

AA/EEO Requirements

State and State-Assisted Construction Contracts



Department of
Administrative Services

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New Contractor
AA/EEO
Guidance Manual

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Introduction

Congratulations on bidding or being awarded a contract with the State of Ohio. The Department of Administrative Services, Equal Opportunity Division (EOD) has developed this Manual for companies to better understand their requirements as it relates to Affirmative Action/Equal Employment Opportunity (AA/EEO) while performing on a state or state-assisted contract.

Specifically, this manual provides guidance on the following areas:

- Pre-Award Certificate Requirements;
- Certificate of Compliance;
- Affirmative Action/Equal Employment Opportunity Responsibilities Overview;
- Development of an Affirmative Action Program (AAP);
- Accomplishment of an AAP;
- Minority and Female Goals in the Construction Trades;
- Demonstrating Good Faith Efforts;
- Construction Job Site; and
- Employment Reporting Responsibilities – Input Form 29.

Statutory and Regulatory Authority

Affirmative Action Plan (AAP)	Certificate of Compliance (COC)
O.R.C. 153.59 (Appendix A)	O.R.C. 9.47 (Appendix B)
O.A.C. 123:2-3 – 2-11	O.R.C. 153.08 (Appendix C)
	O.A.C.123:2-11-01 (Appendix D)

Manual Questions

If you have any questions regarding this manual, please contact the Department of Administrative Services, Equal Opportunity Division at 614-4666-8380.

Business Certification and Compliance Unit Overview

This Unit verifies, inspects, and regulates companies doing business with the State of Ohio to ensure that companies adhere to state and federal affirmative action and equal employment opportunity laws and regulations. Those responsibilities include the following:

- Certifying company compliance with AA/EEO laws and regulations;
- Reviewing and approve affirmative action plans;
- Monitoring state and state-assisted contracts and construction project sites;
- Implementing program rules and conduct training; and
- Providing assistance to state agencies, universities, and municipalities.

Graphics Descriptions

The following graphics are used throughout the Manual to highlight or bring to the reader's attention important information and useful tips.



Indicates a critical or caution point.



Indicates a point of note.



Indicates a useful resource.



Indicates a useful point or shortcut.

Pre-Award Certificate Requirements

My company is about to be awarded a state or state-assisted contract. As a contractor, what certificate must my company obtain?

Companies bidding on state or state-assisted construction contract(s) may apply for a Certificate of Compliance (COC) from EOD and must provide a valid certificate **prior to bidding** on any contract awarded under Chapter 153 of the Ohio Revised Code (ORC) or awarded by the Director of the Department of Transportation pursuant to Chapter 5525 of the Ohio Revised Code.

A state contract shall not be entered into unless the company possesses a valid Certificate of Compliance issued by the State EEO Coordinator, pursuant to ORC 9.47. The State EEO Coordinator will determine if a company has complied with all applicable federal and state AAP to which the company was subject to pursuant to ORC 153.59.

How does my company obtain a COC if my company is a bidding on a state or state-assisted construction contract?

The Certificate of Compliance Application must be electronically submitted through the Ohio Business Gateway (OBG).

To apply for a COC, please complete the following steps:

1. Go to the web link - <https://gateway.ohio.gov>;
2. Create a business account on OBG webpage. If the business already has an account, go to next step;
3. Login ~ Enter username and password;
4. Follow the instructions for submitting the Certificate of Compliance;
5. Review Summary Page for accuracy and select "Accept"; and
6. Print the Confirmation Receipt for your records.

What happens after my company submits its requests for a COC?

The Equal Opportunity Division will evaluate a company's application to determine the following:

1. Does the company meet all AAP requirements?
2. Has the company been found in violation of an any AAP with any governmental agency?
3. Did the company have hiring opportunities while performing on state and state-assisted construction contracts? If yes, did the company meet its hiring goals or demonstrate good faith efforts?
4. Does the company have any discrimination complaints filed against it? If yes, what is the status of each complaint?
5. Did the company comply with the workhour utilization reporting requirements?
6. Is the company under an agreement/corrective action plan with any governmental entity? If yes, did the company comply with terms of the agreement?

What happens when my company is issued a COC?

After EOD has reviewed the requesting company's request for a COC, EOD will decide as to if the company has achieved the State of Ohio's Affirmative Action Plan requirements. If the company has met the requirements of the State of Ohio's Affirmative Action Plan the company will be issued an "In Compliance" COC for up to 180 days.

If EOD determines that the company has NOT achieved the State of Ohio's Affirmative Action Plan requirements. The company will be issued a "Conditional" COC for up to 180 days and be **placed on a Plan of Action.**

What happens if EOD denies my company's COC application request?

If EOD determined that a company has failed to demonstrate good faith efforts to comply with the affirmative action requirements in the employment of minorities and females in the construction trades, the company will be found in violation of the State of Ohio's AAP.

If the company is found to be in violation, the State EEO Coordinator (Coordinator) may issue the company a denial notification with an explanation of the violation(s) and appeal rights.

Any company denied a COC may appeal EOD's decision to the Director of the Ohio Department of Administrative Services (Director). The appeal must be filed within ten days from the date of EOD's determination. The Director shall within five days after receipt of the appeal, either affirm or reverse the Coordinator's determination.

If a company is not satisfied with the decision of the Director, within thirty days of the decision of the Director, the company may appeal the Director's decision to the Court of Common Pleas (Franklin County). At the hearing before the court, evidence may be introduced for and against the Director's decision.

Affirmative Action/Equal Employment Opportunity Responsibilities Overview

How does my company meet its responsibilities for Affirmative Action and Equal Opportunity Employment?

Pursuant to rule 123:2-3-02(A)(b) of the Ohio Administrative Code (OAC), companies ***must meet*** the state workhour utilization goals. When the goals are not met, companies ***must*** implement and demonstrate good faith effort and take specific affirmative steps toward the achievement of the state's workhour utilization goals. ***Sanctions and penalties may be imposed on any company that fails to meet the goals of an AAP.***

Who must have an AAP?

Companies with fifty or more employees and a state contract of \$50,000 or more (50/\$50,000) or a state contract that exceeds \$500,000 regardless of the number of employees. All companies must comply with AA/EEO requirements while performing on a state or state-assisted construction contracts. The affirmative action requirements for companies include the following:

- Workhour utilization goals for minorities; and
- Workhour utilization goals for women during the performance of a state contract.

Companies are required to exert every good faith effort to accomplish the goals of the AAP.

How does my company obtain an acceptable AAP?

Companies may obtain an acceptable AAP by either of the following methods:

1. Adopt the State of Ohio's AAP, Equal Employment Opportunity Statement, Sexual Harassment Statement, and percentage goals for minority workhour utilization when submitting a COC Application or;



The minority workhour utilization goals are listed as the proportion of minority work hours to the company's **total workforce hours, for all state and non-state construction projects, during the performance of the state contract.**



Companies good faith efforts shall not be determined solely by the company's accomplishment of the utilization work hour goals.

2. Develop or submit for approval a company developed or existing AAP.



It is the responsibility of each contracting agency to develop a program to assist companies through conference, conciliation, mediation, and persuasion to accomplish the goals and objectives of the State of Ohio's AAP.

How does my company develop an AAP?

If a company does not adopt the state's AAP, the company shall develop an AAP in accordance with the requirements in OAC 123:2-3-04.

The AAP is a set of specific and results oriented procedures. The objective of the procedures and efforts is to ensure equal employment opportunity. An acceptable AAP shall include an analysis of all trades employed by the company within the last 12 months with an explanation of whether minorities and/or women are currently being underutilized in any trade.



A prerequisite to the development of a satisfactory AAP is the identification and analysis of problem areas inherent in minority and/or female employment in the construction trades and an evaluation of opportunities for utilization of minorities and females in those identified trades.

An acceptable AAP must include the following areas:

Part I: Basic Contents

- Development or reaffirmation of the company's equal employment opportunity policy and sexual/anti-harassment policy in all personnel actions;
- Formal internal and external dissemination of the company's EEO policies;
- Establishment of responsibilities for implementation of the company's AAP;

- Identification of problem areas (deficiencies) by organizational units and job classifications;
- Establishment of goals and objectives by organizational units and job classifications;
- Development and execution of action-oriented programs designed to eliminate problems and further designed to attain established goals and objectives;
- Design and implementation of internal audit and reporting systems to measure effectiveness of the total program;
- Compliance of personnel policies and practices with the sex discrimination guidelines;
- Active support of local and national community action programs and community service programs designed to improve the employment opportunities for minorities and women;
- Consideration of minorities and women not currently in the work force having requisite skills who can be recruited through affirmative action measures; and
- Summary data of applicant flow, hires, terminations, promotions and training for the last 12 months.

Part II: Analysis of Individual Trades

The company may develop their own minority utilization work hour goals to include an analysis of all trades employed by the company within the 12 months, provide an explanation of problem areas inherent in minority employment, and provide an evaluation of minority underutilization in all trades. To determine where minorities are underutilized in any trade, the company shall consider the following factors:

- The minority population of the labor area surrounding company's job sites;
- The minority employment rate in the labor area surrounding the company job sites;
- The percentage of the minority workforce in the immediate labor area;
- The general availability of minorities in the immediate labor area;
- The availability of minorities in an area from which the company can reasonably recruit;
- The availability of promotable minorities within the company's workforce;
- The anticipated expansion, reduction and turnover of the company's workforce;
- The existence and proximity of qualified training institutions; and
- The degree of training the company is reasonably able to provide to make all job classes available to minorities.



The company may adopt the State of Ohio's minority goals or supplement the state's goals with specific affirmative action steps.



The company **must** adopt 6.9% workhour utilization goal for women (See OAC 123:2-3-05).



Union companies shall obtain a certification from all labor unions stating that the union's employment policies and practices do not discriminate based on race, color, religion, sex, or national origin. If a company cannot secure such certification, the company must submit documentation of the attempts to get union's response and/or excuse for not providing a statement (See OAC 123:2-3-06).

Goals, timetables and affirmative action commitments must be designed to correct any identifiable deficiencies. Where deficiencies exist and where numbers or percentages are relevant in developing corrective action, the company shall establish and set forth specific goals and timetables. Such goals and timetables, with supporting data and analysis shall be a part of the company's written AAP.

Where the company has not established a goal, its written AAP specifically analyze each of the factors listed above and must detail its reason for a lack of a goal. The goals and timetables should be attainable in terms of the company's analysis of its deficiencies and its entire action. Thus, in establishing its goals and timetables, the company should consider the results which could be reasonably expected from its good faith efforts to make its overall AAP successful. If the company does not meet its goals and timetables, the company's good faith efforts shall be judged as to whether the company is following its program and attempting to make the program work toward the attainment of its goals.

The company must maintain all supporting data applicable to the development of the company's AAP. The company's AAP must be submitted with the company's bid or prior to the submission of bids. The contracting agency must approve or disapprove the AAP submitted by a company. Pursuant to OAC 123:2-3-07, a company's failure to adopt the state's AAP or submit an acceptable AAP shall result in the company being found to be not responsive.

AAP Achievement?

A company will have met the goals of an AAP, either the state's AAP or a company's developed and state approved AAP, if the company can establish one of the following:

1. The company's workhours utilization for minorities and women meet or exceed the goals of the AAP for the total of all the company's projects within the designated geographic areas.
2. The company is a member of a contractor association or other employer organization which has as one of its purposes expanded workhours utilization for minorities and women and the total workhours utilization of minorities and women, by all member contractors and subcontractors of the association or organization on all projects in which they are involved within the designated area, meet the workhour utilization goals for the designated geographic area.
3. The company has a collective bargaining agreement with a labor union that supplies the company with over 80 percent of the company's needed workforce

and the total workhour utilization in the crafts the labor union has referred on all projects within the designated area meet the workhour utilization goals for the designated geographic area.

- The contractor or the employer association to which the company belongs has a collective bargaining agreement with a labor organization that supplies the company with over 80 percent of the company’s needed workforce in a trade. Such labor organization is subject to a court order or a consent decree containing an AAP and the labor organization meets the requirements of the AAP.



Pursuant to 123:2-3-04(F) of the Administrative Code, where the company has denied any person equal employment opportunity, the company will not have met the goals of the company’s AAP.

State of Ohio’s Workhour Utilization Goals?

The workhour utilization goal for women in the construction trades applies to all the company’s construction sites regardless of whether the project is a state or non-state funded project. This requirement shall be met by a determination of workhours utilized in the same manner as minority utilization hours are calculated.



The minority and female goals are **not** quotas. Quotas are expressly forbidden by law. Affirmative action goals are targets for recruitment and outreach. And should be reasonably attainable by means of applying good faith efforts. The standard of compliance is good faith.

Minority Goal by Construction Trade			
Statewide Female Goal for All Trades = 6.9%			
Akron		Cincinnati	
Asbestos Workers	10%	Asbestos Workers	9%
Boilermakers	10%	Boilermakers	9%
Bricklayers	10%	Carpenters	10%
Electricians	10%	Elevator Constructors	10%
Elevator Constructors	10%	Floor Layers	10%
Glaziers	10%	Glaziers	10%
Ironworkers	10%	Lathers	10%
Lathers	10%	Marble, Tile & Terrazzo	10%
Operating Engineers	10%	Workers & Helpers	8%
Painters	10%	Millwrights	10%
Plasterers	10%	Operating Engineers	11%
Plumbers	10%	Painters	11%
Roofers	10%	Plasterers	10%
Sheet Metal Workers	10%	Pipe Fitters	11%
All Other Trades	10%	Plumbers	11%
		All Other Trades	10%
Columbus		Cleveland	
Asbestos Workers	10%	Asbestos Workers	17%
Boilermakers	10%	Boilermakers	10%
Bricklayers	10%	Carpenters	16%
Carpenters	10%	Electricians	20%

Cement Masons	10%
Electricians	10%
Elevator Constructors	10%
Glaziers	10%
Ironworkers	10%
Lathers	10%
Operating Engineers	10%
Painters	10%
Plasterers	10%
Plumbers	10%
Roofers	10%
Pipe fitters	10%
Sheet Metal Workers	10%
All Other Trades	10%
Dayton	
Asbestos Workers	11%
Boilermakers	11%
Carpenters	11%
Electricians	11%
Elevator Constructors	11%
Ironworkers	11%
Lathers	11%
Operating Engineers	11%
Painters	11%
Millwrights	11%
Plumbers	11%
Sheet Metal Workers	11%
All Other Trades	11%
Toledo	
Asbestos Workers	9%
Boilermakers	9%
Carpenters	9%
Electricians	9%
Elevator Constructors	9%
Glaziers	9%
Ironworkers	9%
Lathers	9%
Operating Engineers	9%
Painters	9%
Plumbers	9%
Sheet Metal Workers	9%
All Other Trades	9%
Elevator Constructors	11%
Glaziers	17%
Ironworkers	13%
Operating Engineers	10%
Painters	17%
Plasterers	20%
Plumbers	17%
Roofers	17%
Pipe fitters	17%
All Other Trades	17%
Youngstown-Warren	
Asbestos Workers	9%
Bricklayers	9%
Carpenters	9%
Electricians	9%
Elevator Constructors	9%
Floor Mechanics	9%
Glaziers	9%
Ironworkers	9%
Lathers	9%
Marble, Tile & Terrazzo	9%
Operating Engineers	9%
Workers & Helpers	9%
Painters	9%
Steam Fitters	9%
Sheet Metal Workers	9%
All Other Trades	9%

What must a company agree to while performing on a state or state-assisted construction contract?

Affirmative action and EEO requirements are included in the bid specifications for all state and state assisted construction contracts. Companies must agree and comply with the following provisions while performing under state contracts.

Conditions of a state or state-assisted construction contract

Nondiscrimination

1. The company shall comply with applicable laws regarding equal employment opportunity, including Ohio Revised Code (R.C.) Sections 153.59, 125.111 and all applicable Executive Orders.
2. In the hiring of employees for the performance of the work under any contract or subcontract, no company or any person acting on the company's behalf, shall, by reason of race, creed, sex, disability, military status, or color, discriminate against any citizen of the state in the employment of labor or workers who is qualified and available to perform the work to which the employment relates.
3. No company or any person acting on a company's behalf shall, in any manner, discriminate against or intimidate any employee hired for the performance of work under the contract on account of race, creed, sex, disability, military status, or color.
4. The company shall cooperate fully with the State Equal Opportunity Coordinator, with any other official or agency of the state or federal government, which seeks to eliminate unlawful employment discrimination, and with all other state and federal efforts to assure equal employment practices under the contract.
5. In the event the company fails to comply with the nondiscrimination clauses, the contracting agency shall deduct from the amount payable to the company a forfeiture of the statutory penalty pursuant to R.C. 153.60 for each person who is discriminated or intimidated against.
6. The contract may be terminated or suspended in whole or in part by the contracting agency and all money to become due hereunder may be forfeited in the event of a violation.

Hiring Under State Public Improvement Contracts

1. Any provision of a hiring hall contract or agreement which obligates a company to hire, if available, only employees referred to the company by a labor organization shall be void as against public policy and unenforceable with respect to employment under any public improvement contract unless at the date of execution of the hiring hall contract or agreement, or within 30 days thereafter, the labor organization has procedures in effect for referring qualified employees for hire without regard to race, color, religion, national origin, military status, or ancestry and unless the labor organization includes in its apprentice and journeyman's membership, or otherwise has available for job referral without discrimination, qualified employees, both whites and non-whites (including African-Americans).

Affirmative Action

1. The company shall comply with all applicable affirmative action requirements pursuant to 123:2-3 through 123:2-11 of the Administrative Code.
2. The company shall demonstrate its good faith efforts to comply with the utilization goals established for minority and women employees in the construction trades.
3. The company shall post the company's EEO Policy Statement, Sexual Harassment/Anti-Harassment Policy Statements, all Ohio Posters - including (Minimum Wage, Equal Employment Opportunity is the Law, Minor Labor Laws, and Notice to Employees - Unemployment Compensation), Federal Labor Law Posters (Minimum Wage (FLSA), Job Safety and Health "It's the Law!" (OSHA 3165), Employee Polygraph Protection Act (EPPA), Equal Employment Opportunity Is The Law (EEO), Family and Medical Leave Act (FMLA), and Uniformed Services Employment and Reemployment Rights Act (USERRA).



Where a company's workforce is not proficient in English, the company must provide the posters and policies in the language the employees speak.



Posters and policies **must** be posted in a prominent and accessible place where it may be easily seen by employees. The posters and policies cannot be in a folder, manual, truck cab, toolbox, or not displayed.

Workforce Reporting - Input Form 29

1. The company shall provide monthly work hour utilization reports (Input Form 29) for the company's total workforce (private and public jobs) within the state of Ohio. The report must be filed by the tenth day of each month, beginning with the contract award and continuing until the contractor or subcontractor completes performance of the contract. A company's failure to submit a monthly utilization work hour report shall be a basis for invoking any of the sanctions set forth in rule 123:2-7-01 of the Administrative Code.



See page 18 for more information.

Conditions prior to the execution of a state or state assisted contract

1. The company shall submit with the bid an approved AAP or adopt the state of Ohio's AAP to the contracting agency.

What happens if my company did not achieve the workhour utilization goals?

Companies that do not meet the workhour utilization goals must implement and demonstrate good faith efforts to obtain the workhour utilization goals.

Demonstrating Good Faith Efforts

The following are some specific affirmative action steps that can demonstrate (but are not limited to) good faith efforts:

1. **Action Step:** Maintenance of a file of minority and women job applicants and the action taken *with each applicant*.

To Demonstrate Compliance: The company shall maintain an applicant flow log to include name, address, telephone number and trade name of each minority and female applicant showing: (1) the date of contact and whether the person was hired; if not, the reason, (2) if the person was sent to a union for referral, and the results, (3) follow-up contacts when the company was hiring.

2. **Action Step:** Notification to EOD of any labor union practice that impedes the equal employment of minorities and women, including the union's failure to refer minority and women applicants back to the company after the company's referral of the applicant to the union.

To Demonstrate Compliance: The company shall maintain copies of all letters to and from the unions, minutes of meetings, etc., related to any claims that the union has impeded the company's efforts to comply with its obligations. And maintain copies of any letters sent to the State EEO Coordinator that contain claims of non-referral or claims that a union has impeded the company's efforts to comply with EEO obligations.

3. **Action Step:** Publication and implementation of an equal employment opportunity policy within the company's organization.

To Demonstrate Compliance: The company shall have a written EEO policy which includes the name and contact information of the company's EEO Officer and (1) include the policy in any company manuals, (2) maintain records that show employees are aware and have received a copy of the policy, (3) discuss policy regularly at staff meetings and (4) maintain copies of newsletters and annual reports which include the policy.

To Demonstrate Compliance: The company shall produce and distribute copies of the policy statement prohibiting harassment to all employees. The Sexual Harassment Policy must include a definition of sexual harassment, company's responsibilities under policy and contact person in the event of a complaint.

To Demonstrate Compliance: The company shall **Post** all required posters and policies in conspicuous locations at the company's location(s) and all construction job sites.

To Demonstrate Compliance: The company shall maintain records to demonstrate policy is disseminated externally: (1) inform recruitment sources requiring compliance with policy; (2) advertisements which includes EEO "tagline", and (3) purchase orders and subcontractor agreement forms which includes EEO requirements (make reference to nondiscrimination covenants and OAC 123:2-3 through 2-9).

To Demonstrate Compliance: The company shall give supervisory personnel (including foreman, superintendents) and other employees memoranda and other

written instructions addressing the need to maintain a work environment free of harassment, intimidation, and coercion. Copies of such written material shall be retained.

To Demonstrate Compliance: The company shall hold meetings to inform supervisory personnel of their duty to carry out the company's obligation to maintain a workplace free of harassment, intimidation, or coercion. Meeting minutes or other records of such meetings shall be retained.

To Demonstrate Compliance: The company shall develop a formal procedure to handle complaints of harassment and maintain records of such complaints and how the company handled them.

To Demonstrate Compliance: The company's EEO officer shall prepare and retain reports, diaries, analyses, etc. of specific efforts made to monitor the work environment for the presence of any forms of harassment, intimidation, or coercion, such as: verbal visual or written abuse; physical aggressiveness; assigning women and/or minorities to more difficult or dangerous work than men/non-minorities; or sabotaging of individual's work.

To Demonstrate Compliance: The company shall maintain copies of letters, memoranda and notices to unions and training programs notifying them of the company's EEO policies and requirements and requesting their assistance in meeting those obligations.

To Demonstrate Compliance: The company may provide harassment awareness training to supervisors and employees. Companies should retain records of such training which indicate the dates of the training, the names of those conducting the training, the names of those attending the training, and a copy or description of the training materials.

4. **Action Step:** Evaluation of company's employment practices, including job classifications, promotions, recruitment and seniority designations, for discriminatory impact.

To Demonstrate Compliance: The company shall maintain records that show the company EEO officer reviews all: (1) monthly workforce reports, (2) hiring and terminations, (3) training provided on-the-job, (4) minority and female employees quarterly for promotion and encourages them to prepare for and seek promotion. The records should be the EEO officer's job description, reports, memos, personnel files, etc., documenting the activities for possible discriminatory patterns.

To Demonstrate Compliance: The company shall maintain records that show EEO policies and affirmative action obligations were reviewed with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions.

To Demonstrate Compliance: The company shall conduct a review of all supervisors' adherence to and performance under the company's EEO policies and affirmative action obligations.

5. **Action Step:** Maintenance of records detailing the company's efforts to recruit minorities and women.

To Demonstrate Compliance: The company shall establish and maintain current list of minority and female recruitment sources.

To Demonstrate Compliance: The company shall maintain files of letters to minority and female recruitment sources announcing the employment opportunities and application procedures. To maintain a record of recruitment organizations' responses, the company must retain any written responses received from the sources or other correspondence such a log that recorded the responses. Documentation must reflect *ongoing efforts* to recruit minorities and women during hiring opportunities.

To Demonstrate Compliance: The company shall send notice to its recruitment sources for women and minorities announcing acceptance of applications for apprenticeship or other training. This notice shall be sent no later than one month before publication of apprenticeship and training announcements. The notification shall describe the openings, screening procedures and tests to be used in the selection process. If a union is responsible for acceptance into the training programs, companies should ensure that information is obtained from the union on individuals who were referred from the recruitment sources/organizations that were accepted in the program.

To Demonstrate Compliance: The company shall develop relationships with, and work with local, regional, and/or state recruitment and/or sourcing offices that can identify and provide qualified and/or skilled minorities and women who can be employed in its construction trades and on construction projects. Ongoing documentation shall be maintained.

To Demonstrate Compliance: The company shall develop relationships with local and/or regional religious, community, and/or social leadership groups and/or agencies such as, various religious organizations that offer employment programs for members, local Urban League offices, other civic associations and non-profits that promote minority and/or women employment, for the purpose of promoting the company's efforts and recruitment of qualified and/or skilled minorities and women who can be employed in its construction trades and on its construction projects. Documentation shall be maintained.

To Demonstrate Compliance: The company shall institute and implement a recruitment effort monitoring system, by which the company will describe, explain, and document its efforts, including compiling and retaining supporting documentation of its efforts, to specifically request minorities and women in the construction trades. Documentation shall be maintained.

To Demonstrate Compliance: The company shall, when economically feasible, and appropriate for the purposes of furthering the company's business opportunities, provide training to employees to assist with their continued retention and utilization by the company in its construction trades. Documentation shall be maintained.

6. **Action Step:** The company shall document and maintain records of all solicitations of offers for subcontracts from minority and female construction companies and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

To Demonstrate Compliance: The company shall provide a list of subcontracts awarded to minority or female contractors and/or suppliers, showing the dollar amounts involved.

To Demonstrate Compliance: The company shall provide supporting documentation to show participation with minority or female contractors such as, invoices, purchases orders, etc.

To Demonstrate Compliance: The company shall provide supporting certification documents for the minority and/or female businesses utilized.

To Demonstrate Compliance: The company shall retain solicitations sent to minority and women's contractor associations or other business associations and state or local governmental agencies.

7. **Action Step:** The company shall comply with the requirement to submit a work hour utilization report (Input Form 29) monthly while performing on state and state assisted construction projects.
8. **Action Step:** The company shall comply with all applicable local, state and federal EEO and affirmative action requirements.

What are my Company's Requirements when on a Job Site?

Companies are mandated to maintain a working environment free of discrimination, harassment, and intimidation pursuant to the ORC 125.111 and 153.59.

State and state-assisted construction project sites shall be monitored by EOD to ensure the companies comply with these regulations.

Companies shall **POST** and **Maintain** on the job site the following:

1. Company's EEO Policy Statement, Sexual Harassment/Anti- Harassment Policy Statements;
2. Ohio Posters - including (Minimum Wage, Equal Employment Opportunity is the Law, Minor Labor Laws, and Notice to Employees - Unemployment Compensation); and
3. Federal Labor Law Posters (Minimum Wage (FLSA), Job Safety and Health "It's the Law!" (OSHA 3165), Employee Polygraph Protection Act (EPPA), Equal Employment Opportunity Is The Law (EEO), Family and Medical Leave Act (FMLA), and Uniformed Services Employment and Reemployment Rights Act (USERRA).



Where a company's workforce is not proficient in English, the company must provide the posters and policies in the language the employees speak.



Posters and policies **must** be posted in a prominent and accessible place where it may be easily seen by employees. The posters and policies cannot be in a folder, manual, truck cab, toolbox, or not displayed.

What are my company's reporting requirements while performing on a state of state-assisted construction contract?

The Workhour Utilization Report (Input Form 29) must be submitted by all contractors and subcontractors while performing on state and state-assisted construction contracts, regardless of the contract amount or number of employees employed by the company (See OAC 123:2-9-01).

Companies shall submit the Input Form 29 monthly for the company's or subcontractor's **total workforce** within the Ohio department of Administrative Services, Equal Opportunity Division for the period of time that the company or subcontractor is first awarded a state or state assisted contract to the last work day on the project even if there is no workforce on the job site.



The Input Form 29 must be submitted even if the company or subcontractor has no workforce on the job site from the award of the contract to the last day of work on the project.



The Input Form 29 must be filed electronically by the 10th day of each month.

The Input Form 29 report **must include**:

- **Construction trades only: all work hours** worked in Ohio on **all private and public** construction projects;
- Work hours must be reported separately for each trade; and
- List of current state and/or state assisted construction contract(s).

The Input Form 29 report **does not include**:

- Supervisory personnel (superintendent, foreman);
- Office personnel;
- Shop personnel (warehouse, factory, etc.); and
- Work hours on a specific state project



Companies are required to inform all subcontractors of the reporting requirement and ensure that all subcontractors are reporting correctly.

How does my company submit the Input Form 29?

The Input Form 29 must be electronically submitted through the Ohio Business Gateway (OBG). Below are instructions to access, complete, and submit the form:

1. Go to the web link - <https://gateway.ohio.gov>;
2. Create a business account on OBG webpage. If the business already has an account, go to next step;

3. Login ~ Enter username and password;
4. Follow the instructions for submitting the Input Form 29;
5. Review Summary Page for accuracy and select "Accept"; and
6. Print Confirmation Receipt for your records.



ALL companies and subcontractors (regardless the tier) MUST report.

What happen if my company does not submit the Input Form 29?

A company that fails to submit a monthly Workhour Utilization Report shall be a basis for invoking any of the sanctions set forth in OAC 123:2-7-01.

Frequently Asked Questions

When does a company need to submit an application for COC?

When bidding on state and state-assisted construction contracts pursuant to Chapter 153. of the Revised Code by a company referred to section 153.01 of the Revised Code or awarded by the Director of the Department of Transportation pursuant to Chapter 5525. of the Revised Code.

How long will it take to process a COC Application?

Approximately, 10 working days after the receipt of an application

Will EOD notify a company when a COC expires?

No.

When will a certificate expire?

A COC can be issued for up to 180 days.

How do I obtain a copy of an approved COC?

All approved certificates are available on the following web address.
<https://eodreporting.oit.ohio.gov/certification-compliance>

Are subcontractors required to submit an Input Form 29 report?

Yes.

Does a company that does not have a construction workforce or subcontractor required to submit an Input Form 29?

Yes. The company will answer no to the following question on the form: Does the company have any work hours to report this month?

What workhours are reported on the Input Form 29 report?

All work hours for construction trade(s) in the field only. The hours on the form must reflect the company's statewide workforce which **includes PRIVATE AND PUBLIC PROJECTS**. **NOTE:** The work hours reported on the form are not hours worked on a specific state or state assisted project.

Does a company continue to report the Input Form 29 report once a state project(s) has been completed?

No.

Why is a company required to submit work hours on private and public projects?

Ohio Administrative Code 123:2-9-01 states: “contractors and subcontractors must submit **total workforce** within the State of Ohio”. The work hours submitted on the report is utilized to determine whether the contractor meets the minority and female utilization goals.

Appendices

Appendix A

153.59 Discrimination and intimidation on account of race, religion, sex, disability, national origin or ancestry

Every contract for or on behalf of the state, or any township, county, or municipal corporation of the state, for the construction, alteration, or repair of any public building or public work in the state shall contain provisions by which the contractor agrees to both of the following:

(A) That, in the hiring of employees for the performance of work under the contract or any subcontract, no contractor, subcontractor, or any person acting on a contractor's or subcontractor's behalf, by reason of race, creed, sex, disability or military status as defined in section 4112.01 of the Revised Code, or color, shall discriminate against any citizen of the state in the employment of labor or workers who is qualified and available to perform the work to which the employment relates;

(B) That no contractor, subcontractor, or any person on a contractor's or subcontractor's behalf, in any manner, shall discriminate against or intimidate any employee hired for the performance of work under the contract on account of race, creed, sex, disability or military status as defined in section 4112.01 of the Revised Code, or color.

The department of administrative services shall ensure that no capital moneys appropriated by the general assembly for any purpose shall be expended unless the project for which those moneys are appropriated provides for an affirmative action program for the employment and effective utilization of disadvantaged persons whose disadvantage may arise from cultural, racial, or ethnic background, or other similar cause, including, but not limited to, race, religion, sex, disability or military status as defined in section 4112.01 of the Revised Code, national origin, or ancestry.

In awarding contracts for capital improvement projects, the department shall ensure that equal consideration be given to contractors, subcontractors, or joint ventures who qualify as a minority business enterprise. As used in this section, "minority business enterprise" means a business enterprise that is owned or controlled by one or more socially or economically disadvantaged persons who are residents of this state. "Socially or economically disadvantaged persons" means persons, regardless of marital status, who are members of groups whose disadvantage may arise from discrimination on the basis of race, religion, sex, disability or military status as defined in section 4112.01 of the Revised Code, national origin, ancestry, or other similar cause.

Appendix B

9.47 Certificate of compliance with affirmative action programs

(A) Any person desiring to bid on a contract awarded pursuant to Chapter 153. of the Revised Code by an owner referred to in section 153.01 of the Revised Code or awarded by the director of transportation pursuant to Chapter 5525. of the Revised Code may make application for a certificate of compliance with affirmative action programs. Application shall be made to the equal employment opportunity coordinator of the department of administrative services or the employee who succeeds to that officer's duties. The coordinator shall promptly determine whether the person has complied with all federal affirmative action programs to which the

person was subject and any state affirmative action program to which the person was subject pursuant to section 153.59 of the Revised Code which state or federal affirmative action program arose out of a contract the person had with the federal government, the state, or a political subdivision of the state. Where the coordinator determines the person has not committed any violation of such prior affirmative action programs during the five years immediately preceding the date of determination, the coordinator shall issue a dated certificate of compliance with affirmative action programs. The coordinator may issue an updated certificate to a person upon request but not more frequently than once every one hundred eighty days. A person who violates an affirmative action program during the five years preceding the date of determination is ineligible to bid on a contract awarded pursuant to Chapter 153. of the Revised Code by an owner referred to in section 153.01 of the Revised Code or awarded by the director of transportation pursuant to Chapter 5525. of the Revised Code for a period of three years after the date of determination.

(B) Notwithstanding division (A) of this section, this section is prospective in operation only and applicable to a violation of an affirmative action program that occurs after December 13, 1979. For the purpose of determining whether or not to issue a certificate of compliance with affirmative action programs during the five years subsequent to December 13, 1979, the coordinator shall make any specific determination based upon the period from December 13, 1979 to the date on which the determination is made, even though the period involved is less than five years. Five years after December 13, 1979, the coordinator shall make any determination solely pursuant to division (A) of this section.

(C) Any person denied a certificate, or an updated certificate may appeal to the director of administrative services for a review of the coordinator's determination. The appeal must be filed within ten days of the date of the determination. The director shall within five days after receipt of the appeal, either affirm or reverse the coordinator's determination.

(D) Any person dissatisfied with the decision of the director on review may, within thirty days, appeal the decision of the director to the court of common pleas of Franklin county. The court may affirm or reverse the decision of the director. At the hearing before the court, evidence may be introduced for and against the decision of the director. The decision of the court may be appealed as in other cases.

(E) The director of administrative services, in accordance with Chapter 119. of the Revised Code, shall adopt, and may amend or rescind, rules to implement this section.

Appendix C

153.08 Opening bids and awarding contract

On the day and at the place named in the notice provided for in section 153.06 of the Revised Code, the owner referred to in section 153.01 of the Revised Code shall open the bids and shall publicly, with the assistance of the architect or engineer, immediately proceed to tabulate the bids. For a bid filed electronically, the public bid opening may be broadcast by electronic means pursuant to rules established by the Ohio facilities construction commission. A bid shall be invalid and not considered unless a bid guaranty meeting the requirements of section 153.54 of the Revised Code and in the form approved by the commission is filed with such bid. For a bid that is not filed electronically, the bid and bid guaranty shall be filed in one sealed envelope. If the bid and bid guaranty are filed electronically, they must be received electronically before the deadline published pursuant to section 153.06 of the Revised Code. For all bids filed

electronically, the original, unaltered bid guaranty shall be made available to the public authority after the public bid opening, which may be achieved by means of an electronic verification and security system established under rules adopted by the Ohio facilities construction commission under Chapter 119. of the Revised Code. After investigation, which shall be completed within thirty days, the contract shall be awarded by such owner to the lowest responsive and responsible bidder in accordance with section 9.312 of the Revised Code.

No contract shall be entered into until the industrial commission has certified that the person so awarded the contract has complied with sections 4123.01 to 4123.94 of the Revised Code, until, if the bidder so awarded the contract is a foreign corporation, the secretary of state has certified that such corporation is authorized to do business in this state, until, if the bidder so awarded the contract is a person nonresident of this state, such person has filed with the secretary of state a power of attorney designating the secretary of state as its agent for the purpose of accepting service of summons in any action brought under section 153.05 of the Revised Code or under sections 4123.01 to 4123.94 of the Revised Code, and until the contract and bond, if any, are submitted to the attorney general and the attorney general's approval certified thereon. No contract shall be entered into unless the bidder possesses a valid certificate of compliance with affirmative action programs issued pursuant to section [9.47](#) of the Revised Code and dated no earlier than one hundred eighty days prior to the date fixed for the opening of bids for a particular project.

Appendix D

123:2-11-01 Certificates of Compliance

Bidders to contracts awarded pursuant to Chapter 153. of the Revised Code by an owner referred to section 153.01 of the Revised Code or awarded by the director of transportation pursuant to Chapter 5525. of the Revised Code must apply for a certificate of compliance to the state equal employment opportunity coordinator. Application shall be made on the form and according to the instructions established by the state equal employment opportunity coordinator.

Where the state equal employment opportunity coordinator determines that a bidder has not committed any violation of any affirmative action program with which the bidder was required to comply during the previous five years, the coordinator shall issue a dated certificate of compliance that is valid for one hundred eighty days.

The bidder is solely responsible for the completeness and the accuracy of its application for certificate of compliance. The state equal employment opportunity coordinator may determine a bidder to have violated an affirmative action program it was required to comply with, if the coordinator determines the bidder knowingly falsified its application for a certificate of compliance or knowingly omitted information requested by the application for certificate of compliance.