

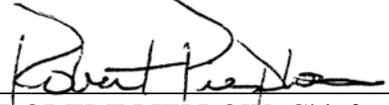


Construction Policy Bulletin

CPB 03-9 Civil Rights Act of 1964, Title 6 Equal Opportunity Complaints and Contract Administration

References: Civil Rights Act of 1964 - *Title 6*
California Government Code 65040.12
California Public Resources Code 71110
Presidential Executive Orders 12898 and 13166
Transportation Equity Act 21
Director's Policy 21 - *Environmental Justice*
Deputy Directive 63 - *Environmental Justice and Civil Rights in Transportation Decision Making*.

Effective Date: January 1, 2004

Approved: 
ROBERT PIEPLOW, Chief
Division of Construction

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Background

Caltrans complies with nondiscrimination laws and regulations, including Title 6 of the Civil Rights Act of 1964.

Title 6 of the Civil Rights Act of 1964 states in part, "No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

The Division of Construction follows through on community agreements, complies with mitigation measures, and preserves Title 6 requirements written into the contract. The Division of Construction amends construction contracts via contract change order.

New Procedure

The resident engineer or district labor compliance officer must discuss the equal opportunity and fair practices provisions of the contract at the preconstruction meeting and advise the contractor of requirements as stated in Title 6 of the Civil Rights Act of 1964.

Any complaint that implicates the practices of Caltrans or any Caltrans employee that have the effect of discrimination is considered a Title 6 complaint. Title 6 complaints may originate from a direct complaint made by the public, a contractor, or a Caltrans employee. Title 6 complaints that occur during construction should be referred to the district labor compliance officer. The district labor compliance

officer refers the issue to the Division of Construction. The Division of Construction ensures that proper evaluation or investigation is conducted. Since Caltrans is the respondent for all Title 6 complaints, the Civil Rights, Title 6 unit conducts the investigation of Title 6 complaints. The reported findings may result in contract amendments made by contract change orders.

Most contract change orders involve technical details that have no effect on Title 6. Changes that are more significant have a greater probability of conflicting with Title 6. Examples of significant contract change orders include: new traffic detours, changes in the length or limits of the project, mitigation measure changes, materials changes, changes in contract mandated material borrow or disposal site, and set up of portable hot asphalt concrete or concrete plants.

A contract change order could also violate the principle of environmental justice. Environmental justice means the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.

The resident engineer administers significant changes and takes affirmative measures to ensure nondiscrimination and preservation of environmental justice. Since most Title 6 mitigation measures are associated with complex projects in urban areas, the resident engineer may conduct community meetings, prepare press releases, or hire public relations consultants to keep communities informed and advised on project scope and schedule. The design project engineer and the project manager evaluate the impacts of any significant change including compliance with Title 6 requirements. The project manager coordinates functional support units to mitigate Title 6 compliance deficiencies resulting from significant contract amendments. The design project engineer should concur with significant contract amendments that have a Title 6 impact. The Division of Construction contract compliance manager analyzes the facts, findings, and suggests corrective actions to remedy Title 6 violations. This analysis is used as a basis for establishing policy and initiating process improvement.