2022 External Civil Rights Training
Title VI/Nondiscrimination and Americans with Disabilities Act (ADA) Program

2022 External Civil Rights Training
Section 1 of the External Civil Rights Manual
Presenter: Heather Christianson—Title VI & ADA Program Administrator
Learning Objectives

01 At the end of this training participants will be able to:

02 Define Title VI, Americans with Disabilities Act (ADA), and the definition of Subrecipients.

03 Explain the roles, requirements and responsibilities of the Federal Highway Administration (FHWA), North Dakota Department of Transportation (NDDOT), and subrecipients.

04 Recognize Title VI and ADA complaints and the complaint process.
What is Title VI?

Title VI, 42 U.S.C. § 2000d et seq., was enacted as part of the landmark Civil Rights Act of 1964. It prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance.
Relationship between Title VI and other Civil Rights Laws

- Civil Rights Act of 1964
- Title VI
- Other Titles: e.g. Title VII
  - Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970
  - EO 12898 – EJ
  - EO 13166 – LEP
- Americans With Disabilities Act
- Age Act of 1975
- Title IX of the Education Amendments of 1972
- 23 U.S.C. § 324 – Non-discrimination on basis of sex in transportation programs
Title VI protects everyone in the United States who is "in the United States"

- NO PERSON in the United States shall, on ground of race, color, or national origin, be excluded from participation in, denied benefits of, subjected to discrimination under any program activity receiving Federal financial assistance.
The 1964 Civil Rights Bill Explained

• https://youtu.be/bVMH5u6bPGA
The Americans with Disabilities Act (ADA) was signed into law by President George H.W. Bush on July 26, 1990. THE ADA PROTECTS THREE CATEGORIES OF INDIVIDUALS:

- Individuals who have a physical or mental impairment that substantially limits one or more major life activity.
- Individuals who have a record of such impairment.
- Individuals who are regarded as having an impairment.
What is the ADA?

• [https://youtu.be/zKyjshcxbI0](https://youtu.be/zKyjshcxbI0)
Purpose is to make sure public funds are not spent in a manner that encourages, subsidizes, or results in discrimination.
**ND DOT Requirements**

- **The Implementation Plan and the Goals and Accomplishments** report is ND DOT’s *processes documents* outlining the Title VI and ADA program.

- **Every five years the** Implementation Plan is submitted to FHWA for approval.

- **Annually,** ND DOT is responsible for submitting a Title VI/Nondiscrimination and ADA Goals and Accomplishments report to the FHWA for approval.

- **Subrecipient Reviews,** Each state agency administering a continuing program which receives federal financial assistance shall be required to establish a Title VI compliance program for itself and other recipients which obtain federal assistance through it.
ND DOT’s Public Involvement Plan

- NDDOT’s Public Involvement Plan is a requirement to protect the public interest:
  - Ensures everyone has the opportunity to comment on transportation programs and activities that affect their community.
  - Requires a Data Collection Process for analysis of the program.

- Title VI Public Participation Survey
  - sfn60149.pdf (nd.gov)
Request for Reasonable Accommodations Form

- Request for Reasonable Accommodations for Disabilities. (Part 3 on SFN60135)
- Request for Language Assistance. (Part 2 on SFN 60135)
- Request for telephonic Interpreter Service for language assistance.
What is the Subrecipient’s Role and Responsibility?

• **Signed Assurances**
  • Failure or refusal to furnish required assurance is grounds for termination, refusal to grant or continue Federal financial assistance. (49 CFR 21.13(b)&9c))

• **Methods of Administration**
  • Have procedures, policies, actions and mechanisms to provide reasonable guarantee for Title VI compliance.
US DOT 1050.2A Assurances

- **DOT1050.2A is an assurance**
  - Comply with Title VI and other Nondiscrimination provisions.
  - Include Title VI provisions in its contracts.

- **Appendix A and E required in all contracts and tiers.**
  - Appendix A- All contracts
  - Appendix A(5)(a&b)- Sanctions for noncompliance regarding nondiscrimination provisions of contract
  - Appendix B- Deeds transferring United State property
  - Appendix C- Transfer of acquired or improved real property
  - Appendix D- Construction and use or access to real property
  - Appendix E- Important Nondiscrimination Authorities.
The project engineer (PE) should be cognizant of these contractual requirements and monitor the contractor for compliance.
Title VI/Nondiscrimination and ADA

Compliance Oversight

- Consequences could be suspension or termination of Federal financial assistance and/or refusal to grant or continue Federal financial assistance.

- What to do if you suspect noncompliance?
  - Notify Assistant District Engineer (ADE), or whoever oversees that project, immediately.

- If the ADE cannot remedy the situation?
  - They will contact the District Engineer who has the authority to stop a project if necessary.
External Complaint of Discrimination

- **Civil Rights Complaint:**

  Refers to an unlawful, unfair or unequal treatment or impact to an individual (or group) based on certain distinguishing characteristics.
External Complaints of Discrimination

- You have the right to file a complaint with any of the following: NDDOT, FHWA, FTA, USDOT, USDOJ.

- You have 180 calendar days to report a complaint, unless the filing date is extended by the FHWA.

- Use the NDDOT’s external complaints of Discrimination Form SFN 51795.
  - Available in English at www.dot.nd.gov/forms/sfn51795.pdf
  - Available in Spanish at www.dot.nd.gov/forms/sfn51795S.pdf
How Are FHWA (Roads and Bridges) Complaints Processed?

1. **Complaint Received**
   - Member of the Public

2. **Complaint sent to**
   - North Dakota DOT

3. **Complaint sent to**
   - FHWA (roads & bridges) Division Office

4. **Complaint sent to**
   - FHWA Headquarter Office of Civil Rights
How Are FTA (Public Transit) Complaints Processed?

- **Complaint Received**: Member of Public
- **Complaint sent to**: North Dakota DOT
- **Complaint sent to**: Local Government Division within ND DOT
- **FTA Notified of Complaint**
External Complaint of Discrimination DOT

What to do when you observe or receive a report of discriminatory activity:

• **Step 1:** Document everything you remember right away about what you saw. Date/Time/Who/Where.
• **Step 2:** People have the right to file a complaint.
• **Step 3:** Go through the project chain to report the violation. Example:
• **Step 4:** If the complaint is something your company/firm can remedy, we encourage that.
Examples of External Complaints

• **Title VI/Nondiscrimination**
  - Making negative/derogatory comments regarding minorities on a work site.
  - Commenting on a person’s age/sex as they pass by a work site.

• **ADA**
  - The hiring authority on the job
  - Personnel refusing to allow a rider’s service animal in a station or on a vehicle
  - Vehicle operators not announcing stops or identifying routes.
What Does \textbf{Not} Constitute an External Complaint?

- Title VI/Nondiscrimination
  - Any anonymous complaint.
  - Inquiries seeking advice or information.
  - Newspaper articles or opinions.

- ADA
  - Someone’s driving style.
  - Not serving a particular location or limited evening or weekend service.
Title VI/Nondiscrimination and ADA Program

- Saturates **all** Divisions of the ND DOT including:
  - Planning
  - Project Development
  - Right-of-Way
  - Construction & Construction Related
  - Local Government

- Title VI/nondiscrimination and ADA is an opportunity.

- Moral and Ethical- To treat others like you would want to be treated. (the golden rule)
Questions, Concerns, Comments Suggestions?

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EXTERNAL CIVIL RIGHTS TRAINING CONTRACT COMPLIANCE

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TRAINING TOPICS

- Contractor Compliance requirements.
- Contract Special Provisions.
- FHWA 1273.
- Compliance oversight.
- Project selection criteria.
- District Responsibilities.
- Conformance requests.
- Bulletin boards.
- EEO interviews.
- Non-segregated facilities.
- Bathroom facilities.
- Monthly EEO report.
- Compliance issues.
- Title VII Internal EEO Program.
NDDOT RESPONSIBILITIES REGARDING CONTRACTOR COMPLIANCE

- Labor Compliance responsibilities – 29 CFR 1, 3, 5, 6, 7.
FEDERALLY-FUNDED HIGHWAY CONSTRUCTION CONTRACT REQUIREMENTS

• FHWA 1273. Must be physically incorporated in all tiers of subcontract.
• EEO Affirmative Action Requirements.
• Appendix A & E of the Title VI Assurances.
• Labor rates for U.S. Department of Labor.

***Sole use of LCP Tracker for the submission of certified payroll.***
CONTRACT SPECIAL PROVISIONS


- Include requirements not to discriminate and to take affirmative action to assure Equal Employment Opportunity as required by Civil Rights Act of 1964.

- Incorporates, by reference the requirements of 49 Code of Federal Regulations Part 26-approved DBE program.
NONDISCRIMINATION PROVISIONS FHWA 1273

• Requires the contractor ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.
• Have a designated Equal Employment Officer.
• Hiring and recruitment practices.
• Periodic review project site, wages, personnel actions for discriminatory treatment.
• Required to have and post a discrimination complaint procedure and form on project-site bulletin boards.
• Discrimination complaint procedures must include avenues of appeal.
• Contractor must inform Civil Rights Division of any discrimination complaints received including a copy of the complaint.
• Advise employees and applicants of training programs available.
• Requires contractors utilizing unions as a source of employment to obtain cooperation from them to increase opportunities for minorities and females.
• Become familiar with the requirements for and comply with the Americans with Disabilities Act.
• No discrimination practices in selection of subcontractors.
• Incorporate requirements of the NDDOT approved DBE program into contract.
COMPLIANCE OVERSIGHT

• Enforcement responsibilities are vested with NDDOT.

• In the case of noncompliance with any special provision, the project engineer should notify the Assistant District Engineer and in turn contact CRD for action.

• Title VI and Title VII of the Civil Rights Act of 1964 and their related statues prohibit discrimination on federal-aid construction projects.
PROJECT SELECTION FOR CONTRACTOR COMPLIANCE REVIEWS

- Project size ($3M).
- DBE and OJT requirements.
- Status of last review or when the last review was conducted on a specific contractor. (Labor or equal opportunity complaints).
ASSISTANT DISTRICT ENGINEER RESPONSIBILITIES

- Responsible for conducting labor and EEO compliance job site interviews.
- Timely verification of certified payroll and craft selection.
- Bulletin board review form and photos of bulletin board uploaded to CARS.
- Inspect project work site for discriminatory behavior and segregated facilities.
PRE-CONSTRUCTION CONFERENCE

• Review with the contractor in-depth what items will be inspected during the Contractor Compliance Review ensuring fair notice is given.
• Discuss if there are any “gray” areas for coverage of Davis-Bacon wages regarding specific work and what craft should be used.
• Emphasize the importance of following DBE SP strictly.
• On the job training.
• Multi-tiered payrolls.
• Sub-contractors specifically in the trucking craft.
• Recruitment of women and minorities.
<table>
<thead>
<tr>
<th>Contractor</th>
<th>Project Control Number(s) (PCN)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Number(s)</td>
<td>Location</td>
</tr>
<tr>
<td>Type of Project</td>
<td>Beginning Date</td>
</tr>
<tr>
<td>District</td>
<td>Dollar Value of Prime Contract</td>
</tr>
<tr>
<td>Project Engineer (NDOT, City, County, or Consultant)</td>
<td>Contractor's EEO Officer</td>
</tr>
<tr>
<td>Contractor's DQE Officer</td>
<td>Date of Conference</td>
</tr>
<tr>
<td>Contractor's Staff Responsible for Entering Payment (following the receipt of progress payments)</td>
<td>Email Address</td>
</tr>
<tr>
<td>Contractor's Staff Responsible for Submitting Certified Payrolls</td>
<td>Email Address</td>
</tr>
</tbody>
</table>

**READ TO CONTRACTOR:**

- The following Special Provisions of this prime contract require performance of various Labor Standards, EEO, Title VI and DBE requirements and functions and further the maintenance of statistical records, company reports, and related materials and information.

  The Required Contract Provisions Federal Aid Contracts (FHWA 1273) outline requirements relating to wages, payroll, labor compliance statements, and general EEO responsibilities. FHWA 1273 also applies to and must be incorporated into all tiers of subcontractors.

  The Labor Rates from the US Department of Labor include the Davis-Bacon wage rates established for the contract, specifying the basic hourly rate and any applicable USDBIL fringe benefits payments for job classifications related to highway construction. The labor rates also apply to and must be incorporated into all tiers of subcontractors.

  The Special Provision Automated Certified Payroll provides for the filing of Certified Payroll, as required by Davis-Bacon and Related Acts (DBRA), through LCPTracker, an internet-based system for electronic filing of payroll. All certified payrolls on this project must be filed electronically through LCPTracker and no paper payrolls will be accepted. The NDDOT will set up all projects into the LCPTracker database, and will assign these projects to prime contractors. Each prime contractor must designate one (or more) individual as the project_prime Approver, who will approve payroll for all contractors on the project in LCPTracker. The Prime Approver has the responsibility for setting up all subcontractors on the project and for addressing payroll issues with subcontractors. After Prime Approver approves payroll, these electronic payrolls will automatically be forwarded to the NDDOT. The Prime Contractor will continue to be ultimately responsible for all payroll issues on the project. For further information, call the NDDOT Civil Rights Division at (701) 328-2605. A Contractor User Manual and Prime Approver Manual are available online at https://www.dot.nd.gov/divisions/civilrights/docs/NDDOT%20Policies%20Manual%20Prime%20Contractors.pdf and https://www.dot.nd.gov/divisions/civilrights/docs/LCPTracker%20Prime%20Approver%20Guide.pdf.

  The EEO Affirmative Action Requirements specify a statewide employment goal of 6.9% for females in each trade and an assigned percentage goal by county for minorities in each trade. This special provision also applies to and must be incorporated into all tiers of subcontractors of $10,000 or more.

  Appendix A & E of the Title VI Assessments require contractors to comply with the acts and regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation (49 CTR 21). Appendix A & E apply to and must be incorporated into all tiers of subcontractors, procurement of materials, and leasing of equipment. Complaints must be filed, in writing, no later than 180 days after the date of the alleged discrimination. NDDOT's External Complaints of Discrimination process is available online at http://www.dot.nd.gov/forms/sfm1795.pdf.

  Prompt Payment Procedures and Release of Retainage provision requires the prime contractor to pay subcontractors for any amount due, less retainage of no more than 2%, from the current progress payment. Payment must be made within 20 calendar days of receipt of payment, unless the prime contractor has just cause not to make payment. The prompt payment provision includes the release of retainage monies held within 26 days after the work is satisfactorily completed as determined by the NDDOT. The prompt payment procedures and release of retainage apply to all tiers of subcontractors. Refer to Section 109.34, D & E of the Standard Specifications for Road and Bridge Construction.
The On-the-Job Training Program Special Provision provides that the Civil Rights Division (CRD) will assign trainee positions based on the dollar amount of federal-aid highway work awarded to prime contractors each year (March 31 - April 1). If assigned, contractors receive instructions via email.

The DBE Race/Gender Neutral Special Provision (RGN SP) assigned project goal is zero percent (0%), however, any DBE Participation on the project will be credited to the Department's overall goal.

The DBE Race/Gender Conscious Special Provision (RGC SP) assigns a specific percentage goal, based on the bid price, to be subcontracted or expanded to DBE firms. Contractors must meet the goals, or show good faith efforts to do so, throughout the duration of the project. Prior to award of the contract, the contractor provides a list of DBE firms intended for use on the project. Should a need for any replacements of the projects total workforce arise, SFN 51025 (Replacement Approval Request) must be submitted to CRD. No payment for replacement work completed prior to written approval from CRD will be made. Notice to the Project Engineer must be made immediately for any proposed changes, regardless of the reason.

Contractors whose projects have been selected for in-depth contractor compliance reviews will have HHC and Labor Compliance Job-Site interviews conducted on a portion or all of their project workforce. Contractors who are not selected for contractor compliance reviews will have Labor Compliance Job-Site Interviews conducted on at least one project in each district annually. Exempt from this requirement are contracts and subcontracts under $10,000 where work on the project is sporadic and of short duration (three weeks or less).

Federal-Aid Highway Construction Contractors Annual EEO Report (Form FHWA-1381) must be submitted to the Civil Rights Division by each active contractor and certified subcontractor. Instructions for filing electronically will be sent to all contractors in July each year. Filing is due by September 30.

All information on the attached Required Posters on Federal-Aid Projects must be posted on the project site in an area readily accessible to all employees and applicants for employment.

Training Requirements: The OJT Master List indicates there are # trainee(s) in # program(s) assigned to the prime contractor.

1. Contractors have full responsibility to recruit and place trainees. Withholding of progress payments may result upon failure to recruit and train trainees in a timely manner.
2. Trainee positions may be delegated to subcontractors; however, subcontractors are not required to accept this delegation.
3. To request program reimbursement, prime contractors must submit SFN 51025 - Voucher for OJT Program Hourly Reimbursement within 15 business days of the trainee's employment. Documentation required is covered in the OJT Program Manual which is provided to the contractor at the time of assignment.
4. To be reimbursed, vouchers must be submitted by the 15th calendar day following the month the trainee received training.
5. OJT Supportive Services (OUSS) monitors trainee progress, wage and hour review, training hours completed, and other issues pertaining to the prime's OJT trainees. An on-site monitor will visit the trainees two times during the season. OUSS contacts the contractor's office weekly. It is the prime's responsibility to return calls and make appointments in a timely manner.

INVITE THE PRIME CONTRACTOR TO DISCUSS THE FOLLOWING:

1. It is the prime contractor's responsibility to ensure the prime contractor and its DBE and non-DBE subcontractors, suppliers, vendors, brokers, regular dealers, and manufacturers comply with the requirements of the applicable DBE special provision.
2. List all firms to be working on the project as indicated on the DBE Participation Review at the time of award.
3. The products or items of work which all firms included in the participation review are to provide or to perform;
4. The time period for the products to be provided or the work to be performed by all firms included in the participation review, and
5. Any other project issues necessary for contract compliance such as project scheduling, expected overtime, payment schedule, DBE wage and search requirements, work to be performed at the borrow pit, stockpile site, concrete or asphalt batch plant site locations, quantities, length of haul, type of haul road, and hauling.

Communication lines during construction:

Your first line of communication for resolving DBE, wage and payroll, OJT, Title VII, and discrimination issues during construction is to contact the project engineer. Should additional support in resolving these issues be required, the project engineer will contact
PRIME CONTRACTOR IN-DEPTH REVIEW

• Recommend using the bulletin board Posters provided by Civil Rights Division. All posters are updated and can be obtained by sending a request via email to myself.
• Fill out EEO Policy on poster. Ensure that the correct person is signing the EEO Policy (Policy Making Officer).
• EEO policy current in all company publications and manuals and is consistent.
• EEO policy is published and provided to all employees – Employee/Safety Manual. Document all training with topics, date of instruction, and signature of those who attended.
• Good faith efforts toward equal employment opportunity hiring practices.
• Labor Compliance interviews.
BULLETIN BOARDS

- Poster Board DOT 3350 1 of 3 (rev. 7-2017) / 2 of 3 (3-2019) / 3 of 3 (1-2021).
- DBRA wage rate decision found in contract.
- Contractor’s discrimination complaint procedure (a sample is attached to the pre-construction conference form).
- Subcontractors and bulletin boards.

***Inspect bulletin board within 15 days of work commencing on the project. Should also be done immediately prior to an in-depth Contractor Compliance Review.***
Equal Employment Opportunity is THE LAW

Public Employees, State and Local Governments, Educational Institutions, Employment Agencies and Labor Organizations

Anti-discrimination

Date

Equal Employment Opportunity Policy

It is the policy of the State of New York to give no person any civil right or privilege denied to any other person in any employment, public or private, and to be free from any discrimination on the basis of race, religion, age and sex.

March 10, 1997

Pay Transparency Non-Discrimination Provision

The contractor will not discriminate or in any other manner discriminate against employees or applicants because they have inquired about, discussed, or disclosed their own pay or the pay of other employees or applicants. However, employees who have access to the compensation information of other employees or applicants as a part of their employment or employment activities will not be discriminated against or retaliated against, or be subject to any other form of discrimination based on disclosure of the pay of other employees or applicants.

Date

Notice of Equal Employment Opportunity

Equal Employment Opportunity Information

Date

Notice of Non-Discrimination

Date

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Date

Notice of Equal Employment Opportunity

Equal Employment Opportunity Information

Date

Notice of Non-Discrimination

Date
Important

 Wage Fairness in Washington, D.C. Federal and Highways Projects

Some other entities use the term in a different manner. In vanishing wage family, however, the term refers to the actual money paid to workers for their labor. Vanishing wage family is defined as the difference between the amount of money paid to workers for their labor and the amount that workers would have received if they had been paid at the prevailing wage rate.

The prevailing wage rate is generally determined by the Department of Labor through the use of labor surveys and other methods. The prevailing wage rate is based on the cost of labor and the availability of skilled labor in the area. The prevailing wage rate is updated periodically to reflect changes in the cost of labor and the availability of skilled labor.

The vanishing wage family is important because it helps to ensure that workers are paid fairly for their labor. It also helps to ensure that the project is completed on time and on budget. The vanishing wage family is used to determine the amount of money that will be paid to workers for their labor. The prevailing wage rate is used to determine the amount of money that will be paid to workers for their labor.

EMPLOYEE RIGHTS

FOR LABORERS AND MECHANICS

EMPLOYED ON FEDERAL OR FEDERAELY ASSISTED CONSTRUCTION PROJECTS

PREVAILING WAGES

The prevailing wage rate must be paid to laborers and mechanics employed on federal or federally assisted construction projects. The prevailing wage rate is the wage rate that is paid to laborers and mechanics employed on construction projects in the area where the project is located. The prevailing wage rate is determined by the Department of Labor.

OVERTIME

Laborers and mechanics employed on federal or federally assisted construction projects are entitled to overtime pay for all hours worked in excess of 40 hours per week. Overtime pay is calculated at a rate of 1.5 times the prevailing wage rate.

ENFORCEMENT

Federal and state wage laws protect laborers and mechanics employed on federal or federally assisted construction projects. Laborers and mechanics employed on federal or federally assisted construction projects are entitled to overtime pay for all hours worked in excess of 40 hours per week. Overtime pay is calculated at a rate of 1.5 times the prevailing wage rate.

APPRENTICES

Apprentices should be paid at the prevailing wage rate. Apprentices are entitled to overtime pay for all hours worked in excess of 40 hours per week. Overtime pay is calculated at a rate of 1.5 times the prevailing wage rate.

PROPER PAY

Laborers and mechanics employed on federal or federally assisted construction projects are entitled to proper pay. Proper pay is the amount of money paid to laborers and mechanics employed on construction projects in the area where the project is located. Proper pay is determined by the Department of Labor.

EMPLOYEE RIGHTS

UNDER THE FAIR LABOR STANDARDS ACT

FEDERAL MINIMUM WAGE $7.25 per hour

The Fair Labor Standards Act (FLSA) is a federal law that sets the minimum wage for workers in the United States. The minimum wage is the lowest hourly wage that employers can pay to workers. The FLSA also sets the overtime pay rate for workers who work more than 40 hours per week.

ENFORCEMENT

The Department of Labor enforces the FLSA. The Department of Labor investigates complaints of wage and hour violations and takes action to correct them. The Department of Labor may also bring legal action against employers who violate the FLSA.

ADDITIONAL INFORMATION

For more information about the FLSA, contact the nearest office of the Department of Labor. The Department of Labor provides information and assistance to workers who need help with their wage and hour rights. The Department of Labor also provides information and assistance to employers who need help with their wage and hour responsibilities.
EEO INTERVIEWS

• Conduct prior to in-depth contractor compliance review. If possible, conduct using the on-site application on mobile devices. If mobile devices are not available, upload completed interview forms to LCP Tracker using the edocuments function.

• Employee selection.

• Interpreter services.

• Suspected discrimination during interview.
NONSEGREGATED FACILITIES

• The project site must be inspected to ensure that the working conditions and employee facilities do no indicate discriminatory treatment of project personnel and that the contractor does not maintain segregated facilities.

• Examples: waiting rooms, work areas, restrooms, and eating areas.
## BATHROOM FACILITIES

<table>
<thead>
<tr>
<th>Number of employees</th>
<th>Minimum number of facilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>20 or less . . .</td>
<td>1</td>
</tr>
<tr>
<td>20 or more . . .</td>
<td>1 toilet seat and 1 urinal per 40 workers.</td>
</tr>
<tr>
<td>200 or more . . .</td>
<td>1 toilet seat and 1 urinal per 50 workers.</td>
</tr>
</tbody>
</table>
MONTHLY EEO PROJECT INSPECTION REPORT
COMPLIANCE ISSUES

• All Project Managers may come into contact with compliance issues over the course of a project.
  • DBE – you have an issue with an unfulfilled obligations or you have other concerns.
  • Labor Compliance – you have a misclassified employee.
  • Harassment or Discrimination Complaint – you either witness harassment or a worker onsite complains about harassment.

• Issues regarding harassment never go away by themselves – address issue in a straightforward way – call CRD – document everything.

• Remember that everyone on the site – including you and your staff – may become victims of harassment.
TITLE VII INTERNAL EQUAL EMPLOYMENT OPPORTUNITY (EEO) PROGRAM

- Protects employees from discrimination and harassment in all phases of employment.
- Ensures recruitment and selection of regular and temporary employees is discrimination free and that the workplace is free of discrimination.
- Complaint and Investigation procedures.
- Signed Assurances.
- EEO Training for all employees.
- Submit annual goals and accomplishment report to FHWA.
Questions???

• Contact information
  • P(701)328-2605
  • dweaver@nd.gov
EXTERNAL CIVIL RIGHTS TRAINING
LABOR COMPLIANCE

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Civil Rights Division
North Dakota Department of Transportation
P: (701)328-2605/email: dweaver@nd.gov
TRAINING TOPICS

• Davis-Bacon and Related Acts.
• Site of Work.
• Burden of Proof.
• Trucking Operations and DBRA.
• Owner Operators of Trucks.
• Business Owners.
• Payroll requirements.

• Job Classifications.
• Specific craft issues.
• Conformances.
• Investigations.
• Complaint Procedures.
• Davis-Bacon Complaint form.
DAVIS-BACON AND RELATED ACTS

• Davis-Bacon Act.

• Contract Work Hours and Safety Standards Act.

• Copeland Act.
The federal regulations at 29 CFR 5.2(l) define the term *site of the work* as:
The physical place or places where the building or work called for in the contract will remain; and
any other site where a significant portion of the building or work is constructed, *provided* that
such site is established specifically for the performance of the contract or project; job
headquarters, tool yards, batch plants, borrow pits, etc. In as much as the federal regulations do
not define *adjacent or virtually adjacent*, NDDOT has defined the terms as any tool yard,
fabrication plant, job headquarters, material or supply source (e.g., borrow pit, stockpile site,
concrete or asphalt batch plant site), etc., whose boundary is located *within one-half mile* of the
closest right of way boundary to the federal-aid highway construction project. The distance is
measured as one-half mile from the boundary to the tool yard, fabrication plant, job
headquarters, material or supply source (e.g., borrow pit, stockpile site, concrete or asphalt batch
plant site), etc., to the closest project boundary, *as the crow flies*, not to the middle of the project.

***Note*** The Department of Labor has held the rule that each inquiry into site of work in
relation to paying employees Davis Bacon wages will be reviewed on a case-by-case basis and that
the ½ mile rule might not necessarily apply in every case.
BURDEN OF PROOF

• When USDOL investigates, it assumes that the contractor must prove they followed Davis-Bacon and related laws.
• If there is a conflict between versions of events and no evidence the contractor will lose.
• Remind all contractors to keep records of Davis Bacon time. Time Cards, Haul Sheets, etc.
• Ultimate responsibility is with the Prime Contractor.
  • **Never Discuss Davis Bacon issues without Prime Contractor being present/party to discussion.**
TRUCK OPERATIONS

• Payrolls and 2\textsuperscript{nd}/3\textsuperscript{rd} tier subcontractors.
• Standard written contracts.
• Prime Contractor is overall responsible.
• Leasing agreements.
• De Minimis.
TRUCK OPERATIONS (CONT’D.)

• Time issues for truckers.
• Checking in for instructions.
• Attending weekly EEO/Safety training.
• Fueling or other maintenance.
• Cleaning any part of the equipment or trucks.
Business owners are defined as those individuals who own at least 20 percent of the company (prime contractor or subcontractor) and who perform the work of a laborer or mechanic on a federal-aid highway construction project, or the site of the work, are not due Davis-Bacon wages.
LCP TRACKER PAYROLL REQUIREMENTS

• All payrolls must be filed electronically through LCP Tracker weekly.
• The Prime Contractor has the responsibility to assign all subcontractors for a project they are assigned in LCP Tracker. If a subcontractor is not in the system, but is registered, the Prime Contractor may input the subcontractor. If some assistance is required in completing this process, please contact myself and I will input the subcontractor and assign to the project.
• Each employee must be assigned a job classification or classifications from the wage decision for all hours worked.
• Prime Contractors are responsible for the submission of weekly certified payrolls by all subcontractors.
LCP TRACKER PAYROLL REQUIREMENTS (CONT’D.)

- FHWA Form 1273 requires the contractor to submit accurate and complete payrolls to the contracting agency every week for each week contract work is performed. To comply with requirements contained in 23CFR635.118, NDDOT must obtain accurate and complete certified payrolls and statements of compliance from the contractors.

- Project Engineers regarding missing payrolls and classifying employees.
JOB CLASSIFICATIONS

• Guidance from USDOL and the Power Equipment Operators Union state ANY piece of equipment you sit or stand on to drive falls under Power Equipment Operator.

• Electrical work done outside on highway road construction projects is covered by the Line Construction rates rather than Electrician rates. When electrical work is performed on or within a commercial building only, such as a rest area, the job classification Electrician must be used. Any other electrical work on a federal-aid highway construction project in North Dakota is covered by line construction.

• Workers who are installing fiber optic cable or conduit should be classified as Group 2 Laborers. Those that are running equipment to install equipment would be classified as Power Equipment Operators.
SPECIFIC CRAFT ISSUES

• Paint striping Operator.

• Skidsteer.

• Piling Hammer Operator.

• Group 4 laborer – reinforcing iron rebar.
CONFORMANCE REQUESTS

• Conformance requests are submitted when a particular craft is not included in the General Wage Decision, specifically Bridge Painters/Sand Blasters for North Dakota.

• There are no contractors based in North Dakota so will not be included in General Wage Decisions.

• Required documents: Letter from contractor requesting wage rate, federal requirements concerning the approval of additional classifications, SFN-1444.

• After Review by Civil Rights Division, request is forwarded to USDOL. An approval/disapproval of request should be received within 30 days but in most cases does not happen. The notice that is included in each proposal which has bridge painting/sandblasting is a good instruction to follow when submitting conformance requests.

***Department of Labor conformance decisions usually take longer than 30 days as discussed earlier. Once I activate a project in LCPTacker I will input the conformed crafts i.e. bridge painter/sandblaster with comparable wages associated with this type of work which is carpenter. If after a conformance decision is received from DOL and the wage is different than what was inputted, those payrolls will have to be amended.***
NOTICE

The Labor Notes from the U.S. Department of Labor Notice 2017094 is in this project did not include a job classification and wage rate in the Notice. Therefore, the classification and wage rate in the notice are referred to in the context of the Notice of Additional Classification and Rate (SFN 94). It is to direct those individuals involved in hiring workers who may be involved in the Notice.

http://www.ogc.gov/notifications/NOTICE

The Notice is to be submitted for commencement of work on the project. If the notice is submitted after work has started, the regulations require that such individuals involved in the Notice's completion, or their representatives, sign within 10 days after the notice's completion and sign within the space provided for the Notice's completion, and sign within the space provided for the Notice's completion, and sign within the space provided for the Notice's completion.

For further information, contact the firm's personnel, contact:

Cynthia Davis
Senior Labor Relations
3003 East Southern Avenue
Residence: (602) 531-3111
Email: Cynthia.davis@nyc.gov

The Notice is to be submitted for commencement of work on the project. If the notice is submitted after work has started, the regulations require that such individuals involved in the Notice's completion, or their representatives, sign within 10 days after the notice's completion and sign within the space provided for the Notice's completion, and sign within the space provided for the Notice's completion, and sign within the space provided for the Notice's completion, and sign within the space provided for the Notice's completion.

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WHAT TO DO IF YOU HAVE A COMPLAINT OR YOU WITNESS HARASSMENT

• If you have someone approach you with a discrimination or harassment complaint, call the Civil Rights Division. What type of form you use will depend on who the person is. An employee on a project would be treated differently than a member of the public.

• If you witness behavior that concerns you, report it immediately to your respective Assistant District Engineer or directly to Civil Rights Division if this is not possible. If behavior is ever directed to you, tell your supervising engineer or Assistant District Engineer immediately.
DAVIS-BACON WAGE COMPLAINT
SFN -60557
Questions???

• Contact information
  • P(701)328-2605
  • dweaver@nd.gov
Goal Setting & Project Award

- No DBE goals on state/non-federal aid projects (ARPA)
- 2021-2023 NDDOT Triennial Goal is 4.66%
- DBE Triennial Goal Setting Methodology is available on CRD’s webpage
- Race Gender vs. Race Neutral projects
- Consulting and “other” federal projects are included in our annual reporting, but do not contain DBE goals
  - That money increases our overall funds and decreases our overall DBE participation
Utilization Plans & Prompt Pay

- Certification and Compliance System (CCS)
  - [https://dotnd.diversitycompliance.com](https://dotnd.diversitycompliance.com)
- Utilization Plan>Proposal>Contract
  - Monthly audits for the life of the contract
- Prompt Pay Mechanism
- Applies to all tiers of subs/suppliers, DBE and non-DBE
- Discrepancies
- Prompt Pay is addressed in Specifications Book as well as the DBE Program Manual & Special Provisions
How do I know what DBEs are on my project?

- DBE Participation Review Packet in FileNet/CARS
- Notification of Intent to Use SFN 52160 (Form C)
- Good Faith Efforts Documentation SFN 60829
- Certification and Compliance System (B2Gnow)
  - The most ACCURATE way to know which DBEs and non-DBEs are/should be working on the project
  - Any NDDOT employee has access (request it if you don’t)
  - Consulting engineers do not have access
    - Reports for consulting engineers can be generated at any time
## Bid Opening

**Date:** February 5, 2021

**Vendor ID:** 6546

**Apparent Low Bidder:** Hanson’s Excavating Inc.

**Low Bid:** $345,343.10

**Job Number:** 122269

**Project Number(s):** SRC-TAC-0053(076)

**Work to be Completed:** Bikeway/Walkway

**Location:** Tioga Signal Road Sidewalk

### Primary Bidder/Prime Contractor

<table>
<thead>
<tr>
<th>Vendor Name</th>
<th>Cert</th>
<th>Inc in Goal</th>
<th>$ Total</th>
<th>$ Self Perf</th>
<th>$ For Credit</th>
<th>Actions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hanson’s Excavating, Inc.</td>
<td>No</td>
<td>No</td>
<td>$350,766</td>
<td>$150,815</td>
<td>-</td>
<td>View</td>
</tr>
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</table>

### Subcontractors

<table>
<thead>
<tr>
<th>Subcontractor Name</th>
<th>Sub Tier</th>
<th>Cert</th>
<th>Inc in Goal</th>
<th>Type</th>
<th>$ Commit</th>
<th>$ Self Perf</th>
<th>$ For Credit</th>
<th>Actions</th>
</tr>
</thead>
<tbody>
<tr>
<td>3-D Specialties</td>
<td>1</td>
<td>Yes</td>
<td>Yes</td>
<td>Sub</td>
<td>$4,817</td>
<td>$4,817</td>
<td>-</td>
<td>View</td>
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<tr>
<td>Redland Paving, Inc.</td>
<td>1</td>
<td>Yes</td>
<td>No</td>
<td>Sub</td>
<td>$72,290</td>
<td>$72,290</td>
<td>-</td>
<td>View</td>
</tr>
<tr>
<td>Ballman Services Company</td>
<td>1</td>
<td>Yes</td>
<td>Yes</td>
<td>Sub</td>
<td>$6,734</td>
<td>$6,734</td>
<td>$6,734</td>
<td>View</td>
</tr>
<tr>
<td>Ferguson Waterworks (North Dakota)</td>
<td>1</td>
<td>Yes</td>
<td>No</td>
<td>Reg. Dealer</td>
<td>$1,360</td>
<td>$1,360</td>
<td>-</td>
<td>View</td>
</tr>
<tr>
<td>Forterra (North Dakota)</td>
<td>1</td>
<td>Yes</td>
<td>No</td>
<td>Manufacturer</td>
<td>$12,204</td>
<td>$12,204</td>
<td>-</td>
<td>View</td>
</tr>
<tr>
<td>Premier Landscaping - Baze Inc.</td>
<td>1</td>
<td>Yes</td>
<td>No</td>
<td>Sub</td>
<td>$16,679</td>
<td>$16,679</td>
<td>-</td>
<td>View</td>
</tr>
<tr>
<td>Rush Resources</td>
<td>1</td>
<td>Yes</td>
<td>No</td>
<td>Reg. Dealer</td>
<td>$17,080</td>
<td>$17,080</td>
<td>-</td>
<td>View</td>
</tr>
<tr>
<td>Stein Construction</td>
<td>1</td>
<td>Yes</td>
<td>No</td>
<td>Sub</td>
<td>$50,425</td>
<td>$50,425</td>
<td>-</td>
<td>View</td>
</tr>
<tr>
<td>TruNorth Steel, Inc.</td>
<td>1</td>
<td>Yes</td>
<td>No</td>
<td>Manufacturer</td>
<td>$450</td>
<td>$450</td>
<td>-</td>
<td>View</td>
</tr>
</tbody>
</table>

### Goal & Waiver Summary

<table>
<thead>
<tr>
<th>Goal Type</th>
<th>Goal</th>
<th>Plan</th>
<th>Status</th>
<th>$ to Reach Goal</th>
<th>Waiver Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Overall Goal</td>
<td>0.00%</td>
<td>1.77%</td>
<td>1.77% above goal</td>
<td></td>
<td></td>
</tr>
<tr>
<td>DBE</td>
<td>0.00%</td>
<td>1.77%</td>
<td>1.77% above goal</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Commercially Useful Function

- Both SFN 60596 & 60597 are now obsolete
- New Form – SFN 62120
- Completed by Project Engineer
- New Notification from CARS
- CRD must review and sign all CUFs
- CRD tracking that all CUFs are completed

---

**DBE PERFORMANCE - COMMERCIALY USEFUL FUNCTION CERTIFICATION**
North Dakota Department of Transportation, Civil Rights
SFN 62120 (1-2022)

Per 40 CFR 26.95: "A DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved... A DBE does not perform a CUF if its 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 DBE participation... This form is for the purposes of reviewing DBEs for compliance with the CUF requirements for credit.

A minimum of one CUF review must be performed for each DBE on each project with or without a DBE goal. The review should be conducted when the DBE first begins work, and compliance should be monitored throughout the course of the project.

---

**Form Fields**

<table>
<thead>
<tr>
<th>Field</th>
<th>Instructions</th>
</tr>
</thead>
<tbody>
<tr>
<td>PCN</td>
<td></td>
</tr>
<tr>
<td>Project Number</td>
<td></td>
</tr>
<tr>
<td>District</td>
<td></td>
</tr>
<tr>
<td>County</td>
<td></td>
</tr>
<tr>
<td>Prime Contractor</td>
<td></td>
</tr>
<tr>
<td>Contact Person</td>
<td>Email</td>
</tr>
<tr>
<td>Address</td>
<td></td>
</tr>
<tr>
<td>DBE Firm</td>
<td>Owner</td>
</tr>
<tr>
<td>Address</td>
<td></td>
</tr>
<tr>
<td>Date Contract/Subcontract Signed</td>
<td>Start Date of DBE's Work</td>
</tr>
<tr>
<td>Type of Operation</td>
<td></td>
</tr>
<tr>
<td>Sub-Contractor</td>
<td>Truckier</td>
</tr>
<tr>
<td>Describe the type of work observed</td>
<td></td>
</tr>
</tbody>
</table>

---

1. Management

a. Is there a legal contract executed by the DBE to perform a distinct element of work?
   - [ ] Yes
   - [ ] No
   - [ ] N/A

b. Name of the on-site representative working for DBE firm

c. On-site representative reports to:

d. Has the on-site representative been identified as an employee of the DBE?
   - [ ] Yes
   - [ ] No
   - [ ] N/A

  Has this individual ever appeared on any other contractor's payroll? (Check payroll in LC/OTracker for confirmation)
   - [ ] Yes
   - [ ] No
   - [ ] N/A

f. Does the DBE on-site representative effectively manage the job without interference from any other non-DBE contractor?
   - [ ] Yes
   - [ ] No
   - [ ] N/A

g. Who does the DBE on-site representative contact for hiring, firing, or to modify the contract?

h. Has the DBE owner been present on the job-site?
   - [ ] Yes
   - [ ] No
   - [ ] N/A

i. Does the DBE appear to have control over methods of work on its contract items?
   - [ ] Yes
   - [ ] No
   - [ ] N/A
Replacement Approval Requests

- Brief recap from last season
- New section for the DBE to sign the form – required
  - Prime 1st
  - DBE 2nd
  - Project Engineer 3rd
  - Civil Rights 4th
- SFN 60595 not required on Race Gender Neutral & 100% state or ARPA funded projects
1:1 DBE Trucking Ratio

- Form C SFN 52160
  - Now identifies if 1:1 Ratio is used as well as lists non-DBE match trucks
- Weekly Trucking Report SFN 60781
- Identification on non-DBE Match Trucks
- CRD increasing oversight on projects with large DBE trucking commitments this season
- CUF Form SFN 62120 has section for 1:1 Ratio DBE Trucking
  - If trucks are leased/rented they must provide proof that the transaction was made through a reputable dealer
- **BOTH** DBE and non-DBE trucks must be on site at the same time to count
DBE GOAL CURRENT STATUS

- 2021-2023 DBE Goal 4.66%
- Since October 2021 approximately 23.48M dollars have been committed to DBEs on federal aid projects through NDDOT bid openings
- Fulfilling DBE commitments on projects is just as important, if not more important as awarding them
Questions?

Amy Conklin  
DBE Program Administrator  
NDDOT Civil Rights  
aconklin@nd.gov  
701-328-3116
On-The-Job Training (OJT) Program

2022 External Civil Rights Training
Section 4 of the External Civil Rights Manual
Presenters: Amy Conklin – OJT Program Administrator
OJT Overview

• On The Job Training Program Goal: Provide training for the target group in highway construction industry

• Trainees assigned based on total award of federally funded projects during April 1-March 30 of previous year

• OJT Trainees Not Project Specific
OJT & Role Of The Engineer

• OJT Trainees on the Project Site

• Monitoring Payrolls in LCPtracker
2022 OJT Goal & Potential Future Changes

• 2022 OJT Goal is 14 Trainees

• 2021 Goal was 16 Trainees
  • 17 assignments assigned with 3 carryovers positions from previous years
  • 17 completions and 3 carryovers for 2022 season
NEW OJT Changes This Season

• Daycare Reimbursement Program
  • Up to 3.5k per OJT – SFN 62136
• Must be a ND resident
  • Proof via ND Drivers License or recent utility bill in their name with a ND address
• Projects must be within ND
  • Previously we allowed for out of state work to count, that is no longer an option
  • This wouldn’t impact PE’s as they had no oversight on out of state or non-DOT work
QUESTIONS?

Amy Conklin
OJT Program Administrator
NDDOT Civil Rights
aconklin@nd.gov
701-328-3116
LCPTRACKER TRAINING FOR PROJECT STAFF

Daniel Weaver, NDDOT Davis-Bacon
Wage Administrator
P(701) 328-2605/dweaver@nd.gov
TRAINING TOPICS

- LCP Tracker roles.
- Supported browsers.
- LCP Tracker support.
- Announcements.
- Project staff roles in LCP Tracker.
- How to assign a new user.
- Re-assignment of projects.
- How to close or suspend a project.
- Active projects report.
- Violations.
- Payroll.
- On-Site.
• The Role of the Prime Approver (Prime contractor) is to collect and approve payroll from all contractors and to work to correct any errors or deficiencies. All payrolls should be submitted weekly.

• The role of the Project Engineer is to verify and accept the payroll on a weekly basis from all contractors and to guide Prime Approvers in correcting any problems or deficiencies.

• The role of the Subcontractor is to submit payrolls weekly to Primes and be responsive to correcting errors.

• The role of LCPtracker is to provide support in the use of LCPtracker.

• The role of the Wage Administrator (me) is to provide guidance on NDDOT policy for DBRA wage issues and to provide administrative oversight on LCPtracker.
SUPPORTED BROWSERS

- Microsoft Edge.
- Firefox.
- Google Chrome.
- Opera.

***LCP Tracker no longer supports the use of Internet Explorer.***
LCP TRACKER SUPPORT

- The training tab highlighted in yellow at the top of the screen is invaluable. It has all applicable information along with training videos to assist in using different functions within LCP Tracker.
EXAMPLE EMAIL WITH LOGIN CREDENTIALS

• This automatically generated email will be received within a few minutes of set up.
An announcement page may appear once you have logged into LCP Tracker. This is used to notify users of scheduled maintenance or to announce new features.
PROJECT STAFF ROLES OF LCP TRACKER

Full Admin

Business Manager
HOW TO ASSIGN A NEW USER

Anyone that needs an account contract myself (701)328-2605 or by email dweaver@nd.gov.
HOW TO RE-ASSIGN A PROJECT TO A CONSULTANT

• First click on the set-up tab. Then go to add/edit projects. Type in the 5 digit PCN number in the box under the show pending list and select the new department or consultant under the department drop down box. As a reminder hit save at the bottom of the screen.
HOW TO CLOSE OR SUSPEND A PROJECT IN LCP TRACKER

- First click on the set-up tab. Then go to add/edit projects. Type in the 5 digit PCN number in the box under the show pending list and select the new status either active – suspend – closed under the status tab. Hit the save button at the bottom of the screen when completed.
ACTIVE PROJECTS LIST

- To generate a list of active projects assigned to your district, click on the reports tab –active projects list report. Enter in your district with a date range and a list of all active projects will be generated. As a reminder, once all projects are complete and payrolls have been verified please close the project.
MULTIPLE TIER CONTRACTORS AND “B” ACCOUNTS

• LCPtracker does not allow for the same contractor to appear on multiple tiers or to be contracted to more than one prime or subcontractor.

• If a contractor has multiple subcontracts for the same project, they will need a “B” Account.

• For the individual creating the account, use the existing contractor username (typically the telephone number) but put a capital “B” after the username and note “B Account” in the name of the contractor.

• In this way, a contractor will actually have 2 accounts, but the “B” account will only be used when they are adding a second subcontract on the same project.
CLEARING VIOLATIONS

• Payrolls accepted into the system may contain warnings of possible violations, or Notices.
• You should clear your violations before you accept payroll. Go to the Violations tab, and pull up your project. Each violation is listed separately. To understand the nature of the violation, hit “View,” which will pull up the payroll and go to “Notices” section.
• Most Notices will be:

  Total deductions are greater than check amount. VAL_52
CLEARING VIOLATIONS (CONT’D)
FRINGES

FRINGE BENEFITS ARE:

Contributions irrevocably made to a trustee or third party pursuant to a bona fide fringe benefit fund plan or program. The rate of costs incurred in providing bona fide fringe benefits pursuant to an enforceable commitment to carry out a financially responsible plan or program, which was communicated to the employees in writing.

Examples:
- Life insurance
- Health insurance
- Pension
- Vacation
- Holidays
- Sick leave
- Other "bona fide" fringe benefits
REVIEWING PAYROLL

- FHWA Form 1273 requires the contractor to submit accurate and complete payrolls to the contracting agency every week for each week contract work is performed.
- NDDOT requires all contractors use LCP Tracker when uploading weekly payrolls.
- Prime Contractors are overall responsible for the submission of payrolls on projects including subcontractors assigned.
- Requirements of Project Engineers regarding missing payrolls and classifying employees.
Until the Prime Approver has approved payroll, it will not appear on the Project Engineer or Team Leader’s screen.

Once approved, the Project Engineer or his or her staff will need to review and accept the payroll.

The first step is to go to the Certifications Tab, and see payroll that has not yet been accepted. Payrolls will appear on the Certifications Tab, but as “Submitted” or “Resubmitted.” You should go to the “Details” section:
REVIEWING PAYROLL (CONT’D)

- When reviewing payroll, remember DARA – Details, Audit, Review, and Accept.

- Hitting the “Details” link will open up the Payroll Page. Look for missing or misclassified employees. If there are “warnings,” open up the payroll screen and see what the warning is for. The most common warning is for “deductions exceed wage,” which tells you that the system has highlighted too many deductions. In general, this is a child support, wage garnishment or loan repayment deduction. You should make sure and substantiate that this is in fact the case. In regards to proof of deductions please follow the standards you have always used: that is, if you have required the deduction noted on the certification page, you should continue to do that. If you require a child support order, such an order should be loaded into EDocuments.

- Next, you should “audit“ at least one employee in each broad classification (laborers, operators, truckers or tradespeople). To do this, click on the “audit“ button, and review the payroll.
When the payroll sheet for the employee opens, check that the hours fairly represent your knowledge of when the employee was present. Look at the Fringes, and make sure that the amounts are reasonable, and that the deductions also appear reasonable. Check the Notices, and make sure there are no Notices on the payroll – all Violations should have been taken care of by the Prime Approver at an earlier stage. You may need to verify that a Warning is not valid – for instance, a warning about other Deductions is likely due to Child Support or other garnishment. When you have completed your review, click on “revalidate”.
• When you have audited one worker in each classification, return to the Certifications page. At this point, change the status of the Payroll to “Accepted.”
Once “accepted,” your review of payroll is complete. You can proceed to the next payroll, or you are finished if there is no other payroll.

If violations are seen in the payroll, work with the Prime Approver to get the errors corrected. This can be done via telephone, email or through the “Admin Notice Processing” button on the Admin Tab.
NONPERFORMING PAYROLL

• Intended for contractors who are “on and off” projects.

• Projects that will cover 1 or more construction seasons should be placed in suspended status.

• If a contractor learns that a payroll will be their final week and did not indicate it as final, the contractor can edit the payroll record under the “edit certified payroll” button and change to record to final.
ON-SITE INTERVIEWS

• Project staff should be using the on-site app if they have access to a mobile device. If a mobile device is not available, labor compliance interviews must be uploaded to LCP Tracker using the edocuments tab.

• The on-site app is available for download in the apple store and also google play for androids and is free of charge.
ON-SITE INTERVIEWS (CONT’D)

- Once the app is downloaded you will have to sign in using your LCP Tracker login. The app will then prompt you to enter a 4 digit pin.
- Now you can start the interview process.
ON-SITE INTERVIEWS (CONT’D)

• Begin by selecting all of the appropriate information:
  • Project
  • Location (only North Dakota statewide is available)
  • Contractor (if not available contractor must be added prior to interview)
  • Worker (should contain all employees on the project under the contractor). If not, he or she will have to be manually entered by using the small + sign to the right of the drop-down menu.
ON-SITE INTERVIEWS (CONT’D)

• Hit start interview and the form will appear.
• The interviewee’s name will have to be manually entered and the district or consultant info will also have to be entered.
• Now begin to complete the form by asking all questions in part B.
• As a note, the interview can be stopped and saved but the signature of the person being interviewed will disappear if not completed.
ON-SITE INTERVIEWS (CONT’D)

• If after completing the interview and having the interviewee sign, the signature is deleted, put a “APP DELECTED SIG” and your initials in the box. Then submit the form as you normally would.

• Part C and D are for in-depth reviews. Choose a good cross section of the contractor, female, minority, or lower wage employees for interviews.

• If you input an employee name as opposed to selecting from the drop-down box, go to the admin tab and select clear on-site interviews. Once the CPR is submitted you will have the option of matching the employee with the payroll and it will appear on the on-site tab on your LCP Tracker account.
LABOR COMPLIANCE INTERVIEW ISSUES

• Operating system is outdated on device being used.
• Sometimes deleting the app and re-installing if it hasn’t been used in awhile will allow the user to login.
• No functionality to upload and attach documents.
• No certified payroll for interviewees.
• Interviews using the wrong PCN- let me know and I will contact LCP Tracker to have them removed. Those interviews will have to be re-done.
• Employees not set up in LCP Tracker.

• Any forgotten passwords or employees who need an LCP Tracker account/onsite account please let me know.
• Onsite FAQ guide/users guide under the training tab (top of screen) in LCP Tracker is a good source of information.
There are four (4) statuses you may receive when an interview is submitted:

- **Auto-Validation Fail**
- **Auto-Validation Pass**
- **Submitted**
- **Manual Override Pass**

**Auto-Validation Fail** is when the form value is different from the pay-record value. By clicking on the Auto-Validation Fail button you can see the errors i.e., pay rate on interview form was $17.45 but the Certified Payroll Report (CPR) was $17.50.

**Auto-Validation Pass** is an interview that passed cross-referencing against the corresponding CPR for the corresponding week-end date. Clicking on the Auto Validation Pass button will generate a PDF of the passed interview.

**Submitted** is an interview that has been submitted and is awaiting cross-referencing against a CPR to be certified. Clicking on the Submitted button will generate a PDF view of the submitted form.

**Manual Override Pass** is when the incorrect information has been corrected and commented on. Clicking on the Manual Over-Ride Pass button will generate a PDF of the corrected interview form.
Questions????

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