



Purpose

As Connecting Washington continues to increase the number of construction projects in our state, the need for a qualified workforce increases with it. Local Pre-Apprenticeship and Apprenticeship Programs are working hard to recruit qualified individuals into the construction trades and make sure they are well prepared to enter the workforce. Many of these are minority, female, or otherwise socially and economically disadvantaged individuals. WSDOT and our Industry Partners are committed to creating an inclusive environment and workforce, and ensuring that all individuals are treated properly, both in the workplace and on all worksites.

New specification language has been prepared to strengthen our requirements for nondiscrimination for incorporation into new and existing contracts. The specification language and Construction Manual language are attached to this bulletin.

Guidance

Region Construction Engineers are encouraged to review their active construction contracts and to incorporate these new specifications by change order where appropriate. Active projects that are near completion may not benefit from these new requirements. We anticipate this language will be added through no-cost change orders. Should there be a request for an equitable adjustment, please notify the State Construction Office for further guidance.

Contracts that are currently on advertisement will need to include this language by addendum.

Project-specific special provisions have been developed for the purpose of incorporating these requirements into existing and advertised contracts. These special provisions can be downloaded at <http://www.wsdot.wa.gov/business/construction/bulletins.htm>, or by contacting any Region Plans Office or the Contract Ad & Award Office.

Please contact the ASCE assigned to your region if you have questions or need further guidance.

Implementation Plan

In early January, the Standard Specifications and the Construction Manual will be updated to include this language.

Contact Information

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1-07.11(2) Contractual Requirements

1. The Contractor shall maintain a Work site that is free of harassment, humiliation, fear, hostility and intimidation at all times. Behaviors that violate this requirement include but are not limited to:
 - a. Persistent conduct that is offensive and unwelcome.
 - b. Conduct that is considered to be hazing.
 - c. Jokes about race, gender, or sexuality that are offensive.
 - d. Unwelcome, unwanted, rude or offensive conduct or advances of a sexual nature which interferes with a person's ability to perform their job or creates an intimidating, hostile, or offensive work environment.
 - e. Language or conduct that is offensive, threatening, intimidating or hostile based on race, gender, or sexual orientation.
 - f. Repeating rumors about individuals in the Work Site that are considered to be harassing or harmful to the individual's reputation.
2. The Contractor shall not discriminate against any employee or applicant for contracted employment because of race, creed, color, national origin, sex, age, marital status, or the presence of any physical, sensory or mental disability.
23. The Contractor shall, in all solicitations or advertisements for employees, state that all qualified applicants will be considered for employment, without regard to race, creed, color, national origin, sex, age, marital status, or the presence of any physical, sensory, or mental disability.
34. The Contractor shall insert the following notification in all solicitations for bids for Work or material subject to federal laws and regulations and made in connection with all program and activities and, in adapted form in all proposals for negotiated agreements:

The Contractor in accordance to Title VI of the Civil Rights Act of 1964, 78 Stat.252, 42 U.S. Code 2000d to 2000d-4, and Title 49 Code of Federal Regulations, Part 21, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color national origin and sex in consideration for an award.
45. The Contractor shall make decisions with regard to selection and retention of subcontractors, procurement of materials and equipment and similar actions related to the Contract without regard to race, creed, color, national origin, sex, age, marital status, or the presence of any physical, sensory, or mental disability.
56. The Contractor shall send to each labor union, employment agency, or representative of workers with which the Contractor has a collective bargaining agreement or other contract or understanding, a notice advising the labor union, employment agency or worker's representative, of the Contractor's commitments under this Contract with regard to nondiscrimination.
67. The Contractor shall permit access to its books, records and accounts by the Contracting Agency for the purpose of investigating to ascertain compliance with

these Specifications. In the event that information required of a Contractor is in the possession of another who fails or refuses to furnish this information, the Contractor shall describe, in writing, what efforts were made to obtain the information.

78. The Contractor shall maintain records with the name and address of each minority/female worker referred to the Contractor and what action was taken with respect to the referred worker.
89. The Contractor shall notify the Contracting Agency whenever the union with which the Contractor has a collective bargaining agreement has impeded the Contractor's efforts to effect minority/female workforce utilization. This being the case, the Contractor shall show what relief they have sought under such collective bargaining agreements.
910. The Contractor is encouraged to participate in Contracting Agency and Washington State Human Rights Commission approved program(s) designed to train craft-workers for the construction trades.

1-07.11(5) Sanctions

In the event of the Contractor is found in noncompliance with the provisions of [Section 1-07.11](#), the Contracting Agency may impose such Contract sanctions as it or the Federal Highway Administration may determine necessary to gain compliance including, but not limited to:

1. Progress payment requests may not be honored until the noncompliance is remedied to the satisfaction of the Contracting Agency.
2. The Contract may be suspended, in whole or in part, until such time as the Contractor is determined to be in compliance by the Contracting Agency.
3. The Contractor's pre-qualification may be suspended or revoked pursuant to [WAC 468-16](#). The Contracting Agency may refer the matter to the Federal Highway Administration (FHWA) for possible federal sanctions.
4. The Contract may be terminated.

Immediately upon the Engineer's request, the Contractor shall remove from the Work site any employee engaging in behaviors that promote harassment, humiliation, fear or intimidation including but not limited to those described in these specifications.

1-07.11(6) Incorporation of Provisions

The Contractor shall include the provisions of [Section 1-07.11\(2\)](#) Contractual Requirements (1) through (45) and the [Section 1-07.11\(5\)](#) Sanctions in every subcontract including procurement of materials and leases of equipment. The Contractor shall take such action or enforce sanctions with respect to a Subcontractor or supplier as the Contracting Agency or the FHWA may direct as a means of enforcing such provisions. In the event a Contractor becomes involved in litigation with a Subcontractor or supplier as a result of such direction, the Contractor may request the Contracting Agency enter into such litigation to protect their interests and the Contracting Agency may request the federal government to enter into such litigation to protect the interests of the United States.

SS 1-07.11(2) Contractual Requirements

Work Site

The Contractor is required to provide a work site that is free from discrimination, harassment, humiliation, fear, hostility or intimidation. Behaviors that violate this requirement include, but are not limited to, those listed in *Standard Specification* Section 1-07.11(2).

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SS 1-07.11(5) Sanctions

When the Project Engineer is aware of any behavior that promotes harassment, humiliation, fear or intimidation by an employee on the project, a review of the behavior should be conducted. The assigned ASCE should also conduct a review. If the ASCE determines that the behavior meets the criteria of *Standard Specification* Section 1-07.11(2) and the ASCE approves in writing, the Project Engineer may require the Contractor to remove the employee from the work site.

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