

This applies when contract amount exceeds \$3 million.

FEDERAL ON-THE-JOB AND APPRENTICESHIP TRAINING REQUIREMENTS

This Section for Federal On-the-Job and Apprenticeship Training supersedes subparagraph B(7-e) of the "On-Site Workforce Affirmative Action Requirements for Women and Minorities on Federal Aid Contracts," and is in implementation of 23 U.S.C. 140(a). All other provisions apply.

SECTION 1: ABBREVIATIONS AND DEFINITIONS

(a) Abbreviations

BOLI - Bureau of Labor and Industries for the State of Oregon

EEO - Equal Employment Opportunity

OECR - Office of Equity and Civil Rights

OJT - On-the-Job Training

RAP - Registered Apprenticeship Program

(b) Definitions

Affirmative Action - Contractor's efforts exerted towards achieving equal opportunity through positive, aggressive, and continuous result-oriented measures to correct past and present discriminatory practices and their effects on the conditions and privileges of employment. These measures include, but are not limited to, recruiting, hiring, promotion, upgrading, demotion, transfer, termination, compensation, and training.

Apprentice - A Worker who is enrolled in a RAP.

OJT Program - A specific on-the-job training program, approved by the Agency and FHWA, which provides a combination of field, and limited classroom, trade specific experience under the supervision of journey level workers. This is an Affirmative Action program that targets women and minorities.

OJT Trainee or Trainee means a worker participating in an OJT Program.

Race and Gender Neutral - Employment and contracting practices where the ethnicity and the sex of a person are not considered in the evaluation of candidates for employment or bids for the Contract.

Registered Apprenticeship Program or RAP - A specific Apprenticeship Training Program approved by BOLI, which provides a combination of field and classroom trade specific experience under the supervision of journey level workers. For this Contract, this is a Race and Gender Neutral program.

Subcontractor – For the purpose of this special provision, subcontractor refers only to first tier subcontractors.

Training Goal - A percentage of work hours that workers in apprenticeable occupations perform.

SECTION 2: POLICY STATEMENT

It is the policy of the Agency that the Contractor shall take all necessary and reasonable steps to ensure that apprentices and trainees have the opportunity to participate on highway construction projects, to develop as journey-level workers in the given trade or job classification employed, and to meet this Training Goal, as required by Oregon Laws 2023, Chapter 504.

The Contractor shall adopt the following policy:

It shall be the policy of the Contractor to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, or national origin, age or disability. Such action shall include employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and on-the-job training.

The Training Goal is not intended and shall not be used to discriminate against any applicant.

SECTION 3: APPRENTICE PROGRAM

(a) General

Apprentices shall be paid the appropriate rates approved in connection with their stage in the RAP.

A valid certification by an appropriate apprenticeship committee that the Contractor is an approved training agent shall be prima facie proof of compliance.

(b) EEO Requirements and Outreach

The Contractor shall ensure that, without discrimination, minorities and women have an equal employment opportunity to compete for and participate as apprentices while supporting a diverse workforce that is representative of the population.

Apprenticeship training is Race and Gender Neutral; however, the Contractor is still obligated to comply with all applicable EEO requirements.

Contractor shall notify relevant community resources about the Project and likely workforce needs. This includes community resources who assist Contractors with recruitment and referral of workers for the upcoming contract work and near or future needs. Contractor shall invite collaboration to develop training opportunities, placements and apprenticeship hiring for the project.

The list of community resources may include but is not limited to:

- Oregon Tradeswomen, Inc.
- Oregon Corrections
- Pre-apprenticeship programs appropriate to the trade;
- Apprenticeship programs from whom the Contractor traditionally draws
- Portland Opportunities Industrial Center (POIC)
- Job Corps
- Chemeketa Community College / N Marion
- CAWS: Construction Apprenticeship & Workforce Solutions, Inc.
- Constructing Hope
- Construction Pre-Apprenticeship Program
- Portland Community College Apprenticeship Program (PCC)
- Portland Youth Builders
- Oregon Corrections and Parole
- Veterans Labor Department
- Work Source or Employment Department

(c) Forms

The Contractor and each Subcontractor with RAP shall complete and submit the following forms to the Engineer according to the instructions provided in the respective forms:

- The "Training Program Approval Request (TPAR)" (Form 734-2880) shall be submitted prior to or at the preconstruction conference.
- Before an apprentice begins work, an "Apprentice/Trainee Approval Request (ATAR)" (Form 734-2878) shall be submitted.
- Each month the Contractor shall submit the "Monthly Employment Utilization Report" (Form 731-0668). This report is required of the Contractor and Subcontractors who have contracts that require certified payrolls, regardless of their participation in the apprenticeship.
- Each month the Contractor shall submit an "Apprentice/Trainee Monthly Progress Report (MPR)" (Form 734-2879) for each apprentice. This Form is used to report Qualified Hours for apprentices and will be the source document for estimated monthly progress payments to the Contractor.

Forms are published on the ODOT OECR website at:

<https://www.oregon.gov/ODOT/Business/OCR/Pages/Forms.aspx>

SECTION 4: TRAINEE PROGRAM

(a) General

The intent of these provisions is to provide real and meaningful training in the construction crafts. Off-Site training is permissible only when it is an integral part of an approved training program and does not comprise a significant part of the overall training. In

addition:

- A Contractor, not registered as a training agent, may choose to adopt a standardized OJT Program. Standardized OJT Programs are published at the OECR website at:
<https://www.oregon.gov/ODOT/Business/OCR/Pages/Workforce-Development.aspx>
- Some job classifications such as flagger, bookkeeper, clerk/typist or secretary are prohibited from OJT Programs.
- OJT Programs shall always maintain the approved ratio of trainees to journey level workers On-Site.

OJT Programs shall always maintain the approved types and numbers of equipment On-Site.

- No employee shall be registered as a trainee in any job classification the employee has completed leading to journey level status, or for any job classification in which the employee has been employed as a journey level worker. The Contractor shall keep records, and provide to the Agency, if requested, documents on each trainee.
- Trainees shall be pre-approved by the Agency.

OJT Program trainees shall be paid the journey level rate specified in the contract for the type of work performed.

(b) EEO Requirements

The Contractor shall make every effort to enroll minority and women trainees by conducting systematic and direct, meaningful recruitment through public and private sources likely to yield minority and women trainees within a reasonable area of recruitment.

Whenever minorities or women are not placed in OJT positions, the Contractor shall provide documented evidence of Affirmative Action recruitment efforts. The Agency will review the documents of the Contractor's systematic and direct, meaningful recruitment efforts to determine whether the Contractor has complied with the criteria in "Required Contract Provisions Federal-Aid Construction Contracts" (FHWA Form 1273), Section II Nondiscrimination.

When filling OJT positions Contractors are encouraged to hire previously approved trainees who have not yet completed their training.

(c) Forms

The Contractor and each Subcontractor with an OJT Program shall complete and submit the following forms to the Engineer according to the instructions on their respective forms:

- The training program forecast using the "Training Program Approval Request (TPAR)" (Form 734-2880) shall be submitted prior to or at the preconstruction conference.
- Before the trainee begins work, an "Apprentice/Trainee Approval Request (ATAR)" (Form 734-2878) shall be submitted. Attach a copy of the "Training Program Approval Request (TPAR)" (Form 734-2880) to the "Apprentice/Trainee Approval Request

(ATAR)" (Form 734-2878). The Contractor and trainee must sign and return a copy of the training program that will be utilized. The Contractor shall provide certification to the trainee upon completion of the OJT Program and also submit a copy to OECR. Upon completion of the Contract, a certification shall be given to each trainee and to the Agency to document the number of hours and training completed by the individual.

- Each month the Contractor shall submit the "Monthly Employment Utilization Report" (Form 731-0668). This report is required of the Contractor and Subcontractors for contracts that require certified payrolls), regardless of their participation in the Apprenticeship or On-the-Job Training programs.
- Each month the Contractor shall submit an "Apprentice/Trainee Monthly Progress Report (MPR)" (Form 734-2879) for each trainee. This form is used to report Qualified Hours for trainees and will be the source document for estimated monthly progress payments to the Contractor.

Forms are published on the ODOT OECR website at:

<https://www.oregon.gov/ODOT/Business/OCR/Pages/Forms.aspx>

SECTION 5: TRAINING GOAL

The Agency has established the Training Goal as provided below.

	ODOT Contractor	Subcontractor over \$750,000
Percentage of work hours by employees in apprenticeable trades	12%	12%

Notwithstanding the Apprenticeship Utilization Requirements, the Contractor shall comply with applicable RAP ratios approved by the applicable apprenticeship program.

Subcontractor Requirements

A Subcontractor whose subcontract has an estimated value of less than \$750,000 at the time of Agency's consent to the Subcontract is exempted from Training Goal.

SECTION 6: MONITORING AND REPORTING

(a) Monitoring

The Contractor has the primary responsibility to monitor compliance levels throughout the Contract and to ensure the Federal On-the-Job and Apprenticeship Training Requirements are met. The Contractor shall ensure that the Subcontract contains the appropriate Training clauses that obligate the Subcontractor. This shall not relieve the Contractor of the Contractor's primary responsibility.

(b) Monthly Reporting

The Contractor shall:

- Provide monthly reports for each contract and subcontract to ODOT which include at a minimum:
 - The name of or other identification for the public improvement project;
 - The city or county in which the public improvement project is located;
 - A detailed accounting of:
 - The total number of hours of work that workers performed under each contract and subcontract;
 - The total number of hours of work that workers performed in each apprenticeable trade or craft for each contract and subcontract on the public improvement;
 - The total number of hours of work that apprentices performed for each contract and subcontract on the public improvement; and
 - The total number of hours of work that apprentices in each trade or craft performed for each contract and subcontract on the public improvement.
 - The total number of workers who performed construction work and the total numbers of minority individuals, women and veterans who performed construction work under the public improvement contract. A report under this subparagraph must separately list for each worker the worker's race, ethnicity, gender, veteran status and, as applicable, trade, craft or job category. The Commissioner of the Bureau of Labor and Industries by rule may specify a method for identifying, collecting and reporting the information required under this subparagraph, which may consist of methods the United States Equal Employment Opportunity Commission prescribes in regulations the United States Equal Employment Opportunity Commission adopts under Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e et seq.
- Maintain records and submission of the reports.

(c) Final Report

As a requirement of issuance of Third Notification, Contractor shall provide Agency with Final Report regarding its employment of apprentices/trainees which shall contain:

- Total amount of apprenticeable/OJT hours (12% goal)
- Total amount of hours performed by apprentices/trainees
- Number of hours subject to calculation of reduction in payment as described in Section 7

As a requirement of issuance of Third Notification, Contractor shall provide Agency with Final Report for each subcontract subject to the Training Goal which shall contain:

- Total amount of apprenticeable/OJT hours (12% goal)
- Total amount of hours performed by apprentices/trainees
- Statement regarding whether Subcontractor met Training Goal
- Number of hours subject to calculation of reduction in payment as described in Section 7
- Whether Contractor reduced payment to subcontractor for failure to meet Training Goal, and if so, by how much.

(d) Additional Requirements

Contractor must provide copies of all records and other information requested by ODOT to determine the extent of the Contractor's compliance with the requirements.

Reports must meet the requirements set forth in Oregon Laws 2023, Chapter 504:

- Contractor's monthly report shall include a summary of the relevant information in the contents of the certified statements required under ORS 279C.845
- Contractor shall preserve the reports as provided for certified statements in ORS 279C.845(5)

Failure of Contractor to provide monthly reports may result in withholding of payment as provided in ORS 279C.845(7).

ODOT may disclose the monthly reports as provided in ORS 279C.845(6).

SECTION 7: NONCOMPLIANCE AND REDUCTION IN PAYMENT

(a) General

The parties mutually agree that failure to meet the requirements of the Training Goal, including but not limited to the submission of required documentation, constitutes a material breach of contract, and in any such event, the Agency may withhold progress payments, suspend the Work, terminate the contract, issue poor ratings in the Performance Evaluation, consider failed performance in determining responsibility for future projects, and/or impose other lawful remedies.

If Agency chooses to withhold progress payments, the Agency may withhold all or part of any progress payment or payments until the Contractor has remedied the breach. In the event that progress payments are withheld, unless required by applicable law, the Contractor shall not be entitled to interest on said payments. If a Subcontractor(s) is responsible for noncompliance with the Specification, the Agency may choose to withhold only their portion of the progress payment.

(b) Reduction in Payment

If the Training Goal is not met, Agency will reduce payment due under the Contract, as required by Oregon Laws 2023, Chapter 504.

Reduction will be equivalent to:

- For Contractor's own forces, the difference between the total number of work hours that apprentices or trainees in apprenticeable trades should have performed less the total number of work hours that apprentices in apprenticeable trades actually performed on the project, multiplied by \$15 per hour, and
- For Subcontractors subject to the Training Goal, the difference between the total number of work hours that apprentices or trainees in apprenticeable trades should have performed for the Subcontractors subject to the Training Goal less the total number of work hours that apprentices in apprenticeable trades actually performed on the project, multiplied by \$15 per hour.

The reduction will be prorated to the nearest dollar.

A reduction in payment is in addition to any liquidated damages that may be assessed due to

any delay in the project caused by the Contractor's failure to comply with this Specification of the contract and any other liquidated damages under the Contract.

This applies when contract amount is less than \$3 million and OJT goal is greater than 0.

REIMBURSABLE FEDERAL ON-THE-JOB and APPRENTICESHIP TRAINING

This Section for Reimbursable Federal On-the-Job Training and Apprenticeship Training supersedes subparagraph B(7-e) of the "On-Site Workforce Affirmative Action Requirements for Women and Minorities on Federal Aid Contracts," and is in implementation of 23 U.S.C. 140(a). All other provisions apply.

SECTION 1: ABBREVIATIONS AND DEFINITIONS

(a) Abbreviations

BOLI -Bureau of Labor and Industries for the State of Oregon

EEO -Equal Employment Opportunity

OECR - Office of Equity and Civil Rights

OJT -On-the-Job Training

(b) Definitions

Affirmative Action - Contractor's efforts exerted towards achieving equal opportunity through positive, aggressive, and continuous result-oriented measures to correct past and present discriminatory practices and their effects on the conditions and privileges of employment. These measures include, but are not limited to, recruiting, hiring, promotion, upgrading, demotion, transfer, termination, compensation, and training.

Apprenticeship Training Program - A specific Apprenticeship Training Program, approved by BOLI, which provides a combination of field and classroom trade specific experience under the supervision of journey level workers. For this Contract, this is a Race and Gender Neutral program.

OJT Program - A specific on-the-job training program, approved by the Agency and FHWA, which provides a combination of field, and limited classroom, trade specific experience under the supervision of journey level workers. This is an Affirmative Action program that targets women and minorities.

Qualified Hours - Specific On-Site training hours (may include some classroom hours) completed by a properly registered and enrolled trainee consistent with the Contractor's OJT Program or an apprentice consistent with the Apprenticeship Training Program. The Contractor reports these Qualified Hours to the Agency for the OJT and Apprenticeship Training Goal.

Race and Gender Neutral - Employment and contracting practices where the ethnicity and the sex of a person are not considered in the evaluation of candidates for employment or bids for

the Contract.

Training Goal - A fixed quantity of Qualified Hours set by the Agency and included in the bid schedule.

SECTION 2: POLICY STATEMENT

In order to increase the number of trained and skilled workers in highway construction the Agency will set a Training Goal for the Project.

It is the policy of the Agency that the Contractor shall take all necessary and reasonable steps to ensure that trainees and apprentices have the opportunity to participate on highway construction projects and to develop as journey-level workers in the given trade or job classification employed, and to meet this Training Goal.

The Contractor shall adopt the following policy:

It shall be the policy of the Contractor to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, or national origin, age or disability. Such action shall include employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and on-the-job training.

The Training Goal is not intended, and shall not be used to discriminate against any applicant, whether members of a minority group or not.

SECTION 3: APPRENTICESHIP TRAINING PROGRAM

(a) General

Apprentices shall be paid the appropriate rates approved in connection with their stage in the Apprenticeship Training Program.

A valid certification by an appropriate apprenticeship committee that the Contractor is an approved training agent shall be prima facie proof of compliance.

(b) EEO Requirements

The Contractor shall ensure that, without discrimination, minorities and women have an equal employment opportunity to compete for and participate as apprentices while supporting a diverse workforce that is representative of the population.

Apprenticeship training is Race and Gender Neutral, however, the Contractor is still obligated to comply with all applicable EEO requirements.

(c) Reports

The Contractor and each Subcontractor with an Apprenticeship Training Program shall complete and submit the following reports to the Engineer, according to the instructions

provided in the respective forms:

- The "Training Program Approval Request (TPAR)" (Form 734-2880) shall be submitted prior to or at the preconstruction conference.
- Before an apprentice begins work, an "Apprentice/Trainee Approval Request (ATAR)" (Form 734-2878) shall be submitted.
- Each month the Contractor shall submit the "Monthly Employment Utilization Report" (Form 731-0668). This report is required of the Contractor and Subcontractors who have contracts that require certified payrolls, regardless of their participation in the apprenticeship.
- Each month the Contractor shall submit an "Apprentice/Trainee Monthly Progress Report (MPR)" (Form 734-2879) for each apprentice. This Form is used to report Qualified Hours for apprentices and will be the source document for estimated monthly progress payments to the Contractor.

Forms are published on the ODOT OECR website at:

<https://www.oregon.gov/ODOT/Business/OCR/Pages/Forms.aspx>

SECTION 4: OJT PROGRAM

(a) EEO Requirements

The Contractor shall make every effort to enroll minority and women trainees by conducting systematic and direct, meaningful recruitment through public and private sources likely to yield minority and women trainees within a reasonable area of recruitment.

Whenever minorities or women are not placed in OJT positions, the Contractor shall provide documented evidence of Affirmative Action recruitment efforts. The Agency will review the documents of the Contractor's systematic and direct, meaningful recruitment efforts to determine whether the Contractor has complied with the criteria in "Required Contract Provisions Federal-Aid Construction Contracts" (FHWA Form 1273), Section II Nondiscrimination.

When filling OJT positions Contractors are encouraged to hire previously approved trainees who have not yet completed their training.

(b) Training Requirements

The intent of these provisions is to provide real and meaningful training in the construction crafts. Off-Site training is permissible only when it is an integral part of an approved training program and does not comprise a significant part of the overall training. In addition:

- A Contractor, not registered as a training agent, may choose to adopt a standardized OJT Program. Standardized OJT Programs are published at the OECR website at: <https://www.oregon.gov/ODOT/Business/OCR/Pages/Workforce-Development.aspx>
- Some job classifications such as flagger, bookkeeper, clerk/typist or secretary are prohibited from OJT Programs.

- OJT Programs shall always maintain the approved ratio of trainees to journey level workers On-Site.
- OJT Programs shall always maintain the approved types and numbers of equipment On-Site.
- No employee shall be registered as a trainee in any job classification the employee has completed leading to journey level status, or for any job classification in which the employee has been employed as a journey level worker. The Contractor shall keep records, and provide to the Agency, if requested, documents on each trainee.
- Trainees shall be pre-approved by the Agency.

OJT Program trainees shall be paid the journey level rate specified in the contract for the type of work performed.

(c) Reports

The Contractor and each Subcontractor with an OJT Program shall complete and submit the following reports to the Engineer according to the instructions on their respective forms:

- The training program forecast using the "Training Program Approval Request (TPAR)" (Form 734-2880) shall be submitted prior to or at the preconstruction conference.
- Before the trainee begins work, an "Apprentice/Trainee Approval Request (ATAR)" (Form 734-2878) shall be submitted. Attach a copy of the "Training Program Approval Request (TPAR)" (Form 734-2880) to the "Apprentice/Trainee Approval Request (ATAR)" (Form 734-2878). The Contractor and trainee must sign and return a copy of the training program that will be utilized. The Contractor shall provide certification to the trainee upon completion of the OJT Program and also submit a copy to OECR. Upon completion of the Contract, a certification shall be given to each trainee and to the Agency to document the number of hours and training completed by the individual.
- Each month the Contractor shall submit the "Monthly Employment Utilization Report" (Form 731-0668). This report is required of the Contractor and Subcontractors (for contracts that require certified payrolls), regardless of their participation in the Apprenticeship or On-the-Job Training programs.
- Each month the Contractor shall submit an "Apprentice/Trainee Monthly Progress Report (MPR)" (Form 734-2879) for each trainee. This form is used to report Qualified Hours for trainees and will be the source document for estimated monthly progress payments to the Contractor.

Forms are published on the ODOT OECR website at:

<https://www.oregon.gov/ODOT/Business/OCR/Pages/Forms.aspx>

SECTION 5: MONITORING AND COMPLIANCE

The Contractor has the primary responsibility to monitor compliance levels throughout the Contract and to ensure the Training Goal is met. If the Contractor decides any of the training hours are to be provided by a Subcontractor, the Contractor shall ensure that the Subcontract contains the appropriate training clauses that obligate the Subcontractor. This shall not relieve the Contractor of the Contractor's primary responsibility.

At the request of the Agency, the Contractor will meet with the Agency to review records related to training. The Agency, through meetings and progress records provided by the Contractor, will provide the Contractor with informational compliance and reimbursement data including:

- The Contractor's training forecasts compared with the actual Qualified Hours achieved.
- Total Qualified Hours and payment reimbursement summary.
- For information purposes only, consolidated summary reports by OJT craft and apprenticeship crafts.

The Agency will track training activities provided by Contractor for the OJT trainees and apprentices.

SECTION 6: MEASUREMENT AND PAYMENT

(a) General

The quantity of Qualified Hours will be paid for at the Contract unit price of \$20 per hour for the item "Training."

No separate or additional payment will be made for failure to achieve the Training Goal. See (b) below for Disincentive.

No separate or additional payment will be made for Qualified Hours achieved in excess of 150% of the Training Goal. No Disincentive applies.

If the Contractor achieves from 100% to 150% of the Training Goal, the Agency will reimburse the Contractor for Qualified Hours.

After the Second Notification, the Agency will review the final reports required and make adjustments. Any additional reimbursements will be paid on the next Contract payment voucher.

Examples of achieving the Training Goal:

Example A: Training Goal = 1,000 hours; Pay Item = \$20/hr; Contractor achieves 100% of the Qualified Hours (fulfilled the goal): therefore 1,000 hours x \$20.00/hr = \$20,000 reimbursed (during progress of the Contract).

Example B: Training Goal = 1,000 hours; Pay Item = \$20/hr; Contractor achieves 150% of the Qualified Hours or 1,500 hours (exceeded the goal): therefore 1,500 hours x \$20.00/hr = \$30,000 reimbursed (during progress of the Contract).

Example C: Training Goal = 1,000 hours; Pay Item = \$20/hr; Contractor achieves an actual 1,525 Qualified Hours (exceeded even 150% of the goal): therefore 1,500 hours x \$20.00/hr = pay of \$30,000 reimbursed (during progress of the Contract).

(b) Disincentive

If, at the Second Notification, the Contractor has not achieved the Training Goal there will be no payment (disincentive) to the Contractor and no Qualified Hours as follows:

Regardless of all prior partial payments for the Pay Item "Training," a correction equal to 100% of the Pay Item goal times the Pay Item price will be subtracted from the final payment due the Contractor on the next Contract payment voucher.

Examples of *not* achieving the Training Goal:

Example A: Training Goal = 1,000 hours; Pay Item = \$20/hr; Contractor achieves an actual 500 Qualified Hours (failed to meet the goal): A disincentive applies; therefore 1,000 hours x \$20.00/hr = line item deduction of \$20,000 will show on the next Contract payment voucher. The previously paid qualified hours (500 x \$20 = \$10,000) under the pay item on vouchers will remain and the net impact in this example will be the \$20,000 deduction offset by the \$10,000 qualified and paid hours for a net reduction of \$10,000.

Example B: Training Goal = 1,000 hours; Pay Item = \$20/hr; Contractor achieves zero Qualified Hours (failed to meet the goal): A disincentive applies; therefore 1,000 hours x \$20.00/hr = line item deduction of \$20,000 will show on the next Contract payment voucher.

If, as a result of a line item deduction, a net amount is due the Agency, the Contractor shall pay the Agency within 45 Calendar Days of notice of such deficiency.