



NOTICE

To: Qualified and Registered Contractors of NDDOT

Subject Line: FEDERAL-AID HIGHWAY CONSTRUCTION CONTRACTORS ANNUAL EEO REPORT

(FORM FHWA 1391)

The instructions for filing the FHWA Form 1391 for the 2022 Construction Season follow the notice. Please read carefully as the procedures for producing this report have changed.

Annual EEO Report (Form FHWA-1391) is required by law and federal regulation (23 USC 140a and 23 CFR Part 230). **Form 1391 is an annual Report provided each year by contractors who work on federal-aid highway projects during the month of July. If a contractor performs work at any point during the month of July they are required to file a Form FHWA 1391.** Contractors who do not work during the month of July on a federal-aid highway project **are not required to file** FHWA 1391.

FHWA 1391 is now automatically submitted for those employees who appear on certified payroll filed using LCPtracker with the NDDOT. Use of this system became mandatory in October of 2017. If a contractor has employees who worked on a project but were not placed on certified payroll (forepersons, management, truck drivers, etc.), LCPtracker allows for additional data entry of these persons on the 1391 report generated automatically by the system. The FHWA 1391 additional data entry function is located under the "1. Payroll Records" tab of a contractor's account. Inputting this information should take only a few minutes per project. Whether a contractor inputs additional data or not, the system will automatically compute and file the 1391 report information. The contractor may review this information by going to the Reports tab and run the FHWA 1391 Report.

FHWA 1391 REPORTING GUIDE AND INSTRUCTIONS FOR 2022

1. FHWA 1391 is an annual EEO Report filed each year by contractors who work federal-aid projects during the month of July. **If a contractor performs work at any time during the month of July they are required to provide an FHWA 1391.**
2. **In 2022, the LCPtracker online payroll program will automatically generate and file 1391 forms for all projects bid after October 1, 2017.**
3. **If a contractor was not required to file certified payroll using LCPtracker but must file a 1391 form*, please use FHWA 1391 Additional Data Entry function on LCPtracker to enter the required data. Any questions contact Daniel Weaver (701) 328-2605 or dweaver@nd.gov.**
4. The reporting period is the **last full week in the month of July each year.**
5. Truck owner-operators, haulers of petroleum products, brokers, vendors, suppliers, regular dealers, and manufacturers are not considered contractors and are not required to file this report.
6. The staffing figures which LCPtracker will report will be limited to the last full pay period in the month of July. A full pay period is **seven calendar days**. For example:

If, for the year 2022, a contractor's pay period normally ends on a:

Monday	the report will cover the period ending July 25
Tuesday	the report will cover the period ending July 26
Wednesday	the report will cover the period ending July 27
Thursday	the report will cover the period ending July 28
Friday	the report will cover the period ending July 29
Saturday	the report will cover the period ending July 30
Sunday	the report will cover the period ending July 31

7. Log into your contractor account on LCPtracker, after your payroll for the week described in #6 above has been certified, approved and accepted. From there, please do Additional Data Entry for 1391 for any employees that worked on the project but did not appear on payroll (typically management, professional and technical workers). You may do this by going to the "1. Payroll Records" tab and hitting the "FHWA 1391 Additional Data Entry" button. Once you have entered this additional data, you will be asked to certify the data, with your Title and ESignature, just as when you certify weekly payroll. The system will accept this data – other portions of the 1391 will be populated automatically.
8. The system will automatically generate your 1391 data and report it to the NDDOT. The NDDOT recommends that all contractors review and verify the data after payrolls have been certified, approved, and accepted. Do not print, sign, and mail it to the NDDOT as it has been electronically filed.

9. If you have concerns after verifying data, please contact Daniel Weaver at (701) 328-2605 or dweaver@nd.gov.
10. All contractors should complete Additional Data Entry and Certification of the 1391 Report by September 01, 2022. If you must file a paper FHWA 1391, please provide an electronic copy (i.e. email a pdf copy) to dweaver@nd.gov by September 01, 2022.

*This situation will arise when the contractors have only bona fide owners or truck drivers onsite a de minimus amount working on the project.

Prime contractors **do not have to collect and submit online forms on behalf of their subcontractors**. The subcontractors 1391 report will be computed automatically by the system. Truck owner-operators, manufacturers, suppliers, brokers, vendors, regular dealers, and haulers and/or regular dealers of petroleum products only are not considered subcontractors and **are not required to file** this report.

LCPTracker has informed us that they are now eliminating multiple counting of persons who were paid in more than one classification on certified payroll per instructions from FHWA. Contractors should not file their 1391 report for their own records prior to verifying that all payrolls have been certified and additional employees have been added as required. To print your 1391 report, click on the reports tab and run the FHWA 1391 report.

If you have questions, please contact me at 701-328-2605.

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