifications for Road and Bridge Construction, Section 102, a bidder must be pre-qualified by the Department in order to be eligible to submit bids. In addition, contractors need to meet the requirements of other agencies for conducting business in North Dakota. Information for conducting business in North Dakota can be obtained by visiting <http://www.nd.gov/businessreg/>

Bidder pre-qualification is required annually by the NDDOT. Pre-qualified contractors who wish to renew their pre-qualification must submit a complete "Contractor's Pre-qualification Statement" by July 1 of each calendar year.

A bidder is NOT required to obtain a North Dakota contractor's license prior to submitting a bid on a North Dakota Department of Transportation project. (N.D.C.C. Section 43-07-12). However, prior to the execution of a contract, a bidder MUST have obtained the appropriate North Dakota contractor's license and secured workers' compensation coverage from Workforce Safety & Insurance.

F. Identify instances where the State has waived prequalification for subcontractors on Federal-aid construction work or for prime contractors on Federal-aid contracts with an estimated dollar value lower than \$100,000.

There is no prequalification for subcontractors. There is no waiving of prequalification for prime contractors.

G. Describe the State's methods of monitoring the progress and results of its disadvantaged business enterprise efforts.

NDDOT utilizes our online Certification and Compliance System for DBE certification, tracking prompt pay and counting overall DBE participation at the end of each project. In addition, during compliance reviews contractor's procedures for selecting subcontractors is reviewed to ensure that DBE's were either used or the contractor made a Good Faith Effort to secure subcontracts with DBE firms.

'IX. Liaison

Describe the liaison established by the State between public (State, county and municipal) agencies and private organizations involved in EEO programs. How is the liaison maintained on a continuing basis?

The Title VI Specialist in the Local Government Division annually reviews city, county, or Municipal Planning Organizations (MPO) regarding Title VI issues. Title VI is tied into employment (and therefore EEO) if "a primary objective of the Federal financial assistance is to provide employment" (42 U.S.C. 2000d-3) or discrimination in employment leads to discrimination in services and benefits.

During the period between January 1, 2019 and June 30, 2020, Local Government Division had one division and no districts with sub recipients.

Sub recipients are randomly selected for annual reviews in the year in which the project is constructed. Ten percent of the available pool or a minimum of one review will be conducted in the year the project is constructed.

The Title VI Specialist conducted one Title VI review. This review was conducted on the City of Bismarck, who also received FTA funds. Findings from this review were reviewed and approved by the Local Government Division Director prior to release to the entities for voluntary cooperative remedial efforts.

Title VI review criteria includes personnel employed, composition and selection of commission, council, committee, and boards, recruitment, and internal and external outreach. No overt discrimination issues related to services or benefits stemming from employment discrimination have been found in any of these reviews, although it has been recommended to increase the locations for posting available positions and to remove the requested social security number from the form that is requesting the race and sex of the applicant to eliminate even a hint of discrimination. Both recommendations have been implemented.