



Memorandum

Subject: **INFORMATION:** Rescission of 23 CFR 633 Subpart A and Revisions to Form FHWA-1273

Date: June 29, 2026

In Reply Refer To:
HIF

From: Hari Kalla 
Associate Administrator for Infrastructure

To: Directors of Field Services
Division Administrators

This memorandum is to notify you of the publication of a final rule in the Federal Register (91 FR 25492, May 11, 2026), rescinding 23 CFR part 633 subpart A, and to announce the revisions made to Form FHWA-1273.

The Federal Highway Administration (FHWA) is issuing a revised Form FHWA-1273, dated May 11, 2026, to align with this final rule, the previous final rule rescinding 23 CFR 633 Subpart B regarding Appalachian projects, and the issuance of Executive Order 14173 ("Ending Illegal Discrimination and Restoring Merit-Based Opportunity").

With the publication of this final rule, effective June 10, 2026, FHWA is removing the regulatory requirement that Form FHWA-1273 ("Required Contract Provisions, Federal-aid Construction Contracts") must be physically incorporated into each Federal-aid highway construction contract and all lower-tier subcontracts.

Please note that the elimination of the requirement to physically incorporate Form FHWA-1273 into Federal-aid highway construction contracts and subcontracts does not exempt recipients, subrecipients, and contractors from the underlying statutory and regulatory requirements themselves. Some provisions listed in Form FHWA-1273 are still required by other statutes or regulations to be included in construction contracts and subcontracts. However, recipients, subrecipients, and contractors are no longer mandated to use Form FHWA-1273 as the single mechanism to fulfill these obligations. They may choose alternative methods to incorporate the required provisions, though they may continue using Form FHWA-1273 if they prefer.

The changes made to Form FHWA-1273 since its last revision on October 23, 2023, include:

- **General Provisions (Section I):** Updated to explicitly state that the contracting agency retains authority to determine whether the contractor must use Form FHWA-1273 to physically incorporate required provisions, and that alternative methods may be chosen where permitted by the contracting agency.
- **Nondiscrimination (Section II):** Significant revisions were made to align with Executive Order 14173. This includes the removal of references to the revoked Executive Order 11246 ("Equal Employment Opportunity") and 41 CFR Part 60.

Detailed procedural requirements for affirmative action steps, the designation of an Equal Employment Opportunity Officer, and specific recruitment and training mandates have also been removed. Nondiscrimination requirements under Title VI, the Rehabilitation Act, and other applicable laws remain.

- **Nonsegregated Facilities:** The previous Section III requiring the certification of nonsegregated facilities has been removed entirely.
- **Renumbering and Minor Updates:** Subsequent sections have been renumbered accordingly due to the removal of the Nonsegregated Facilities section. Additionally, minor updates were made to the Contract Work Hours and Safety Standards Act provisions, such as adjusting the liquidated damages penalty amount from \$31 to \$33 per calendar day.

For a more detailed breakdown, a separate document featuring a section-by-section discussion of the changes will be posted on FHWA's website.

Except for the statutes and regulations cited, the contents of this document do not have the force and effect of law and are not meant to bind the States or the public in any way. This document is intended only to provide information regarding existing requirements under the law or agency policies.

Please share this information with the Federal-aid recipients in your State. Should you have any questions related to this memorandum, please contact Mr. James DeSanto at James.DeSanto@dot.gov, or Dr. Leslie Myers at Leslie.Myers@dot.gov in the Office of Infrastructure's Office of Preconstruction, Construction, Pavements, and Innovation.

cc: Director, Office of Competitive Grants and Workforce Programs, HAD