

FEDERAL-AID HIGHWAY CONSTRUCTION CONTRACTOR'S ANNUAL EEO REPORT

Form FHWA-1391

Reporting Period, Last Payroll period preceding July 31.

INTRODUCTION

The Annual Equal Employment Opportunity (EEO) Report is both a Federal Highway Administration (FHWA) requirement and a Tennessee Department of Transportation (TDOT) contract provision requirement. The purpose of the Contractor's Annual EEO Report is to collect employment data (including a breakdown of all racial/ethnic minorities and women employed) from all highway construction contractors who have an active Federal-Aid Contract of \$10,000 or more during the reporting period. This provides invaluable information that is used by both the Federal and State Government in evaluating the status and effectiveness of the Equal Employment Opportunity (EEO) Program. It is extremely important that accurate data is collected, and submitted, as the status and effectiveness of State and Contractor EEO Programs can directly affect the status of funding for Federal-Aid Highway Construction Projects.

All TDOT Contractors and Subcontractors with an active contract have been provided with instructions for electronic access to the Federal-Aid Highway Construction Contractor's Annual EEO Report, FORM FHWA-1391 (Rev 06-10) and these instructions. The provided form 1391 is in Excel spreadsheet format. Electronic access, completion and submission of the report in the provided Excel spreadsheet format is necessary for electronic compilation and reporting of all 1391 reports being submitted. Contractors not having the capability to access, complete, and submit a hard copy of the form 1391 will follow the instructions for manual preparation and submission outlined in their Annual EEO Report notification letter.

Contractors/Subcontractors failing to file an Annual EEO Report are in violation of their contract provisions contained in Form FHWA-1273 and TDOT Special Provision 1230. TDOT Special Provision 1230 states **“current estimates may be withheld when reports are not received within the specified time limits.”** In a case of continued failure to file the report, enforcement proceedings may also be instituted. In the event enforcement proceedings are instituted and the final determination is that a violation of your equal opportunity contract requirements has taken place, any Federal-Aid Highway Construction Contracts or Subcontracts which you hold may be cancelled, terminated or suspended. In addition, TDOT may initiate the process to change the status of your prequalification and temporarily disqualify you from bidding on TDOT Projects. Such other sanctions as are authorized by Federal, State and local laws/regulations/policies may also be imposed.

Please note that an inaccurate or incomplete report that is not accepted, and returned to the contractor, cannot be considered as a received or filed report. Please take the time to completely read and comply with all requirements contained within this set of instructions to ensure a correctly and effectively filed report.

GENERAL INSTRUCTIONS

Only the data boxes colored blue are to be used to enter required data. The Excel spreadsheet will automatically populate the boxes colored green from the numbers entered into the blue boxes. Please note that as well as being included in the total workforce in Table A, you must also enter the total number of Apprentices and/or OJT Trainees in Table B as well as by listing them by individual gender and ethnic category in Table C.

All active contractors and subcontractors (*no matter what tier*), with a Federal-Aid Highway Construction Contract of \$10,000 or more, must complete this report (**An individual form for each active project**) for all Federal-Aid Highway Construction Projects that were active during the reporting period. All contractors and subcontractors with an active contract were sent separate notices and will file reports for themselves only. Prime

contractors are not responsible for submitting subcontractor reports. Prime Contractors are responsible for ensuring all subcontractors are aware of EEO Contract Special Provision requirements.

If the project has been closed out, or if for some reason there is no work on the project during the reporting time frame, a form 1391 should still be submitted with only the first three boxes completed. Box number three will contain only the notation "No Active Contract".

Employment data will be limited to the workforce involved on highway construction projects within Tennessee during the last payroll period preceding July 31. It doesn't matter if construction workers are working on more than one Federal-Aid Project during the reporting period or not, they are only reported once. **Include** those company officials and supervisors that are on the projects for a **majority of the time** even if they do not appear on payrolls. **Do not include** any company personnel that may be on the Project on an occasional basis; but do not have daily, on-site responsibility for project activity. **Do not include** any home office personnel unless they are assigned exclusively to a project and appear on the project payroll. This primarily applies to clerical personnel. Only use the most appropriate job category listed in Table A to report employees. (*i.e., list flaggers as unskilled laborers, operators of paint striping trucks are not painters, they are truck drivers or equipment operators, form builders and helpers are carpenters, form setters are semi-skilled laborers, list survey crews as semi-skilled laborers for lack of a better category*). **Do not alter any part of the report, cross out any printed categories, write in different categories, or provide information not requested on the report. This will result in the report not being acceptable and it will be returned.**

The following general guidance is provided to assist in completing Tables B and C:

All Apprentices and OJT Trainees will be included in the total number of employees reported in Table A. They are then also included in the appropriate classification and ethnic categories in Tables B and C.

Apprentices: Do not count any project personnel as apprentices unless they are indentured in an Apprenticeship Program recognized and approved by the TDOT, U.S. Dept. of Labor and/or FHWA.

On-/the-Job Training (OJT) Programs: Do not count any project personnel as being in an OJT Program unless they are in a program recognized and approved by the TDOT, U.S. Dept. of Labor, FHWA or TDOT. For TDOT, this is for contracts that have a Training Special Provision included in the contract.

List the apprentices or trainees **in the job category for which they are training**, not as semi-skilled or unskilled laborers.

Reports are to be filed with the TDOT Civil Rights Office, through one of the mediums identified below, no later than **August 20, 2010**. Any versions, or revisions, other than the one provided, **Form FHWA-1391 (Rev 06-10) in Excel spreadsheet format, does not contain all required data, cannot be accepted, and will be returned for correction.**

Reports submitted by e-mail utilizing the provided Excel spreadsheet format will be sent to the following address: AA.CC@tn.gov

Any questions regarding the Annual Report requirement, and/or the completion of Form FHWA-1391, should be addressed to Affirmative Action Officer, Lee Rice, at Telephone # (615) 741-5996 or the FAX or e-mail address below.

MAIL ADDRESS: Affirmative Action Program
James K. Polk Building – Suite 1800

FAX: (615) 741-3169 ATTN: Lee Rice

505 Deaderick Street
Nashville, TN 37243

E-mail: Oscar.Rice@tn.gov

FORM FHWA-1391 SPECIFIC INSTRUCTIONS

Blocks 1-5: The instructions on this page correspond with the blocks numbered 1-5 on the report. All numbered blocks are required data fields unless otherwise noted. Please ensure that all required data fields are completed and that your data is accurate. **Reports not containing all required/correct data fields will not be accepted and will be returned to the contractor/subcontractor.**

If the project has been closed out, or if for some reason there is no work on the project during the reporting time frame, a form 1391 should still be submitted with only the first three boxes completed. Box number three will contain only the notation “No Active Contract”.

1. Mark the appropriate category.
2. Enter the complete name and address of your organization.
3. Enter the Project number of the Prime Federal-Aid Highway Construction Contract within Tennessee in which your company had an active workforce at any time during the last pay period preceding July 31.
4. Enter the total dollar amount of that contract.
5. Enter the Project Location (County and State).

Examples of Form FHWA-1391 Blocks 1-5 completion for Prime Contractors and Subcontractors on Active Projects.

1. MARK APPROPRIATE BLOCK: <input checked="" type="checkbox"/> Contractor <input type="checkbox"/> Subcontractor	2. COMPANY NAME, CITY, STATE: IBA Contractor, Inc. 200 Profit Margin Lane Hardhat, TN 00000-0000	3. PROJECT NUMBER: ABC001	4. DOLLAR AMOUNT OF CONTRACT \$50,000,000.03	5. PROJECT LOCATION: (County and State) DAVIDSON Co., TN
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1. MARK APPROPRIATE BLOCK: <input type="checkbox"/> Contractor <input checked="" type="checkbox"/> Subcontractor	2. COMPANY NAME, CITY, STATE: IBA Subcontractor 100 Early Bird Street Makindo, TN 00000-0000	3. PROJECT NUMBER: ABC001	4. DOLLAR AMOUNT OF CONTRACT \$20,000.97	5. PROJECT LOCATION: (County and State) DAVIDSON Co., TN
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Block 6-Tables A, B, & C: Table A include total # of employees working on highway construction projects at any time during the last pay period preceding July 31. This includes Apprentices or On the Job Training (OJT) Program employees. Women **WILL NOT** be counted as minorities unless they are members of one of the six ethnic minority groups in Table A. Apprentices and OJT employees are further identified on **Table B** (in the job category being trained in), and in **Table C** by their race/ethnic status. **DO NOT** report any employees as Apprentices or in OJT unless they are currently enrolled in recognized/approved training programs. Completing each category in this report by ethnic and gender breakdown before going on to the next job category is crucial. **For clarity, please do not insert a zero (0) when there is nothing to report.** Although only showing two job categories, a correctly computed example is shown below:

TABLE A																			TABLE B			
JOB CATEGORIES	TOTAL EMPLOYED		TOTAL RACIAL/ ETHNIC MINORITY		BLACK or AFRICAN AMERICAN		HISPANIC or LATINO		AMERICAN INDIAN or ALASKA NATIVE		ASIAN		NATIVE HAWAIIAN or OTHER PACIFIC ISLANDER		TWO OR MORE RACES		WHITE		APPRENTICES		ON THE JOB TRAINEES	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
CEMENT MASON	4		2		1		1										2					
ELECTRICIAN	25	14	5	3	2	1	1	1	1	1							20	11	6	2		
TOTALS	29	14	7	3	3	1	2	1	1	1	1								6	2		
TABLE C (Table B data by racial status)																						
APPRENTICE	6	2	3	1	1			1	1		1						3	1				
ON THE JOB TRAINEES																						

There are numerous methods of cross-checking your math when preparing the report. Here are some basic examples to ensure all calculations are correct using the numbers from the above example:

$$\begin{array}{r}
 \text{Total minority entered under Male (7) plus entered under Female (3) = 10} \\
 + \text{ Total White entered under Male (22) plus entered under Female (11) = 33} \\
 = \text{ Total \# of employees under Male (29) plus entered under Female (14) = 43}
 \end{array}$$

The totals match. This can be done for each job category and at the bottom for the totals.

Remember to carry over the Apprentice and/or OJT employees from **Table B** to **Table C** near the bottom of the report. **Table C** is required to provide the specific ethnicity and gender of the Apprentice and/or OJT employees from **Table B**. In the example, there are 6 Male and 2 Female Apprentices. No employees are in an OJT Program. The ethnic breakdown of all Apprentices is calculated from each job category and summarized in **Table C**. The example shows that of the 8 Apprentices, 3 are White males and 3 are Minority males broken down into ethnic categories of 1 Black, 1 American Indian or Alaskan Native and 1 Asian. There is a total of 2 Female Apprentices. 1 is White and 1 is Hispanic.

$$\text{Total White entered under Male (3) plus entered under Female (1) = 4}$$

The totals match.

$$\begin{aligned} &+ \text{ Total minority entered under Male (3) plus entered under Female (1) } = 4 \\ &= \text{ Total \# of employees under Male (6) plus entered under Female (2) } = 8 \end{aligned}$$

Blocks 8-10 of the report identifies the contractor's authorized representative and the State Highway Official responsible for reviewing the report. All reporting contractors and subcontractors must file the report, with the TDOT Civil Rights Office *no later than August 20, 2010*. Reports which are inaccurate, or incomplete, will be returned for correction. Reports filed electronically are required to be maintained on file by the contractor for three years. All contractors required to submit this report must have sufficient documentation on file that would effectively show its work force on a project-by-project basis in support of the data submitted to the State on the consolidated FHWA-1391 report. Special Provision 1230 included in all Federal-Aid Contracts states **“current estimates may be withheld when reports are not received within the specified time limits.”** An inaccurate or incomplete report that is not accepted cannot be considered as a received report.

Illustrated below is an example of how blocks 8 and 9 on the Form FHWA-1391 should be completed by the contractor's representative. The representative's typed name and date will suffice as an electronic signature. The responsible State Highway Official will complete blocks 10 and 11 after review of the contractor's submitted report and prior to the State's submission of the report to the Federal Highway Administration. Note the revision number (Rev 06-10) of the Form. **Due to the significant changes in this revision, no other revisions or editions are acceptable.**

8. PREPARED BY: (<i>Signature and Title of Contractors Representative</i>) <i>JOHN DOE</i> , Equal Employment Opportunity Officer	9. Date 8/2/2010	10. REVIEWED BY: (Signature and Title of State Highway Official) <i>OSCAR L. RICE, JR.</i> , Affirmative Action Officer	11. Date 8/4/2010
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