



Oregon Department of Transportation Workforce Development Plan

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Oregon Department of Transportation Workforce Development Plan

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A Message from ODOT's Director

We have embarked on a journey of historic importance to shape Oregon's construction workforce of the future.

Because Oregon will soon reach record levels of construction, we face a shortage of workers over the next seven to 10 years. If we do not undertake an immediate effort to identify, recruit, and train a new and larger workforce, we will not have enough workers to get the job done.

The Legislature has also recognized this challenge and has told the agency to increase the participation of apprentices in the construction workforce and to increase opportunities for women and minority individuals and companies. This direction was part of the third phase of the Oregon Transportation Investment Act's funding of new construction, local bridges, maintenance and preservation, and the repair or replacement of hundreds of bridges and roadways.

We have developed a new workforce development plan to meet these challenges. Already, we have been engaged in a two-year discussion with our partners over changes in our apprenticeship program. In order to have enough workers to meet the demands of the future, we are moving to increase our apprenticeship requirements, contract specifications, and diversity goals. These changes will apply initially only to the tri-county area in Portland and to the OTIA III program, and then to the rest of the state after a reasonable period of time based on progress and performance. I also want to underscore my determination that we work together with our partners, and my willingness to examine progress as we go along and to make adjustments accordingly.

We will begin several new initiatives to implement these changes. We will engage in extensive workforce development efforts, including the establishment of Regional Workforce Alliances around the state to ensure an adequate supply of trained and skilled workers. ODOT intends to promote the recruitment, training, and technical support of a qualified and diverse workforce by working with the state, regional, and local community partners.

ODOT is committed to working with its governmental and private-sector partners in a collaborative effort to make this journey successful for everyone. I want to thank our many partners for their great spirit of cooperation already exhibited and for all that is about to be accomplished going forward. Together, our determined efforts will ensure success. When we look back 10 years from now, we will be proud of not only of our stronger roadway system, but of the new opportunities we have created for so many Oregon families.

Bruce Warner
Director, Oregon Department of Transportation

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Federal Executive Order 11246

ODOT and the Workforce Development Plan will adhere to the principles of Federal Executive Order 11246 to provide a labor pool of qualified, skilled workers and increase the use of the apprenticeship program.

Federal Executive Order 11246, as amended, prohibits federal contractors and federally assisted construction contractors and subcontractors who do over \$10,000 in Government business in one year from discriminating in employment decisions on the basis of race, color, religion, sex, or national origin:

“The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: 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. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.”

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Executive Summary

The Workforce Development Plan will provide a diverse, skilled workforce for the years ahead. The Oregon Department of Transportation (ODOT) will involve all partners in a collaborative process to implement the plan. Our governmental and private-sector partners ensure that workers have the apprenticeship and on-the-job training opportunities as well as the support services they need to pursue and succeed in the construction trades.

Based on Working with Many Partners

Active partner involvement is a critical element for implementing the Workforce Development Plan. ODOT will involve the appropriate partners at each step. To implement the plan, ODOT will partner with the Associated General Contractors, Bureau of Labor and Industries, City of Portland, Clackamas County, Columbia Pacific Building Trades Council, community-based organizations serving women and minorities, Department of Community Colleges and Workforce Development, local Employment Department offices, Federal Highway Administration, general contractors, local governments, Governor's Office, high schools, Housing Authority of Portland, local Joint Apprenticeship Training Committees, Metro, Multnomah County, Oregon Apprenticeship and Training Council, Oregon Bridge Delivery Partners, Oregon Employment Department, the Oregon Federation of Tribes, Oregon Health and Science University, Oregon State Building and Construction Trades Council, Oregon Tradeswomen, Oregon Workforce Partnership, Oregon Youth Conservation Corps, Oregon's community colleges, Port of Portland, Portland Development Commission, Portland YouthBuild, Prevailing Wage Advisory Committee, private-sector owners, State of Oregon, Tri-Met, Washington County, local/regional Workforce Investment Boards, WorkSource Oregon One-Stop Centers, and Worksystem Inc.

Approach

Instead of developing entirely new systems to build a qualified labor pool, the plan maximizes the use of existing programs. As used in this document, the term "qualified labor pool" refers to individuals recruited, evaluated, screened, and pre-trained pursuant to this plan who can be called upon by the heavy-highway industry to fill the need for potential apprentices or skilled journey-level workers. Every effort is made to ensure equal opportunity recruiting practices without discrimination and with support for the development of minority, women, low-income, and disadvantaged workers. Creating sustainable careers includes efforts to retain existing minority and women construction workers and remove potential barriers to success for both current and new workers.

The plan will provide the labor force needed by contractors to meet the new workforce utilization aspirational goals and to meet the increasing requirements for apprenticeship participation.

Workforce Utilization Aspirational Goals

The following new aspirational goals will be included in ODOT's contract specifications:

- Aspirational goals for women on OTIA III and Portland-area contracts will be 8 percent.
- Aspirational goals for minorities on OTIA III and Portland-area contracts will be 9 percent.
- Aspirational goals for minorities on OTIA III projects outside the Portland area will be:
 - Marion and Polk counties – 5.8 percent
 - Benton, Clatsop, Columbia, Crook, Deschutes, Hood River, Jefferson, Lincoln, Linn, Sherman, Tillamook, Wasco, and Yamhill counties – 7.6 percent
 - Coos, Curry, Douglas, Jackson, Josephine, Klamath, Lake, and Lane counties – 4.8 percent
 - Baker, Gilliam, Grant, Morrow, Umatilla, Union, Wallowa, and Wheeler counties – 7.2 percent
 - Harney and Malheur counties – 8.8 percent

ODOT will seek approval from the Federal Highway Administration to make these goals contractual requirements.

Overall, ODOT is seeking to increase participation rates statewide to 14 percent for women and 14 percent for minorities. In the Portland tri-county area, ODOT is seeking to increase participation rates to 14 percent for women and 20 percent for minorities.

Apprenticeship Requirements

Apprenticeship requirements by craft will incrementally increase over 18 months, from 5 percent to 10 percent to 15 percent to 20 percent, with annual program reviews and adjustments.

Management Structure

Management of the Workforce Development Plan requires the leadership and participation of all the plan's partners to build a diverse, skilled workforce. ODOT has appointed an agency manager to oversee the program and to coordinate with five Regional Workforce Alliances and a Workforce Advisory Committee, which will assist in implementing the plan.

The five Regional Workforce Alliances will implement the plan at the regional level. The Workforce Advisory Committee provides guidance and evaluation of the plan for ODOT's Director and provides a forum for partners to communicate on a regular basis and resolve issues.

Tactics

Implementation of the plan entails the following five tactics: 1) identification of the labor force, 2) outreach and recruitment, 3) skills assessment, 4) apprenticeship and on-the-job training (OJT) programs, and 5) support services. Many of these steps will occur simultaneously to achieve critical mass.

Program Evaluation

Evaluation of the plan will focus on two outcomes: 1) increasing apprenticeship and training opportunities and 2) developing of a qualified labor pool. Both outcomes will address two central questions: a) how successful we were in increasing the number of women and minorities in the contracted workforce and b) how successful we were in expanding the use of apprentices and trainees.

Next Steps

ODOT will take the following five steps immediately: 1) seek approval of the diversity elements for federal projects from the Federal Highway Administration, 2) work with partners to develop policies and procedures, 3) write contract specifications, 4) set up new tracking and monitoring systems to track project activities monthly, and 5) conduct mandatory training of contractors on the tracking system.

The initial implementation of the plan will occur as a pilot project for the first two years. During the pilot project phase, only OTIA III projects statewide and all ODOT construction projects in Multnomah, Clackamas, and Washington counties will use the new increased apprenticeship/training requirements and women and minority utilization aspirational goals. Following this two-year period, and pending FHWA approval, ODOT will determine whether to include the new utilization goals on all ODOT projects.

The Workforce Development Plan is intended to be a living, working document. In collaboration with FHWA and partners, ODOT will review the plan on an annual basis and make improvements as needed.

Contact List

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I. Overview: What is the Workforce Development Plan?

Oregon's transportation system is undergoing a dramatic transformation. Unprecedented levels of construction for maintenance projects, local and county roads, and highway bridges are under way and will continue through 2011. This construction activity presents a unique opportunity to revitalize the state's economy by creating new jobs for Oregon's workers.

However, workforce projections indicate a shortage of skilled workers is looming. This challenge presents an opportunity for a historic undertaking: increase the diversity of Oregon's workforce to provide a labor pool of qualified, skilled workers and increase the use of the apprenticeship and on-the-job training (OJT) programs. This effort ensures that a supply of qualified workers to build Oregon's transportation infrastructure is available now and provides workers with the skills and knowledge they need to build long-term, sustainable careers. Ultimately, this creates an improved quality of life for all Oregonians.

The Workforce Development Plan presented in the following pages is one model for providing a diverse, skilled workforce. The Oregon Department of Transportation (ODOT) will involve all partners in a collaborative process to refine the plan as needed. Our governmental and private-sector partners will ensure that workers have the apprenticeship and on-the-job training opportunities as well as the support services they need to pursue and be successful in the construction trades.

During the initial implementation of the Workforce Development Plan, the new workforce utilization aspirational goals will apply only to OTIA III projects statewide and all ODOT construction projects in Multnomah, Clackamas, and Washington counties. Following the implementation of the plan for these projects, the utilization aspirational goals will extend to all ODOT projects.

Workforce Utilization Aspirational Goals

The following new aspirational goals will be included in ODOT's contract specifications:

- Aspirational goals for women on OTIA III and Portland-area contracts will be 8 percent.
- Aspirational goals for minorities on OTIA III and Portland-area contracts will be 9 percent.
- Aspirational goals for minorities on OTIA III projects outside the Portland area will be:
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ODOT will seek approval from the Federal Highway Administration to make these goals contractual requirements.

Overall, ODOT is seeking to increase participation rates statewide to 14 percent for women and 14 percent for minorities. In the Portland tri-county area, ODOT is seeking to increase participation rates to 14 percent for women and 20 percent for minorities.

Apprenticeship Requirements

Apprenticeship requirements by craft will incrementally increase over 18 months, from 5 percent to 10 percent to 15 percent to 20 percent, with annual program reviews and adjustments.

Federal Executive Order 11246

ODOT and the Workforce Development Plan will adhere to the principles of Federal Executive Order 11246 to provide a labor pool of qualified, skilled workers and increase the use of the apprenticeship and OJT programs.

Federal Executive Order 11246, as amended, prohibits federal contractors and federally assisted construction contractors and subcontractors who do over \$10,000 in Government business in one year from discriminating in employment decisions on the basis of race, color, religion, sex, or national origin.

The Workforce Development Plan: At a Glance

The Workforce Development Plan is arranged as follows:

Partners

This section lists the partners whose involvement is critical to the plan's success.

Mission/Objectives

A statement of the plan's goals and desired outcomes is presented.

Approach

The approach section explains the strategies guiding implementation of the plan.

This section includes a discussion of:

- Changes in diversity goal numbers
- Regional Workforce Alliance strategy
- Workforce participation
- Context Sensitive and Sustainable Solutions (CS³) philosophy

What the Workforce Development Plan Means to Contractors

This section clarifies the roles and responsibilities of contractors under the plan.

Management Structure of the Program

An explanation of the management structure of the program is included, along with the roles and responsibilities of:

- Regional Workforce Alliances
- Workforce Advisory Committee
- Oregon Department of Transportation

Tactics

This section details the five tactics used to implement the plan.

- Identification of the labor force
- Outreach and recruitment
- Skills assessment
- Apprenticeship/OJT programs
- Support services

Program Evaluation

A discussion on evaluation of the plan focuses on two outcomes: 1) increasing apprenticeship and training opportunities, and 2) developing a qualified labor pool. Both outcomes will address two central questions: a) how successful we were in increasing the number of women and minorities in the contracted workforce and b) how successful we were in expanding the use of apprentices.

Next Steps/Timeline

This section outlines the next steps and timeline for implementing the plan.

Other Considerations

The items in this section are remaining considerations for implementing the plan.

II. Partners

Strong partners are integral for the implementation of the Workforce Development Plan. Partners provide support and strengthen the quality of training provided to the workforce. This ensures that existing resources are maximized and coordinated, gaps in services are filled, and compliance with federal and state contracting laws is met. Active partner involvement is important to the ongoing success and longevity of workforce training programs along with the career success of individual workers.

To implement the plan, ODOT will partner with the Associated General Contractors, Bureau of Labor and Industries, City of Portland, Clackamas County, Columbia Pacific Building Trades Council, community-based organizations serving women and minorities, Department of Community Colleges and Workforce Development, local Employment Department offices, Federal Highway Administration, general contractors, local governments, Governor's Office, high schools, Housing Authority of Portland, local Joint Apprenticeship Training Committees, Metro, Multnomah County, Oregon Apprenticeship and Training Council, Oregon Bridge Delivery Partners, Oregon Employment Department, the Oregon Federation of Tribes, Oregon Health and Science University, Oregon State Building and Construction Trades Council, Oregon

Tradeswomen, Oregon Workforce Partnership, Oregon Youth Conservation Corps, Oregon's community colleges, Port of Portland, Portland Development Commission, Portland YouthBuild, Prevailing Wage Advisory Committee, private-sector owners, State of Oregon, Tri-Met, Washington County, local/regional Workforce Investment Boards, WorkSource Oregon One-Stop Centers, and Worksystem Inc.

III. Mission/Objectives

During the next 10 years, Oregon will undergo historic levels of transportation construction. However, workforce studies and projections indicate that the current pool of skilled workers falls short of meeting the demand. To successfully deliver these projects on time and maintain mobility on the state's transportation system, ODOT created the Workforce Development Plan.

The mission of the plan is to create and support a diverse workforce and qualified labor pool and increase the use of apprentices and trainees to build Oregon's transportation infrastructure.

This document provides the framework for ODOT and its partners to build the qualified labor pool, while at the same time provide workers with the necessary skills to build sustainable careers. Specifically, the plan seeks to increase workforce diversity by increasing the participation of women, minorities, low-income, disadvantaged, and underemployed workers in the transportation-related construction industry. This will be assisted by expanded use of the apprenticeship and on-the-job training programs and recruiting efforts targeted to accomplish workforce diversity goals.

IV. Approach

Implementation of the Workforce Development Plan calls for ODOT and its partners to identify, train, and place skilled workers in jobs to meet the demands of historic levels of construction. Instead of developing entirely new systems to build a qualified labor pool, the plan maximizes the use of existing programs. Every effort will be made to ensure equal-opportunity recruiting practices without discrimination and with support for the development of minority, women, low-income, and disadvantaged workers. Creating sustainable careers includes efforts to retain existing minority and women construction workers and remove potential barriers to success for these and new workers. Whenever possible, best practices and lessons learned from around the country, including the Oregon Plan of Action, will be incorporated into implementation efforts. Transparency and accountability measures are built into the plan through various monitoring and reporting functions.

Context Sensitive and Sustainable Solutions Philosophy

ODOT's new decision-making framework, known as Context Sensitive and Sustainable Solutions, or CS³, is at the core of the Workforce Development Plan. The CS³ approach stresses projects that are a good fit for their community, landscape, and environment.

The plan will meet the intent of CS³ principles by using local resources (workers, goods, and services) to develop a diverse, qualified, skilled labor pool. Further, the long-term

goal of the Workforce Development Plan—provide workers with the skills and resources they need to successfully pursue careers in construction—reflects the CS³ value of providing sustainable solutions for transportation construction.

Changes in Diversity Goal Numbers

ODOT's new workforce utilization aspirational goals increase the regional contract specifications for women and minorities. The following new aspirational goals will be included in ODOT's contract specifications:

- Aspirational goals for women on OTIA III and Portland-area contracts will be 8 percent.
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- Aspirational goals for minorities on OTIA III projects outside the Portland area will be:
 - Marion and Polk counties – 5.8 percent
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ODOT will seek approval from the Federal Highway Administration to make these goals contractual requirements.

Overall, ODOT is seeking to increase participation rates statewide to 14 percent for women and 14 percent for minorities. In the Portland tri-county area, ODOT is seeking to increase participation rates to 14 percent for women and 20 percent for minorities.

Apprenticeship requirements by craft will incrementally increase over 18 months, from 5 percent to 10 percent to 15 percent to 20 percent, with annual program reviews and adjustments.

The new utilization aspirational goals are detailed in Appendix 1.

Regional Workforce Alliance Strategy

Regional Workforce Alliances will implement the Workforce Development Plan at the regional level. The alliances comprise the plan's partners in a specific geographic area. The alliances work under the direction of ODOT's Diversity Manager and are led by an Alliance Manager. Alliance Managers are existing ODOT Office of Civil Rights staff. Each alliance will develop implementation work plans specific to their region. An alliance will cover each of the following five geographic areas: 1) Portland Metro, 2) Mid-Willamette Valley, 3) Southern Oregon, 4) Central/South Eastern Oregon, and

5) Northern Eastern Oregon. The counties included in each alliance are detailed in Appendix 2.

Due to the unique interactions between multijurisdictional entities, multiple projects with similar time frames, community-based organizations, trades, unions, and community colleges in ODOT Region 1, the Portland Metro Regional Workforce Alliance will require a modified planning, functioning, and decision-making process. Appendix 3 provides information on the Region 1 Comprehensive Construction Workforce Development Decision-Making Structure.

ODOT also will identify opportunities to collaborate with others in the Portland region to create long-term career opportunities in the construction trades on other publicly and privately funded construction projects.

Generally, each alliance is responsible for the following functions:

Operational Functions

Each alliance will assume similar operational functions, taking into account the particular nuances of the region.

Plans

Within two months of formation, each alliance will create a region-specific Alliance Plan for providing a qualified, skilled labor force. The Alliance Plan serves as an operations guide and provides benchmarks for future evaluation. A major component of the Alliance Plan is developing strategies to link the need for recruitment and skills development with the organizations and agencies providing these services. The Alliance Plan also identifies the regional partners involved with implementation efforts.

Memorandum of Understanding

The alliances are also responsible for developing a Memorandum of Understanding (MOU) with regional partners. The MOU describes the responsibilities for developing training programs and providing training services for women and minorities. Support services for contractors are also outlined, including obtaining contractor involvement in training efforts and provisions for a single point of contact for contractors to access the qualified labor pool. Other responsibilities outlined in the MOU include maximizing existing funds and resources, staff training, and job placement and follow-up services, including mentoring programs and monitoring of participants. The MOU also provides guidelines for evaluation of the plan.

Identification of Resources

Instead of creating new programs and services to implement the plan, the Regional Workforce Alliances will maximize the existing programs and services provided by the plan's partners in their region. When necessary, an alliance may recommend that ODOT issue a Request for Qualifications (RFQ) or a Request for Proposal (RFP) process to fill any gaps in services or training.

Reporting and Monitoring Functions

Quarterly meetings with service providers allow the alliance to track the plan's implementation progress. Any recommendations and revisions to the plan resulting from these meetings are subject to ODOT approval.

Participant progress is tracked using existing databases and systems administered by partners, including the Bureau of Labor and Industries, Oregon Employment Department, and the State of Oregon.

Timeline

To accommodate the OTIA III construction schedule, the Portland Metro and Northern Eastern Oregon Regional Workforce Alliances will form no later than December 2005. The Mid-Willamette Valley Workforce Alliance is expected to form in 2006. The formation of the two remaining alliances, Southern Oregon and Central/Southeastern Oregon, will coincide with the bridge program's construction schedule and projected peak man-hour demands during the next five years.

Workforce Participation

Women, minorities, low-income, and disadvantaged workers participating in the plan's training opportunities will follow the process outlined in Appendix 4. Generally, the process is summarized below.

Participants are assigned a case manager who will provide career information and assistance in identifying career goals. The case managers are existing staff from the plan's partners already providing this service. From this information, a service plan is developed, with sustainable employment as an outcome. The case manager may also provide referrals to training programs and support services including tutoring and childcare. Additionally, mentoring from a woman or minority worker in the construction trade may be proposed.

Job-ready applicants receive job placement assistance, including referrals to apprenticeship programs and employers. Retention services to boost the rate of successful careers in the construction trades include post-placement follow-up. It is expected that at least 400 apprentices a year will gain acceptance into apprenticeship programs within the first two years of the plan's implementation.

Applicants who are unable to continue in the process due to changes in career interests, lifestyle demands, or educational constraints have an opportunity to seek alternate occupational interests.

V. What the Workforce Development Plan Means to Contractors

The mission of the plan is to ensure an adequate supply of qualified workers by helping develop a diverse, skilled workforce and increasing the use of apprentices. Contractors play an integral role in making this a reality. ODOT is partnering with the construction industry

by providing contractors with the support and services they need to successfully diversify their workforce, while meeting new contract specifications.

Through the Workforce Development Plan, ODOT and its partners will strive to reduce the burden on contractors to produce a skilled pool who meet industry standards. ODOT will identify a pool of pre-qualified potential workers that contractors may select from when hiring new journey workers or turn to when seeking to hire new apprentices. The plan's partners will supplement contractor training efforts by providing the necessary programs and services to successfully produce a trained, skilled workforce.

The four major differences in how contractors are impacted by the Workforce Development Plan are detailed below.

Diversifying the Workforce

Contracts for OTIA III projects statewide and all ODOT construction projects in Multnomah, Clackamas, and Washington counties will reflect the new women and minority utilization aspirational goals and expand the use of apprentices and trainees. To help contractors diversify their workforce and meet these goals, ODOT will identify a labor pool for contractors as noted above.

ODOT will provide individual assistance to contractors to help them achieve the new utilization goals. This may include providing guidance on individual employment situations, as well as providing exceptions to meeting the new contract specifications for unique and extenuating circumstances. Information posted on ODOT's web site will include contact information for accessing the qualified labor pool, in-depth information on the plan, details on the apprenticeship program, and leads for obtaining additional resources. As the plan evolves, ODOT will identify contacts for contractors to reach for more information. The goal is to have a single point of contact for contractors to access the qualified labor pool.

On-the-Job and Apprenticeship Training Opportunities

ODOT will identify and screen a pool of qualified applicants that contractors may access for apprenticeship and on-the-job training opportunities. Providing training opportunities yields many benefits for contractors. First, contractors will have the workforce they need to complete their existing projects. Second, contractors will have a qualified, skilled labor pool from which they can select workers to successfully compete for other projects. Third, by training women and minorities and expanding the use of apprenticeships and the OJT program, contractors will be able to meet their contract specifications and make major strides toward meeting the new utilization goals and subsequently their contract specifications. Finally, some individuals in the qualified pool will be available to enhance the contractor's journey-level workforce.

Monitoring/Reporting Functions

ODOT will use existing reporting functions to monitor contractor compliance with the new workforce utilization goals. The focus is not to create new or time-

consuming reporting activities, but rather to leverage the existing reporting function and streamline the process—making it easier for contractors to track their progress. ODOT will review reports monthly, focusing on how contractors are providing training opportunities and their efforts to diversify their workforce. Contractors who are in compliance with the new contract goals will receive minimal oversight from ODOT.

Contract Specifications

As part of the implementation of the Workforce Development Plan, contract specifications for OTIA III and all ODOT construction projects in Multnomah, Clackamas, and Washington counties will reflect the new apprenticeship and diversity aspirational goals. Beginning in fall 2005, ODOT will provide training sessions for contractors quarterly for the following year to clarify the new specifications and what these changes mean to contractors.

The qualified labor pool composition for women and minorities on federal and federally assisted construction contracts/subcontracts in excess of \$10,000 is determined by federal standards. The goals are expressed as a percentage of the hours worked by the contractor's total workforce per trade on all construction projects in a geographic area. The federal goal for utilization of women is 6.9 percent of work hours and applies to all of a contractor's construction sites, regardless of where the contract is performed. Aspirational goals for women on OTIA III contracts statewide and all ODOT construction contracts in Multnomah, Clackamas, and Washington counties will be 8 percent.

Ultimately, ODOT is seeking to increase participation rates statewide to 14 percent for women and 14 percent for minorities. In the Portland tri-county area, ODOT is seeking to increase participation rates to 14 percent for women and 20 percent for minorities. Appendix 5 details ODOT's regional utilization aspirational goal changes. A federal public notice process and a review at the federal level of these new specifications will also occur.

Selecting Job Candidates from the Qualified Labor Pool

Contractors are encouraged to select job candidates from the qualified labor pool and provide an evaluation of their job-readiness. When possible, contractors are encouraged to work with local apprenticeship committees to provide access into registered apprenticeship programs. By selecting workers from the qualified labor pool, contractors will be contributing to their compliance with federal "good faith" standards in the worker selection process. ODOT will monitor contractor compliance with federal requirements, which are explained in further detail in Appendix 6, EEO and Affirmative Action Requirements.

If candidates from the qualified labor pool are not selected, the contractor must provide a reason, which may include a candidate's drug and alcohol use or chronic/repeated absenteeism. ODOT has the right to reject a contractor's reason. If this happens, the contractor is required to select job

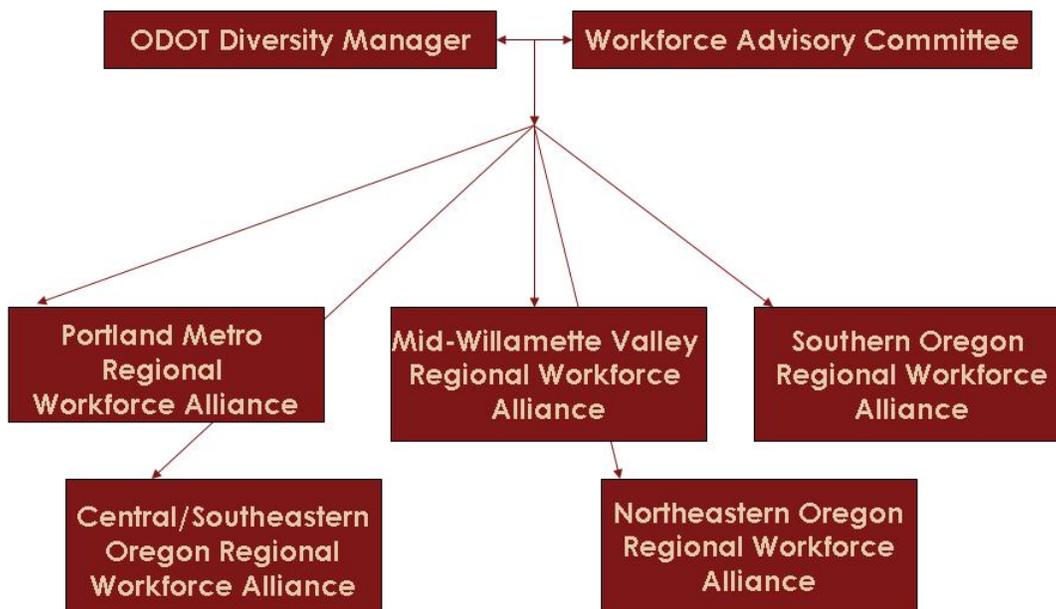
candidates from the labor pool or forfeit its contract. However, if the contractor's reason is accepted, the contractor must complete a "good faith" effort to select another worker from the labor pool or it may have to forfeit its contract. If a qualified, skilled labor pool is not available, the contractor is required to follow the federal "good faith" requirements to meet its contract utilization goals.

VI. Management Structure of Program

Management of the Workforce Development Plan requires the leadership and participation of all the plan's partners to build a diverse, skilled workforce. ODOT has appointed an agency manager to oversee the program and to coordinate with Regional Workforce Alliances and the Workforce Advisory Committee.

An organizational chart detailing the interaction between ODOT, the Workforce Advisory Committee, and the Regional Workforce Alliances follows.

Management Structure of the Workforce Development Plan



The Regional Workforce Alliances implement the plan at the regional level. Alliances are responsible for creating a system to produce a skilled labor pool.

Regional Workforce Alliances

The five Regional Workforce Alliances will implement the Workforce Development Plan at the regional level. The goal of the alliances is to create a system to recruit, train, and retain women and minorities in the construction trades.

Partners in the alliances will include the Bureau of Labor and Industries' Apprenticeship and Training Division, local community colleges, community leaders, community-based organizations, construction contractors, general contractors, local government, high schools, Housing Authority of Portland, local Joint Apprenticeship Training Committees, Metro, minority and women chambers and organizations, ODOT, Oregon Employment Department, Oregon Health and Science University, Port of Portland, Portland Development Commission, private-sector owners, tribal representatives, and local Workforce Investment Board or Title 1B providers. A detailed description of the alliances and their responsibilities is listed in the Approach section on page 14.

Workforce Advisory Committee

The focus of the Workforce Advisory Committee is on providing guidance and evaluation of the Workforce Development Plan for ODOT's Director and setting forth recommendations to address issues as identified. Where resolution is required outside the purview of this committee, recommendations will be forwarded to ODOT for disposition. The committee is also responsible for reporting on plan goals, implementation progress, and tracking performance measures of the plan's partners. Additionally, this committee provides a forum for partners to communicate on a regular basis and resolve issues. This committee is composed of representatives from the Bureau of Labor and Industries, Community Colleges and Workforce Development, the contracting community, Governor's Office, ODOT, Oregon Employment Department, organized labor, private-sector, women and minority individuals and businesses, local apprenticeship committees, and other partners. ODOT's Director's Office will chair this committee.

Oregon Department of Transportation

ODOT is responsible for overall management of the Workforce Development Plan. ODOT's responsibilities include monitoring compliance at all levels, estimating labor pool needs for each project, setting diversity goals for each project, collecting data from the various partners, managing funds, overseeing and approving all operational plans, managing construction contracts, providing a diverse labor pool, and reporting to all partners on the plan and its progress.

VII. Tactics

Implementation of the Workforce Development Plan entails the following five tactics: 1) identification of the labor force, 2) outreach and recruitment, 3) skills assessment, 4) apprenticeship and OJT programs, and 5) support services. Many of these steps will occur simultaneously to achieve critical mass.

Identification of the Labor Force

The primary focus of this activity is the identification of women, minority, low-income, and disadvantaged candidates to create a labor pool of qualified workers. Potential participants are identified through input from Oregon's workforce system, community-based organizations, and the Oregon Employment Department's "iMatchSkills" system. The labor force consists of the following types of workers: employed/skilled, displaced workers, underemployed, unemployed (less than a year), and the chronic unemployed (more than year).

Outreach and Recruitment

Outreach and recruitment efforts will occur simultaneously with identification of the labor force. Using the Regional Workforce Alliance plans as a road map, ODOT will pursue an aggressive statewide recruitment campaign to attract participants. Recruitment efforts will be ongoing and maximize the use of state and federal resources. Specific activities include:

Partner Involvement

The Regional Workforce Alliances will ensure recruitment efforts are targeted and coordinated at the regional level. Specific outreach and recruitment resources will be provided by community-based organizations, community colleges, Joint Apprenticeship Training Committees, government agencies (e.g., Oregon Employment Department and the Department of Human Services), and Oregon One-Stop Career Centers.

Briefings and Orientations

Outreach briefings and orientations for community-based organizations and civic groups that work directly with women and minority populations will provide methods of outreach to these communities. The Workforce Advisory Committee, with support from the Regional Workforce Alliances, will help identify which organizations to approach. At least one large regional orientation will occur in each region for all partners.

Potential outreach efforts to high school students may include information nights at the schools, presentations by the Joint Apprenticeship Training Committees (JATCs) to promote construction trades careers, and tours of training facilities organized by the JATCs. Other outreach methods include establishing a recruiting link with Oregon Job Corps Training Centers.

Collateral Material

To aid with recruitment, outreach efforts will include the development of collateral materials that appeal to women and minorities. These materials will publicize job opportunities and support services in specific geographic regions. As part of this effort, advertisements targeting women and minorities will be placed in minority and general newspapers. All collateral materials will coordinate with ODOT's public information campaign for the OTIA III State Bridge Delivery Program, award of construction contracts in each region, and the system established by the local Regional Workforce Alliances.

Project Orientations

Project orientations provide an opportunity for outreach and recruitment efforts to occur simultaneously. These sessions will provide information on a specific project's construction scope and schedule, an overview of the construction industry and apprenticeship system (including an overview of the training process), and a discussion of what construction jobs entail. Project orientations provide an opportunity for the identified qualified labor pool to share their needs and identify potential barriers to working in the construction industry. Recruiters attending these sessions will provide a pre-assessment of the labor force's skills and career

goals. The recruiters are existing staff from the plan's partners already providing this service.

Youth Recruitment

A long-term focus of the plan is to go beyond ODOT's existing goal of recruiting students enrolled in traditional high schools to include those enrolled in alternative school systems, with an emphasis on recruiting women and minorities. A clear and defined career path into construction trades will increase interest in and the success rate of entrance into these careers. Additional youth recruitment efforts will focus on organizations including the Native American Youth Association, Girl Scouts, and others serving minority and female youth.

Available Resources

The Regional Workforce Alliance partners will work together to maximize existing services and programs to provide coordinated outreach, recruitment, retention, and ongoing support services. Recruiters trained on industry standards and apprenticeship enrollment requirements—a service already provided by the plan's partners—are critical to outreach and recruitment efforts. The draft roles and responsibilities for recruiters are detailed in Appendix 7.

Skills Assessment

The objective of the skills assessment is to gauge the job readiness of the potential qualified labor pool and determine the training and support services needed for participants to successfully pursue a career in construction. Factors assessed include education levels, skills levels, prior work experiences, and support services needed. The skills assessment helps refine existing service provider efforts, with particular emphasis on customizing approaches to recruit women and minority participants.

Partner Involvement

The partners involved with this effort include the Bureau of Labor and Industries, local Joint Apprenticeship Training Committees, community-based apprenticeship preparation organizations, community colleges, and workforce partners.

Additionally, partners will provide participants with information on entry routes into construction jobs, including the requirements and benefits in this field.

Skills Assessment Areas

A variety of skills assessment tools will be used to gauge the skills level of the qualified labor pool and determine the training and support services needed to develop a qualified workforce. These services will be provided by ODOT's partners. At a minimum, participants will be assessed in the following seven areas: basic skills level, which is defined as reading, writing, math, and English as a Second Language (ESL); educational level; job-specific skills (e.g., the ability to use welding equipment); transferable skills (e.g., the ability to use measuring tools such as a tape measure, rulers, etc.); work readiness; communication and team building; and barriers to success.

Assessment Criteria

The assessment is based on the requirements of apprenticeship programs. A timed aptitude test measures knowledge on subjects found on apprenticeship tests. These are referred to as “Basic Skills,” which include math, spatial relations, numerical reasoning, reading, and vocabulary skills. Knowledge of transferable skills is also measured. An application and interview process helps both staff and candidates assess their expectations, goals, related skills, and readiness for a construction career. Additionally, applicants must present documents including a high school diploma or GED, a driver’s license, and proof of work authorization.

Based on the assessment, the qualified labor pool is grouped according to the time frame required to be deemed qualified for a job in the construction trades. Participants in the “Zero to Three Months” group possess job-ready skills or need up to three months of training to develop their skills to job-ready levels. Participants in the “Three Months to Nine Months” group require supplemental training, which may include finishing their GED or enhancing their language, life, or job-specific skills, to be job-ready in three to nine months. Participants in the “Nine Months to Two Years” group require a significant amount of training and services including Basic Skills, drug and alcohol services, and life skills enhancement.

The assessment will also identify and address factors that prevent apprenticeship participants or pre-participants from entering construction-trades employment or completing their apprenticeship training. The support service providers will then identify the support services needed to address retention issues.

Draft assessment criteria can be found in Appendix 8.

Case Management Approach

Following the assessment, participants will be assigned a case manager who will assist them in developing service plans and accessing the appropriate services. The case managers are existing staff from the plan’s partners already providing this service. Participants are placed in an appropriate apprenticeship preparation program or are assisted with a direct job placement or apprenticeship-training program. The case manager may also refer participants to longer term supplemental and basic skills training or to other occupational interests.

Available Resources

The Regional Workforce Alliances will monitor the progress of participants in the program. To ensure participants meet construction industry requirements, existing funds are available to provide additional supplemental training on any of the assessment areas described above. (Please refer to page 30 for a brief description of the plan’s funding sources.)

Apprenticeship Program

Once a participant is considered job-ready, he or she will be transferred to job placement professionals. These job placement professionals are existing staff from the plan’s partners already providing similar services. Job placement professionals will provide guidance and

referrals to appropriate apprenticeship programs and link participants to contractors. Follow-up services include placement tracking, involvement in mentoring programs, and quarterly progress meetings. Mediation, counseling, re-placement assistance, and advocacy services to promote participant retention in the trades is also provided.

Available Resources

Apprenticeship training is provided by local Joint Apprenticeship Training Committees and their participating employers. Potential training sources for pre-apprenticeship training include alternative schools, Associated General Contractors, Bureau of Labor and Industries' Apprenticeship and Training Divisions, community colleges and high schools, community-based organizations, higher education institutions, Job Corps, minority chambers of commerce, on-the-job training opportunities, OJT Supportive Service Providers, state-approved apprenticeship preparation programs, Tribal Employment Rights Office, and WorkSource Oregon One-Stop Career Centers.

Case Management Approach

A case management approach in following the apprenticeship program provides continuity for the participant. Case managers, who are existing staff from the plan's partners already providing similar services, will track apprentices after their job placement and assist with post-placement or re-employment needs.

Partner Involvement

The Regional Workforce Alliance partners will maximize existing services and programs to provide apprenticeship preparation training. Joint Apprenticeship Training Committees and participating contractors will coordinate with the alliance to ensure that applicants are adequately prepared to enter an apprenticeship program. Community colleges will offer classes on the construction industry and construction-related skills building. These classes will also link participants to apprenticeship and OTIA III job opportunities. By maximizing the existing mentoring program, mentoring will be provided for apprenticeship program participants.

Mentoring Programs

Mentoring programs provide apprentices and trainees with the support they need to successfully pursue construction trade careers. The mentoring program is detailed below.

Mentoring Sessions

These sessions provide mentoring information and techniques for service providers, contractors, journey workers, and registered apprentices and trainees. Discussion topics include coaching behavior, monitoring development of apprentices, and providing constructive feedback to apprentices, as well as networking opportunities for apprentices with journey-level construction workers. At a minimum, one session in each region is scheduled per year, with more sessions as needed.

Mentoring Program Fact Sheet

The alliance partners will create a “how-to” fact sheet for contractors and apprenticeship-training centers to establish their own mentoring programs. This fact sheet will be distributed at the Mentoring Sessions.

Mentors

By maximizing existing services and programs, mentors will be available to meet with the participants and their employer. The mentor’s responsibilities include providing support, information, and problem-solving expertise to apprentices about their experiences with the program. Mentors are trained to handle the wide range of problems apprentices may face, including race-related or women-specific issues. The mentor is also available to assist the contractor in developing a training plan for apprentices. Joint Apprenticeship Training Committees will provide additional support to mentors as appropriate.

ODOT Site Visits

ODOT Office of Civil Rights staff will conduct periodic site visits to review the progress of the apprentices and trainees.

Retention Services

During the first year of implementing the plan, ODOT will partner with community-based organizations to provide job site mentoring for participants. The goal of this task is to address the high dropout rate from apprenticeship training programs, particularly for women and minorities. Contractors will also provide retention services through procedural job site orientations for new workers and matching new workers with a journey worker who is able to address construction culture, appropriate job site behavior, safety, and work processes. ODOT will recognize the contractor’s mentoring program as a good faith recruitment effort. The plan partners will also identify late-term minority and women apprentices who are available to mentor new apprentices.

Dispatch/Re-Employment Assessment

The objective is to continue to track participants to assure that they have continuing work. If a participant is not working, he or she will receive assistance for finding new employment. Local apprenticeship committees will be asked to make revisions to their re-employment policies that allow apprentices who have completed their work on a project for a contractor and therefore have been laid off to immediately be re-employed with the same contractor if additional OTIA III work is obtained. Additional assessment of the participant may be required to determine if additional training is needed. Job opportunities will be identified through the Bureau of Labor and Industries, Associated General Contractors, unions, Joint Apprenticeship Training Committees, and “iMatchSkills” system.

Workforce Pilot Project

The initial implementation of the plan will occur as a pilot project for the first two years. During the pilot phase, ODOT’s increased apprenticeship requirements and

women and minority utilization aspirational goals will apply only to OTIA III projects statewide and all ODOT construction projects in Multnomah, Clackamas, and Washington counties. Following this two-year period, and pending FHWA approval, ODOT will determine whether to include the new utilization numbers on all ODOT projects.

A workforce program based upon a highly successful pre-training program in Region 1 is proposed in two other regions to jumpstart the local training system capacity. Under a proposed pilot project, Region 5, which covers a rural area, will receive assistance and resources necessary to establish a pre-training program in late 2005. In 2006, Region 2, a rural/urban area, will establish its pre-training program. Please refer to Appendix 9 for a complete description of the proposed workforce demonstration project. Appendix 10 details how the plan meets the Western Regional Summit Goals.

Apprenticeship Program Requirements

The number of on-the-job or apprenticeship training positions required by the Workforce Development Plan shall be the equivalent of 20 percent of the measured and tracked hours per craft measured to the nearest one-half hour. The ratio of apprentices to journey-level workers will be in accordance with the accepted apprenticeship standards for the particular craft. ODOT will incrementally increase apprenticeship targets from 5 percent to 20 percent over 18 months with annual program reviews and adjustments, as necessary.

Whenever a portion of the construction work is subcontracted, the prime contractor may determine how many, if any, of the trainees/apprentices will be trained by the subcontractor. However, the prime contractor retains responsibility for meeting the training requirements of the plan. Prime contractors will also ensure that these provisions apply to each subcontract when training positions are assigned by the prime.

On most projects, prime contractors and subcontractors should be able to fulfill the 5 percent, 10 percent, 15 percent, and 20 percent apprenticeship hours goal to the fullest extent possible without exceeding the apprentice ratios approved by the applicable apprenticeship program. The ratios are based upon the number of workers on the job site in each trade. Exceptions to the apprenticeship training goals may be granted for some occupations, such as iron worker or operating engineer, as these occupations have a high ratio of journey workers to apprentices. Prime and subcontracts also are excluded from this provision if the total value of the contract is less than \$300,000. However, contracts shall not be intentionally subdivided to less than \$300,000 or split into “materials only” and “labor only” subcontracts in order to void the training requirements.

Exceptions must be approved by ODOT in writing before the contractor begins work on the project. ODOT will consider written requests for exceptions related to the training goals at the start of a project.

ODOT will review the apprenticeship training goals annually and make any necessary adjustments.

Training/Apprenticeship Programs

The prime contractor is responsible for ensuring that overall apprenticeship utilization meets the contract specifications. Apprenticeship utilization requirements will not apply to contracts less than \$300,000. If a subcontractor working on a contract worth less than \$300,000 voluntarily chooses to use apprentices, those hours would count toward the overall utilization of the project.

On contracts worth \$300,000 or more, prime contractors and subcontractors are required to meet the apprenticeship utilization specifications. Primes and subs are also required to use apprenticeship programs approved and registered with the Bureau of Labor and Industries (BOLI) to fulfill training requirements for the plan.

The contractor, not registered as a training agent with a JATC, may choose to adopt an existing ODOT training program to satisfy these requirements. Adoption of an existing training program will ensure the trainee who has completed 2,000 hours of training is eligible for entry into an apprenticeship program. Training under this program will be conducted in accordance with a Training Program Form submitted by the contractor and approved by ODOT's Office of Civil Rights OJT staff and the Federal Highway Administration.

Support Services

The majority of current journey workers are guided to their career by an informal network of family members, friends, or through word-of-mouth. The Workforce Development Plan seeks to build on this network by providing women and minorities with the support services needed to successfully pursue—and thrive—in a career in construction.

ODOT and its partners will assist program participants with a full range of support services. Additional information on draft support services is detailed in Appendix 11.

VIII. Program Evaluation

Evaluation of the Workforce Development Plan will focus on two outcomes:

1) increasing apprenticeship and training opportunities and 2) the development of a qualified labor pool. Both outcomes will address two central questions: a) how successful we were in increasing the number of women and minorities in the contracted workforce and b) how successful we were in expanding the use of apprentices.

Apprenticeship and Training System Capacity

Evaluation of the apprenticeship and training system determines whether the plan produced a system with sufficient capacity to supply a skilled, qualified, diverse labor pool. The evaluation measures the success in meeting the needs of businesses, workers, and transportation construction. Information gathered in the evaluation is useful for replicating the processes for other programs.

The Workforce Advisory Committee may ask the following questions in the evaluation of the apprenticeship and training system: Were the plan's goals, objectives, and activities achieved? Did the Regional Workforce Alliances include the necessary partners, services, and funding sources? Did the Memorandum of Understanding and/or Regional Workforce Alliance Plan address all the necessary issues? Was a viable monitoring and reporting system developed? Did businesses and workers perceive value in the initiative? Were the barriers preventing the success of women and minorities addressed? Were participant performance measures achieved? Were enough women and minorities recruited as mentors? Is there diversity among the participants in terms of race, gender, and craft? How will the project be sustained and replicated? Is a procedure in place for review of policy and practices? What are the lessons learned that can be applied in future efforts? Were sufficient resources allocated for this project? Are there any policies or procedures needed to strengthen the opportunities for women and minorities? How many contractors have met the contract specifications, apprenticeship requirements, and diversity goals?

Qualified Labor Pool Development

Evaluation of the qualified labor pool development determines whether the plan achieved its performance and outcome measures by demonstrating that a qualified, skilled, and diverse labor force was produced. The desired outcome is that participants obtained and maintained construction trades jobs.

In evaluating the success of the qualified labor pool development, the Workforce Advisory Committee will measure the percentages of women and minorities in the total workforce recruitment pool; the workforce as referred or trained by high schools, community-based organizations, or community colleges; enrolled candidates in apprenticeship training to apprentices that satisfactorily completed the apprenticeship training; women and minorities enrolled in apprenticeship training who completed the training; candidates who successfully completed the apprenticeship training to candidates that attained industry jobs (journey-level positions); and women and minorities who successfully completed the apprenticeship training to women and minorities who attained industry jobs (journey-level positions).

IX. Next Steps/Timeline

ODOT will take the following six steps immediately: 1) seek approval of the apprenticeship and diversity elements for federal projects from the Federal Highway Administration, 2) set up the Workforce Advisory Committee and Regional Workforce Alliances, 3) work with partners to develop policies and procedures, 4) write contract

specifications, 5) set up new tracking and monitoring systems to track project activities on a monthly basis, and 6) conduct mandatory training of contractors on the tracking system.

The initial implementation of the plan will occur as a pilot project for the first two years. During the pilot project phase, ODOT's new women and minority utilization aspirational goals and new apprenticeship requirements will apply only to OTIA III projects and all ODOT construction projects in Multnomah, Clackamas, and Washington counties. For details on the implementation schedule, please see Appendix 12, Draft Workforce Implementation Schedule.

At the end of the two-year period, ODOT will evaluate the compliance rates for these projects. Pending FHWA approval, ODOT will determine whether to include the new women and minority utilization numbers on all ODOT projects that are federally funded.

The Workforce Development Plan is intended to be a living, working document. Through a collaborative effort with FHWA and partners, ODOT will review the plan on an annual basis and make improvements to the plan.

X. Other Considerations

This section details other considerations ODOT and its partners are working on to aid in the implementation of the Workforce Development Plan.

Funding Sources

ODOT and its partners will implement the Workforce Development Plan by maximizing the use of existing programs and services. Many of the programs and services detailed in this document are already provided by the plan's partners. The Workforce Development Plan seeks to apply these programs and services to the construction industry.

To fund elements of the plan, ODOT will use existing federal funds and apply for new funds. Existing funds are from the Bureau of Labor and Industries, the Department of Community Colleges and Workforce Development, the Federal Highway Administration, Oregon Employment Department, and the U.S. Department of Labor. ODOT will apply for additional funding from federal and state sources.

Apprenticeship Requirements Pilot Project

ODOT will identify a construction project for which apprenticeship requirements are based on the project rather than per craft. This pilot project will help determine if the new apprenticeship requirements can be met by a project approach.

Under the Workforce Development Plan, the contractor is required to meet the apprenticeship goals through a per-craft (laborer, carpenter, etc.) methodology. ODOT would set the same apprenticeship requirements, but the contractor would have the option of achieving those requirements in a manner that best fits the project. Thus, the contractor would not have to meet the per-craft apprenticeship requirement as long as a range of skilled crafts are utilized in the contractor's plan. ODOT would review compliance based upon all crafts, instead of examining the contractor's apprenticeship efforts on a specific

project for a specific trade (e.g., carpentry), to determine whether the contractor is achieving the apprenticeship requirements.

Equal Employment Opportunity (EEO) Certification Pilot Program

ODOT is exploring the feasibility of implementing an Equal Employment Opportunity (EEO) certification program. The proposed program is expected to be similar to the City of Portland's Equal Employment Opportunity/Affirmative Action program and would apply only to state-funded projects.

Currently, ODOT has no certification program for contractors; certification is not a requirement for obtaining ODOT contracts. Following the successful implementation of the pilot program, the ODOT-administered EEO Certification will be a requirement of working with ODOT.

Under the proposed program, contractors will apply for certification on an annual basis. ODOT will review the contractor's efforts in the previous year to diversify its workforce. The review is on a non-per-craft basis: instead of examining the contractor's diversity efforts on a specific project for a specific trade (e.g., carpentry), the review will evaluate the contractor's companywide diversity efforts. Further, ODOT will recognize a contractor's diversity efforts on all projects, including non-ODOT projects, toward achieving the EEO certification.

Tribal Employment

Whenever possible, local resources—workers, goods, and services—will be used to develop a qualified, diverse, skilled labor pool. Two provisions, which are detailed below, apply to tribal employment.

Indian Preference in Employment on Federal-Aid Highway Projects on or Near Indian Reservations

The purpose of this special provision is to outline the "Tribal Employment Rights Office (TERO) Indian Preference in Employment" requirements and procedures to be followed by The Confederated Tribes of the Umatilla Indian Reservation, ODOT, and all contractors and subcontractors engaged in highway construction work that is under contract with ODOT on federal-aid highway projects located on and near the Umatilla Indian Reservation. The full agreement is included in Appendix 13.

Preferential Employment of Tribal Members

Section 1026 (c) of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), which remains unchanged in TEA-21 legislation, recognizes and permits the preferential employment of Indians living on or near a reservation for projects and contracts funded with ISTEA monies that take place on or near Indian Reservations. ODOT's policy is to encourage employment of minorities and more specifically, as it relates to Section 1026 (c) of ISTEA, American Indians. ODOT's policy is to cooperate with the nine tribal governments to allow for the preferential employment of American Indians for projects on or near Indian Reservations. Tribal governments may request inclusion of Indian

Employment Preference on any project. ODOT will review each request on a per-project basis.

XI. Appendices

- Appendix 1: New Women and Minority Utilization Aspirational Goals
- Appendix 2: Regional Workforce Alliances by County
- Appendix 3: Region 1 Comprehensive Construction Workforce Development Decision-Making Structure
- Appendix 4: ODOT Workforce Development Plan Service Matrix
- Appendix 5: Regional Women and Minority Utilization Aspirational Goal Changes
- Appendix 6: EEO and Affirmative Action Requirements
- Appendix 7: Draft Recruiters Roles and Responsibilities
- Appendix 8: Draft Skills Assessment Criteria
- Appendix 9: Workforce Demonstration Project
- Appendix 10: Western Regional Summit Goals
- Appendix 11: Draft Support Services
- Appendix 12: Draft Workforce Implementation Schedule
- Appendix 13: Full Agreement – Tribal Employment

**Oregon Department of Transportation
Workforce Development Plan
Appendices**

Appendix 1: New Women and Minority Utilization Aspirational Goals

The following new aspirational goals will be included in ODOT's contract specifications:

- Aspirational goals for women on OTIA III and Portland-area contracts will be 8 percent.
- Aspirational goals for minorities on OTIA III and Portland-area contracts will be 9 percent.
- Aspirational goals for minorities on OTIA III projects outside the Portland area will be:
 - Marion and Polk counties – 5.8 percent
 - Benton, Clatsop, Columbia, Crook, Deschutes, Hood River, Jefferson, Lincoln, Linn, Sherman, Tillamook, Wasco, and Yamhill counties – 7.6 percent
 - Coos, Curry, Douglas, Jackson, Josephine, Klamath, Lake, and Lane counties – 4.8 percent
 - Baker, Gilliam, Grant, Morrow, Umatilla, Union, Wallowa, and Wheeler counties – 7.2 percent
 - Harney and Malheur counties – 8.8 percent

ODOT will seek approval from the Federal Highway Administration to make these goals contractual requirements.

Overall, ODOT is seeking to increase participation rates statewide to 14 percent for women and 14 percent for minorities. In the Portland tri-county area, ODOT is seeking to increase participation rates to 14 percent for women and 20 percent for minorities.

Appendix 2: Regional Workforce Alliances by County

The five Regional Workforce Alliances are as follows:

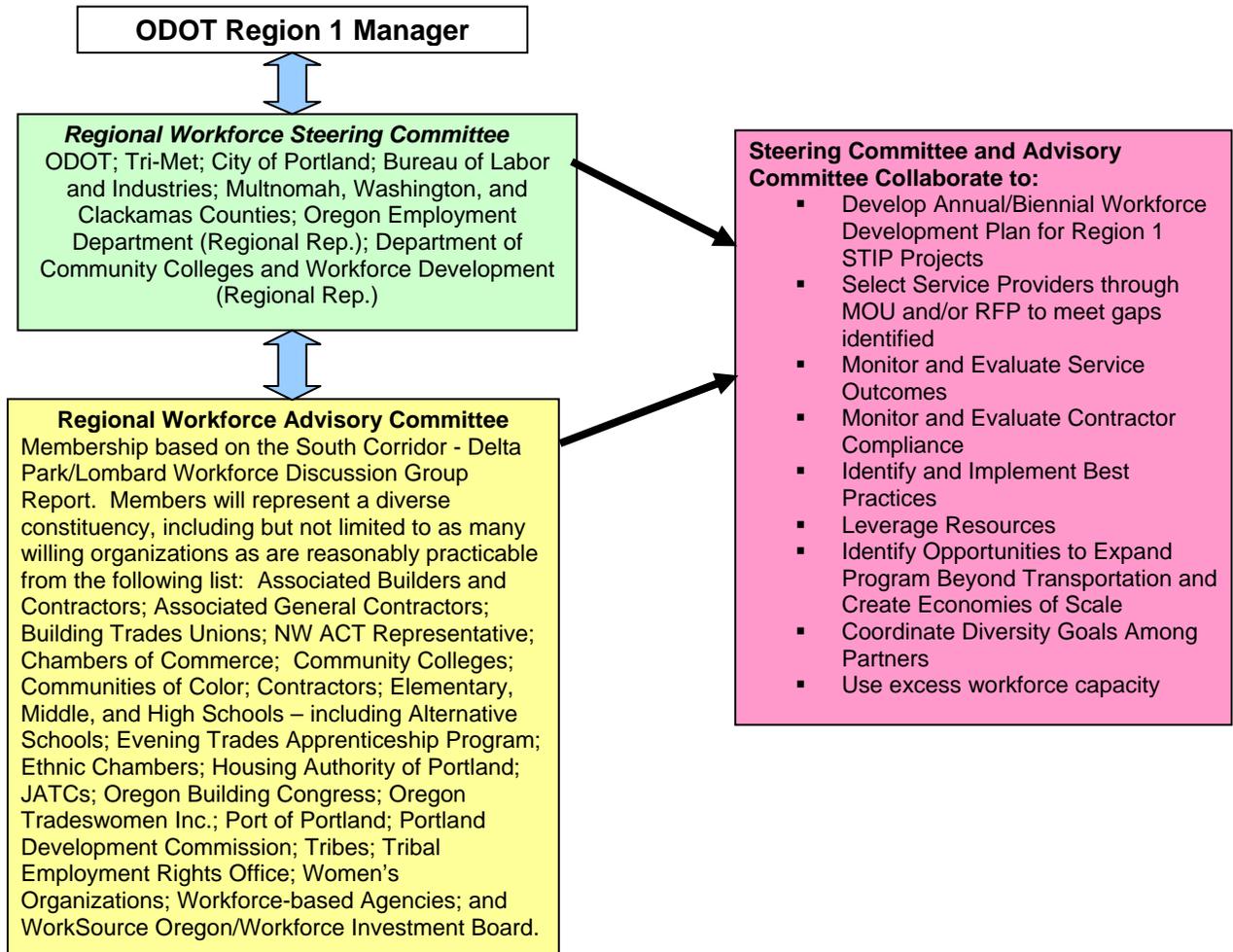
- 1 – Portland Metro – Pilot Project
- 2 – Mid-Willamette Valley
- 3 – Southern Oregon
- 4 – Central/South Eastern Oregon
- 5 – Northern Eastern Oregon

Regional Service Areas by County

Region 1 Pilot Project Area	Region 2	Region 3	Region 4	Region 5
Multnomah	Lane	Douglas	Jefferson	Sherman
Clackamas	Linn	Coos	Deschutes	Gilliam
Washington	Benton	Curry	Klamath	Morrow
	Lincoln	Josephine	Lake	Umatilla
	Polk	Jackson	Crook	Union
	Marion		Harney	Baker
	Yamhill		Wheeler	Wallowa
	Columbia		Wasco	Grant
	Clatsop		Hood River	Malheur
	Tillamook			

Appendix 3: Region 1 Comprehensive Construction Workforce Development Decision-Making Structure

Region 1 Pilot Program – Comprehensive Construction Workforce Development Decision-making Structure



Appendix 3: Region 1 Comprehensive Construction Workforce Development Decision-Making Structure, continued

Region 1 Pilot Program – Plan Elements and Implementation

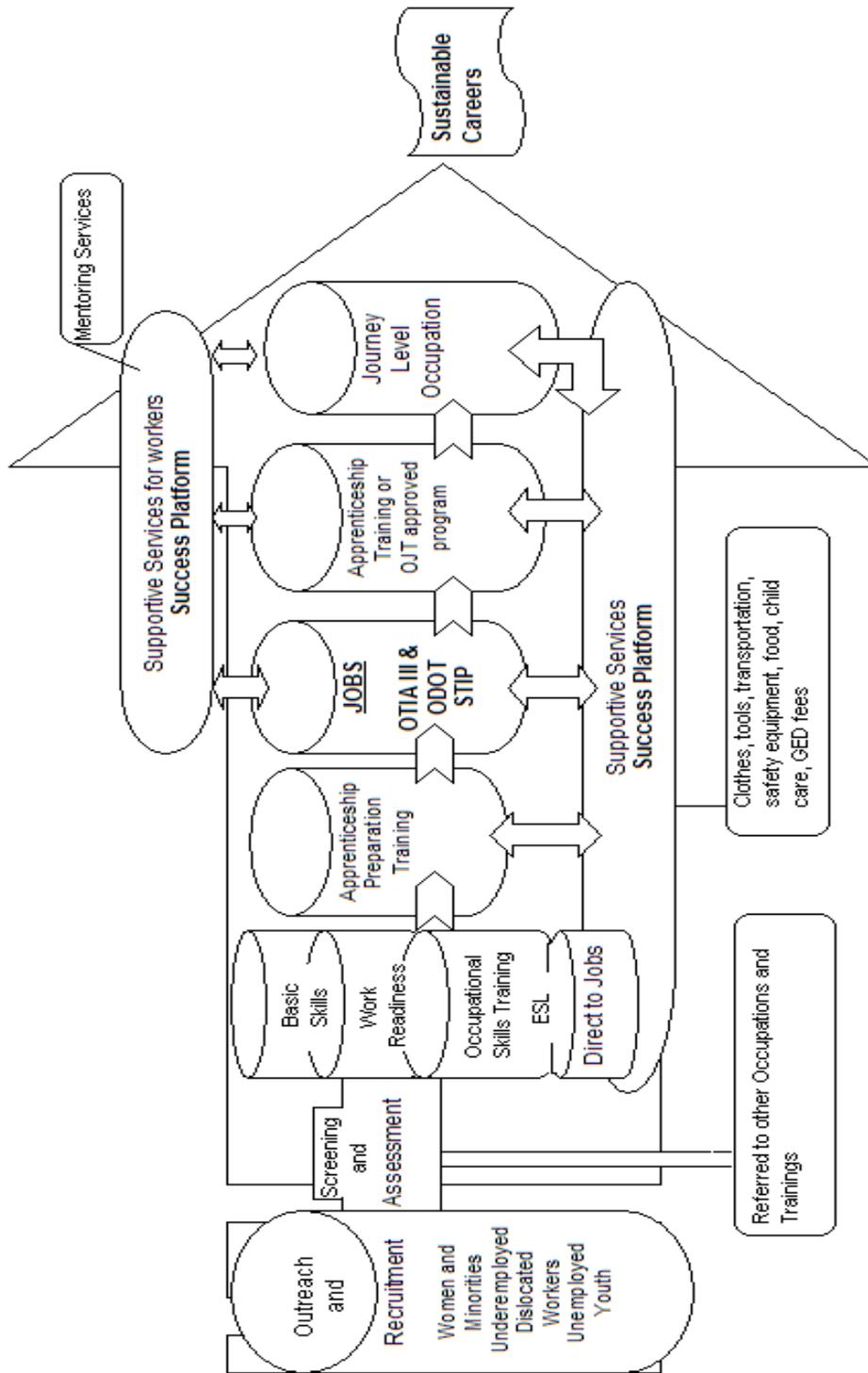
Annual Workforce Development Plan Will:

1. Provide a comprehensive system of services, including recruitment, assessment, apprenticeship preparation, barrier reduction, job readiness, supportive services, apprenticeship training, on-the-job training, mentoring, monitoring and compliance, evaluation of effectiveness
2. Contract with existing partners for comprehensive program to leverage existing funds
3. Identify and develop training programs that meet project-specific industry needs of women and minorities
4. Develop trained/skilled women and minorities workforce
5. Provide stronger networks to link existing women and minorities trades participants
6. Encourage contractor participation in education of newly recruited workers
7. Develop an early diversity job notification strategy
8. Meet BOLI-supplied, industry training requirements
9. Implement barrier-reduction strategy
10. Create and service required labor pool
11. Monitor candidate performance per standards
12. Provide one point of contact for workforce

Implementation/Service Provider Agreements and Selection:

- a. Solicit, review, and approve core services to be provided by Oregon Employment Department, WorkSource Oregon One Stop Career Centers, community colleges, community-based organizations
Utilize Memorandum of Understanding.
- b. Determine service gaps
- c. Issue RFPs for gaps
- d. Select providers to fill gaps

Appendix 4: ODOT Workforce Development Plan Service Matrix



Appendix 5: Regional Women and Minority Utilization Aspirational Goal Changes

Regional Demographics and 2000 Census for Women and Minorities					Contract Aspirational Goals for Women and Minority Participation by Region				
Region	2004 State of Oregon Labor Force Demographics Women and Minorities	Estimated and Projected Total Available Construction Workers	2000 Census for Minorities	Statewide Aspirational Goals Women % / Minority %	Region 1 Pilot Project Area	Region 2	Region 3	Region 4	Region 5
REGION 1	20% Minority 45% Women	22% Minority 44% Women	19% Minority	14% / 20%	Multnomah - 9% Minority 8% Women	Lane - 4.8% Minority 8% Women	Douglas - 4.8% Minority 8% Women	Jefferson - 7.6% Minority 8% Women	Sherman - 7.6% Minority 8% Women
REGION 2	16% Minority 46% Women	16% Minority 42% Women	15% Minority	14% / 14%	Clackamas - 9% Minority 8% Women	Linn - 7.6% Minority 8% Women	Coos - 4.8% Minority 8% Women	Deschutes - 7.6% Minority 8% Women	Gilliam - 7.2% Minority 8% Women
REGION 3	11% Minority 46% Women	11% Minority 42% Women	10% Minority	14% / 14%	Washington - 9% Minority 8% Women	Benton - 7.6% Minority 8% Women	Curry - 4.8% Minority 8% Women	Klamath - 4.8% Minority 8% Women	Morrow - 7.2% Minority 8% Women
REGION 4	12% Minority 45% Women	12% Minority 36% Women	12% Minority	14% / 14%		Lincoln - 7.6% Minority 8% Women	Josephine - 4.8% Minority 8% Women	Lake - 4.8% Minority 8% Women	Umatilla - 7.2% Minority 8% Women
REGION 5	19% Minority 46% Women	17% Minority 39% Women	19% Minority	14% / 14%		Polk - 5.8% Minority 8% Women	Jackson - 4.8% Minority 8% Women	Crook - 7.6% Minority 8% Women	Union - 7.2% Minority 8% Women
						Marion - 5.8% Minority 8% Women		Harney - 8.8% Minority 8% Women	Baker - 7.2% Minority 8% Women
						Yamhill - 7.6% Minority 8% Women		Wheeler - 7.2% Minority 8% Women	Wallowa - 7.2% Minority 8% Women
						Columbia - 7.6% Minority 8% Women		Wasco - 7.6% Minority 8% Women	Grant - 7.2% Minority 8% Women
						Clatsop - 7.6% Minority 8% Women		Hood River - 7.6% Minority 8% Women	Malheur - 8.8% Minority 8% Women
						Tillamook - 7.6% Minority 8% Women			

Appendix 6: EEO and Affirmative Action Requirements

Contractors EEO Work Sheet			
<p>The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:</p>			
In Contractors Files - Verification	Forward copy to OBDP	Action Complete	EEO Requirements
			<p>A. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project.</p> <p>The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.</p>
			<p>B. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.</p>
			<p>C. Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, and recruitment source or community organization and of what action was taken with respect to each such individual.</p> <p>If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore; along with whatever additional actions the Contractor may have taken.</p>

Contractors EEO Work Sheet

The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

In Contractors Files - Verification	Forward copy to OBDP	Action Complete	EEO Requirements
			<p>D. Provide immediate written notification to the Project Mgr/Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.</p>
			<p>E. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under b above.</p>
			<p>F. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.</p>
<p>records of who attended</p>			<p>G. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions</p>

Contractors EEO Work Sheet

The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

In Contractors Files - Verification	Forward copy to OBDP	Action Complete	EEO Requirements
			including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
All advertisement and notices for employment	samples		H. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.
			I. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
			J. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.
			K. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.

Contractors EEO Work Sheet

The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

In Contractors Files - Verification	Forward copy to OBDP	Action Complete	EEO Requirements
			<p>L. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.</p>
			<p>M. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.</p>
			<p>N. Ensure that all facilities and company activities are Non segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.</p>
			<p>O. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.</p>
			<p>P. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.</p>
<p>Read and understand</p>			<p>Q. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (A through P). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its</p>

Contractors EEO Work Sheet

The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

In Contractors Files - Verification	Forward copy to OBDP	Action Complete	EEO Requirements
			<p>obligations under A through P of these specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.</p>
	<p>Send names to OBDP</p>		<p>R. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.</p>
<p>Check to verify</p>			<p>S. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.</p>

Contractors EEO Work Sheet

The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

In Contractors Files - Verification	Forward copy to OBDP	Action Complete	EEO Requirements
Read and understand			T. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the contractor from its duties.

Appendix 7: Draft Recruiters Roles and Responsibilities

FUNCTION & RESPONSIBILITIES	PERFORMANCE & OUTCOME
Collaborative effort to identify sources for the workforce pool. Recruit and screen the pool.	Outcome measures include majority of recruited are women and minorities. Identify percentage of women and minorities to the total workforce recruitment pool.
Provide limited intake counseling. Services including but not limited to: general orientation to the construction industry, limited career assessment. Provide connection to the Assessment process	Number of adults and older youth enrolled in assessment services.
EVALUATIVE CRITERIA	
Connection to groups serving women and minorities.	Outcome measures include developing positive working relationships with schools and community based organizations that serve women and ethnic minorities; maintaining a good working relationship with the consortium members, tracking enrollees and jointly problem solving issues or barriers.
Connection with social service providers. Provide connection to the assessment process.	Outcome measures include maintaining a good working relationship with the consortium members, tracking enrollees, and jointly problem solving issues or barriers.
Twenty Five percent (25%) of services provided by recruiter.	Maintain, and if necessary, enhance coordination of services among diverse agencies.
Understand all components of workforce plan	Policies and service delivery procedures reinforce an integrated workforce plan.
Have the ability to accept Federal funds.	Eligible for federal funds.
Maintain proven record of accomplishment.	Maintain, and if necessary, enhance coordination of services among diverse agencies.

Appendix 8: Draft Skills Assessment Criteria

FUNCTIONS & RESPONSIBILITIES	PERFORMANCE & OUTCOME
<p>Identify and assess individual's education and skill levels.</p> <p>Stratify individuals into one of three education and skill levels as identified above:</p> <ul style="list-style-type: none"> • Zero to 3 months • 3 to 9 months • 9 months to 2 years 	<p>Identified percentage of women & minorities to the total workforce of individuals assessed.</p> <p>Identify percentage of job ready individuals.</p>
<p>Identify and assess social service needs. Make appropriate connection/referral to service providers.</p>	<p>Increased referral and placement into appropriate services.</p> <p>Increased use of job retention and wage progression services.</p> <p>Reduced reentry to TANF assistance.</p>
<p>Develop career path for individual:</p> <ul style="list-style-type: none"> • Counseling • Develop a Success Platform • Timelines and commitment 	<p>Percentage of participant engagement, job enrollment, success in meeting individual development plan goals.</p>
<p>Match individual's education and skills with Apprenticeship Preparation or Apprenticeship-Training Program and designate as eligible for entry</p>	<ul style="list-style-type: none"> • Identify the elements on which trainees will be evaluated to ensure satisfactory completion of the training objectives. • Describe the expected results of the training project as they relate to need, when the results might be expected, and how they will be measured.
<p>Track individuals through the Apprenticeship preparation, Apprenticeship-Training and life skills (support services).</p>	<p>Four or more of the following may be used to describe training completion:</p> <p>Employment in a registered apprenticeship.</p> <p>Increase in wages or salaries during the project and as a direct result of participation in the project.</p> <p>Completion of licensing requirements.</p> <p>Completion of instruction required for certification.</p>

Appendix 8: Draft Skills Assessment Criteria, continued

FUNCTIONS & RESPONSIBILITIES	PERFORMANCE & OUTCOME
	<p>Successful completion of training that leads to attainment of industry-accepted occupational skill standards.</p> <p>Completion of pre-apprenticeship requirements and entry into a registered apprenticeship.</p> <p>Job retention.</p>
EVALUATIVE CRITERIA	
Direct entry connection to Joint Apprenticeship Training Committees.	Maintain a good working relationship with the JATCs, negotiate direct entry agreements, track enrollees, and problem solve issues or barriers together.
Twenty Five percent (25%) of services provided by support service provider	Maintain, and if necessary, enhance coordination of services among diverse agencies.
Understand all components of Workforce Plan	Policies and service delivery procedures reinforce an integrated workforce plan.
Have the ability to accept federal funds	Eligible for federal funds.
Maintain proven track record	Maintain, and if necessary, enhance coordination of services among diverse agencies.

Appendix 9: Workforce Demonstration Project

ODOT Apprenticeship Preparation Training Demonstration Project for Regions 2 and 5¹

Project Description

This program is one of several key elements in a continuum of services designed to move a participant from recruitment to journey level status. In particular, the Apprenticeship Preparation Training Demonstration Project (Program) is specifically designed for participants who have been assessed by the Regional Workforce Alliances and determined to need industry foundational training before moving to a job placement and an apprenticeship-training enrollment.

A. Target population.

The target population is women and minorities. Through a 5 week program offered at a minimum, three times a year, an estimated 65 women and minorities in Regions 2 and 5 will be trained in entry-level construction trades skills annually. Strong retention strategies will ensure continuation of employment.

B. Project description:

Recruitment

Recruitment efforts are coordinated through the overall Regional Workforce Alliance outreach and recruitment campaign for the region; educating the community and potential participants about the project. It includes: development and circulation of advertising, flyers and brochures; attendance at community meetings and events; and talking both individually and in orientation sessions to potential students.

Screening and selection

Screen prospective trainees for the following qualifications:

- GED or High School Diploma
- Ability to obtain a driver's license
- Stable living situation
- Stable mental health
- At least 6 months of sobriety
- Good physical condition, able to become fit enough to do physical labor all day
- Ready to be employed
- Ability to pass a drug test

Screening activities include: conducting initial group meetings with potential students; individual counseling sessions; testing; and gathering of student information. Prospective trainees who do not meet program qualifications will be referred to other appropriate

¹ ODOT respectfully acknowledges Oregon Tradeswomen Inc. as the basis for the Apprenticeship Preparation Training Demonstration Project, in particular their "Pathway to Success" Program.

community services. Individuals who gain qualification will be welcomed back to a future cycle.

Curriculum includes:

- Career planning: One-on-one appointments with a career counselor, combined with a career planning tool, help participants identify their goals and next steps.
- Hands-on skills training: Hands-on skills will be taught thru a combination of visits to apprenticeship-training centers or job sites. At the apprenticeship-training centers, workshops on particular trades skills will be taught by industry role models. At the job sites, program trades instructors will teach the participants safety procedures, proper use of hand and power tools, and construction techniques.
- Coaching and preparation: A “Pathways to Success” Program guides participants through the extremely complex system of qualifying for and entering trades occupations, particularly through the apprenticeship system. Pathways participants go through a 5-week training cycle that includes hands-on skills training, visits to apprenticeship-training centers and job sites and work readiness training. Pathways participants enter a self-assessment and career planning process and receive coaching in math, successful interviewing and other career preparation.

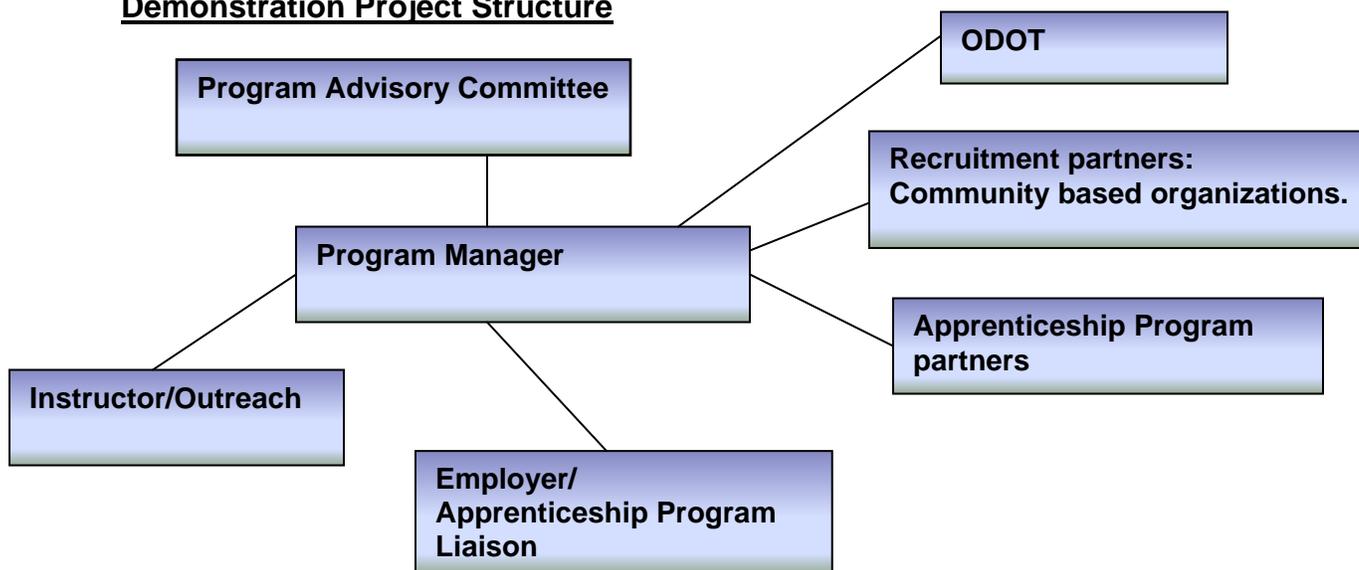
Job Development Strategies:

- Develop relationships with employers through meeting with them in-person;
- Have strong employer participation in advisory groups;
- Have the ability to track and call up groups of employers on Program’s database;
- Have the ability to track and call up individuals interested in and qualified for specific occupations on the Program’s database;
- Work with each client to create an industry-specific resume;
- Arrange site visits to employers for participants;
- Engage employer participation in client interview practice,;
- Provide matching services between employer needs and client skills;
- Provide follow up and retention services between client and employer;
- Work closely with the Oregon Department of Transportation to assist contractors on public works projects to hire the diverse workforce the agency requires.

Assistance with work needs: Assistance with childcare, transportation, work clothes, boots, tools, raingear and other work needs is often critical to success.

Retention: Pathways to Success includes continued contact with participants for at least four years as they move up the career ladder. The Program provides follow-up coaching for job retention and holds a monthly support group where participants come into contact with experienced women and minority trades people.

Demonstration Project Structure



The Advisory Committee will provide oversight and set policy for the Program. The Advisory Committee will add community and business connections, input, oversight and advice to the Program. Prospective advisory committee members will be representatives from construction, apprenticeship, government agencies, and community. The Advisory Committee will assist the Program with connections to the community and to employment.

The Program Manager will coordinate the Program, manage finances, write reports, manage staff, manage training partners, and analyze progress of participants and other Program management tasks.

The Construction Instructor/Outreach Specialist will develop and circulate outreach materials including press releases, flyers, posters and advertising; present about the Program at a variety of community meetings and events; will conduct Program orientations and manage student enrollment; will train students on use of hand and power tools, and general construction skills.

The Employer/Apprenticeship Liaison will assist students in becoming employed in the field, making connections between students and appropriate employers and apprenticeship programs. The Liaison will assist students with needs such as childcare, transportation, tools, and equipment, as well as life issues that would interfere with the students' successfully entering or retaining employment.

C. Strategies that maximize success:

The Program is uniquely suited to the target population of women and minorities moving into industry trades careers. The comprehensive combination of career exploration, hands-on training, role-models, coaching and support has been proven through experience to lead to participants' successful entry and retention into high wage, highly skilled trades careers.

The Program carefully addresses barriers to success. Initially, barriers are identified during the initial recruitment and assessment performed by the Regional Workforce Alliance system. Other barriers may be identified during apprenticeship preparation training. The Employer/Apprenticeship Liaison will also perform case management duties, and have extensive knowledge of community resources for housing, domestic violence, driver's license retrieval, and have strong coaching and mentoring skills.

The Program will have a monthly support group meeting that brings successful women and minority trades people into contact with students and graduates for peer support.

The Program is linked directly to ODOT's construction project demands in the region and the appropriate JATCs.

During training, and before job placement, the Program's support services fund would help participants with some needs that can be addressed financially. The Employer/Apprenticeship Liaison would have a portfolio of "gateway jobs" that could potentially lead to employment within the construction trades and "survival jobs" that can provide bridge support until trades employment is gained. The Employer/Apprenticeship Liaison would also develop close relationships with case managers, parole officers and the like, so that participants are not bumped from support programs.

Commitments from Apprenticeship Trades who utilize the Program undoubtedly would bring in-kind donations of hands-on training to the project, as well as possible commitments for financial support, and class visits by women and minority trades role-models. The intent is to establish long term relationships with apprenticeship programs that will look highly on Program graduates, even to the point of awarding them extra points in scoring or ranking systems.

D. Challenges	Strategies
Oregon's high unemployment rate	Develop a large pool of employer relationships; use a wide variety of job development strategies.
Some employers still think women and minorities can not be successful in construction jobs	Educate employers with stories of successful trades people, information about our training class, and testimony from employers happy with Program graduates.
Women and minorities themselves do not realize that these careers are open to them.	Develop visible outreach strategies using images and stories of successful trades people; bring successful women and minority trades role models into contact with recruits and students.

The following evaluation tool will be considered to achieve Program benchmarks, make continuous improvement, and stay within budget.

Evaluation tool	Who uses	Timelines	Criteria for success
Objectives benchmarks	Staff, Advisory	Daily & weekly analysis	Benchmarks met, make necessary changes & corrections data suggests
Advisory Committee	Staff, Advisory	Monthly	Committee reviews program & financial reports, ensuring within budget and reaching goals
Program team meetings	Staff	Bi-monthly	Does data show that goals are being reached? Make suggestions & decisions to reach goals
Advisory Committee – employers, government agencies, community	Staff, Advisory	Quarterly	Do trainees have skills needed by employers? Is program bringing qualified residents into the workforce?
Survey of employers	Staff, Advisory	Yearly	Do trainees have skills needed by employers? Are employers satisfied with Program graduates?
Survey of participants	Staff, Advisory	Yearly	Has the Program helped them achieve independence and self-reliance? Have their wage levels grown?
Strategic Planning Retreat	Staff, Advisory	Yearly	Used to review overall organization achievements and set future goals
Demographic analysis	Staff, Advisory	Yearly	Is the Program serving its desired population? What wages do they start at? What are their wages at year end?
Participant flow analysis	Staff, Advisory	Quarterly	How do participants find out about the Program? How many enter, continue, drop out, are placed, & when in Program do these occur?

Appendix 10: Western Regional Summit Goals

VII. HOW THE WORKFORCE DEVELOPMENT PLAN MEETS THE WESTERN REGIONAL SUMMIT GOALS

The following comments are the plan's initial response to the Summit's goals. The plan is a work in progress and as such, the details of the plan will be further clarified and refined as the plan is implemented, strategies become operational through state and regional stakeholders and additional funding is sought for new strategic initiatives.

Issue #1

Education that provides:

- **Realistic understanding of the industry**
- **Applicable education for the construction industry**
- **Academic/technical integration**
- **Adequate preparation: math, career awareness, communication, work skills**

Plan Response:

Outreach and Recruitment

Outreach and recruitment efforts will occur simultaneously with identification of the labor force. Using the Regional Workforce Alliance plans as a road map, ODOT will pursue an aggressive statewide recruitment campaign to attract participants. Recruitment efforts will be ongoing and maximize the use of state and federal resources. Specific activities include:

Partner Involvement

The Regional Workforce Alliances will ensure recruitment efforts are targeted and coordinated at the regional level. Specific outreach and recruitment resources will be provided by community-based organizations, community colleges, Joint Apprenticeship Training Committees, government agencies (e.g., Oregon Employment Department and the Department of Human Services), and Oregon One-Stop Career Centers.

Briefings and Orientations

Outreach briefings and orientations for community-based organizations and civic groups that work directly with women and minority populations will provide methods of outreach to these communities. The Workforce Advisory Committee, with support from the Regional Workforce Alliances, will help identify which organizations to approach. At least one large regional orientation will occur in each region for all partners.

Potential outreach efforts to high school students may include information nights at the schools, presentations by the Joint Apprenticeship Training Committees (JATCs) to promote construction trades careers, and tours of training facilities

organized by the JATCs. Other outreach methods include establishing a recruiting link with Oregon Job Corps Training Centers.

Collateral Material

To aid with recruitment, outreach efforts will include the development of collateral materials that appeal to women and minorities. These materials will publicize job opportunities and support services in specific geographic regions. As part of this effort, advertisements targeting women and minorities will be placed in minority and general newspapers. All collateral materials will coordinate with ODOT's public information campaign for the OTIA III State Bridge Delivery Program, award of construction contracts in each region, and the system established by the local Regional Workforce Alliances.

Project Orientations

Project orientations provide an opportunity for outreach and recruitment efforts to occur simultaneously. These sessions will provide information on a specific project's construction scope and schedule, an overview of the construction industry and apprenticeship system (including an overview of the training process), and a discussion of what construction jobs entail. Project orientations provide an opportunity for the identified qualified labor pool to share their needs and identify potential barriers to working in the construction industry. Recruiters attending these sessions will provide a pre-assessment of the labor force's skills and career goals. The recruiters are existing staff from the plan's partners already providing this service.

Youth Recruitment

A long-term focus of the plan is to go beyond ODOT's existing goal of recruiting students enrolled in traditional high schools to include those enrolled in alternative school systems, with an emphasis on recruiting women and minorities. A clear and defined career path into construction trades will increase interest in and the success rate of entrance into these careers. Additional youth recruitment efforts will focus on organizations including the Native American Youth Association, Girl Scouts, and others serving minority and female youth.

Available Resources

The Regional Workforce Alliance partners will work together to maximize existing services and programs to provide coordinated outreach, recruitment, retention, and ongoing support services. Recruiters trained on industry standards and apprenticeship enrollment requirements—a service already provided by the plan's partners—are critical to outreach and recruitment efforts. The draft roles and responsibilities for recruiters are detailed in Appendix 7.

Issue #2

Lack of identifiable, coordinated life-support systems.

Plan Response:

Skills Assessment

The objective of the skills assessment is to gauge the job readiness of the potential qualified labor pool and determine the training and support services needed for participants to successfully pursue a career in construction. Factors assessed include education levels, skills levels, prior work experiences, and support services needed. The skills assessment helps refine existing service provider efforts, with particular emphasis on customizing approaches to recruit women and minority participants.

Partner Involvement

The partners involved with this effort include the Bureau of Labor and Industries, local Joint Apprenticeship Training Committees, community-based apprenticeship preparation organizations, community colleges, and workforce partners. Additionally, partners will provide participants with information on entry routes into construction jobs, including the requirements and benefits in this field.

Skills Assessment Areas

A variety of skills assessment tools will be used to gauge the skills level of the qualified labor pool and determine the training and support services needed to develop a qualified workforce. These services will be provided by ODOT's partners. At a minimum, participants will be assessed in the following seven areas: basic skills level, which is defined as reading, writing, math, and English as a Second Language (ESL); educational level; job-specific skills (e.g., the ability to use welding equipment); transferable skills (e.g., the ability to use measuring tools such as a tape measure, rulers, etc.); work readiness; communication and team building; and barriers to success.

Assessment Criteria

The assessment is based on the requirements of apprenticeship programs. A timed aptitude test measures knowledge on subjects found on apprenticeship tests. These are referred to as "Basic Skills," which include math, spatial relations, numerical reasoning, reading, and vocabulary skills. Knowledge of transferable skills is also measured. An application and interview process helps both staff and candidates assess their expectations, goals, related skills, and readiness for a construction career. Additionally, applicants must present documents including a high school diploma or GED, a driver's license, and proof of work authorization.

Based on the assessment, the qualified labor pool is grouped according to the time frame required to be deemed qualified for a job in the construction trades.

Participants in the "Zero to Three Months" group possess job-ready skills or need up to three months of training to develop their skills to job-ready levels. Participants in the "Three Months to Nine Months" group require supplemental training, which may include finishing their GED or enhancing their language, life, or job-specific

skills, to be job-ready in three to nine months. Participants in the “Nine Months to Two Years” group require a significant amount of training and services including Basic Skills, drug and alcohol services, and life skills enhancement.

The assessment will also identify and address factors that prevent apprenticeship participants or pre-participants from entering construction-trades employment or completing their apprenticeship training. The support service providers will then identify the support services needed to address retention issues.

Draft assessment criteria can be found in Appendix 8.

Case Management Approach

Following the assessment, participants will be assigned a case manager who will assist them in developing service plans and accessing the appropriate services. The case managers are existing staff from the plan’s partners already providing this service. Participants are placed in an appropriate apprenticeship preparation program or are assisted with a direct job placement or apprenticeship-training program. The case manager may also refer participants to longer term supplemental and basic skills training or to other occupational interests.

Available Resources

The Regional Workforce Alliances will monitor the progress of participants in the program. To ensure participants meet construction industry requirements, existing funds are available to provide additional supplemental training on any of the assessment areas described above. (Please refer to page 30 for a brief description of the plan’s funding sources.)

Issue #3

Industry lacks a systemic response to the problem

Plan Response:

V. What the Workforce Development Plan Means to Contractors

The mission of the plan is to ensure an adequate supply of qualified workers by helping develop a diverse, skilled workforce and increasing the use of apprentices. Contractors play an integral role in making this a reality. ODOT is partnering with the construction industry by providing contractors with the support and services they need to successfully diversify their workforce, while meeting new contract specifications.

Through the Workforce Development Plan, ODOT and its partners will strive to reduce the burden on contractors to produce a skilled pool who meet industry standards. ODOT will identify a pool of pre-qualified potential workers that contractors may select from when hiring new journey workers or turn to when seeking to hire new apprentices. The plan’s partners will supplement contractor training efforts by providing the necessary programs and services to successfully produce a trained, skilled workforce.

The four major differences in how contractors are impacted by the Workforce Development Plan are detailed below.

Diversifying the Workforce

Contracts for OTIA III projects statewide and all ODOT construction projects in Multnomah, Clackamas, and Washington counties will reflect the new women and minority utilization aspirational goals and expand the use of apprentices and trainees. To help contractors diversify their workforce and meet these goals, ODOT will identify a labor pool for contractors as noted above.

ODOT will provide individual assistance to contractors to help them achieve the new utilization goals. This may include providing guidance on individual employment situations, as well as providing exceptions to meeting the new contract specifications for unique and extenuating circumstances. Information posted on ODOT's web site will include contact information for accessing the qualified labor pool, in-depth information on the plan, details on the apprenticeship program, and leads for obtaining additional resources. As the plan evolves, ODOT will identify contacts for contractors to reach for more information. The goal is to have a single point of contact for contractors to access the qualified labor pool.

On-the-Job and Apprenticeship Training Opportunities

ODOT will identify and screen a pool of qualified applicants that contractors may access for apprenticeship and on-the-job training opportunities. Providing training opportunities yields many benefits for contractors. First, contractors will have the workforce they need to complete their existing projects. Second, contractors will have a qualified, skilled labor pool from which they can select workers to successfully compete for other projects. Third, by training women and minorities and expanding the use of apprenticeships and the OJT program, contractors will be able to meet their contract specifications and make major strides toward meeting the new utilization goals and subsequently their contract specifications. Finally, some individuals in the qualified pool will be available to enhance the contractor's journey-level workforce.

Monitoring/Reporting Functions

ODOT will use existing reporting functions to monitor contractor compliance with the new workforce utilization goals. The focus is not to create new or time-consuming reporting activities, but rather to leverage the existing reporting function and streamline the process—making it easier for contractors to track their progress. ODOT will review reports monthly, focusing on how contractors are providing training opportunities and their efforts to diversify their workforce. Contractors who are in compliance with the new contract goals will receive minimal oversight from ODOT.

Contract Specifications

As part of the implementation of the Workforce Development Plan, contract specifications for OTIA III and all ODOT construction projects in Multnomah, Clackamas, and Washington counties will reflect the new apprenticeship and diversity aspirational goals. Beginning in fall 2005, ODOT will provide training sessions for contractors quarterly for the following year to clarify the new specifications and what these changes mean to contractors.

The qualified labor pool composition for women and minorities on federal and federally assisted construction contracts/subcontracts in excess of \$10,000 is determined by federal standards. The goals are expressed as a percentage of the hours worked by the contractor's total workforce per trade on all construction projects in a geographic area. The federal goal for utilization of women is 6.9 percent of work hours and applies to all of a contractor's construction sites, regardless of where the contract is performed. Aspirational goals for women on OTIA III contracts statewide and all ODOT construction contracts in Multnomah, Clackamas, and Washington counties will be 8 percent.

Ultimately, ODOT is seeking to increase participation rates statewide to 14 percent for women and 14 percent for minorities. In the Portland tri-county area, ODOT is seeking to increase participation rates to 14 percent for women and 20 percent for minorities. Appendix 5 details ODOT's regional utilization aspirational goal changes. A federal public notice process and a review at the federal level of these new specifications will also occur.

Selecting Job Candidates from the Qualified Labor Pool

Contractors are encouraged to select job candidates from the qualified labor pool and provide an evaluation of their job-readiness. When possible, contractors are encouraged to work with local apprenticeship committees to provide access into registered apprenticeship programs. By selecting workers from the qualified labor pool, contractors will be contributing to their compliance with federal "good faith" standards in the worker selection process. ODOT will monitor contractor compliance with federal requirements, which are explained in further detail in Appendix 6, EEO and Affirmative Action Requirements.

If candidates from the qualified labor pool are not selected, the contractor must provide a reason, which may include a candidate's drug and alcohol use or chronic/repeated absenteeism. ODOT has the right to reject a contractor's reason. If this happens, the contractor is required to select job candidates from the labor pool or forfeit its contract. However, if the contractor's reason is accepted, the contractor must complete a "good faith" effort to select another worker from the labor pool or it may have to forfeit its contract. If a qualified, skilled labor pool is not available, the contractor is required to follow the federal "good faith" requirements to meet its contract utilization goals.

Apprenticeship Program

Once a participant is considered job-ready, he or she will be transferred to job placement professionals. These job placement professionals are existing staff from the plan's partners already providing similar services. Job placement professionals will provide guidance and referrals to appropriate apprenticeship programs and link participants to contractors. Follow-up services include placement tracking, involvement in mentoring programs, and quarterly progress meetings. Mediation, counseling, re-placement assistance, and advocacy services to promote participant retention in the trades is also provided.

Available Resources

Apprenticeship training is provided by local Joint Apprenticeship Training Committees and their participating employers. Potential training sources for pre-apprenticeship training include alternative schools, Associated General Contractors, Bureau of Labor and Industries' Apprenticeship and Training Divisions, community colleges and high schools, community-based organizations, higher education institutions, Job Corps, minority chambers of commerce, on-the-job training opportunities, OJT Supportive Service Providers, state-approved apprenticeship preparation programs, Tribal Employment Rights Office, and WorkSource Oregon One-Stop Career Centers.

Case Management Approach

A case management approach in following the apprenticeship program provides continuity for the participant. Case managers, who are existing staff from the plan's partners already providing similar services, will track apprentices after their job placement and assist with post-placement or re-employment needs.

Partner Involvement

The Regional Workforce Alliance partners will maximize existing services and programs to provide apprenticeship preparation training. Joint Apprenticeship Training Committees and participating contractors will coordinate with the alliance to ensure that applicants are adequately prepared to enter an apprenticeship program. Community colleges will offer classes on the construction industry and construction-related skills building. These classes will also link participants to apprenticeship and OTIA III job opportunities. By maximizing the existing mentoring program, mentoring will be provided for apprenticeship program participants.

Mentoring Programs

Mentoring programs provide apprentices and trainees with the support they need to successfully pursue construction trade careers. The mentoring program is detailed below.

Mentoring Sessions

These sessions provide mentoring information and techniques for service providers, contractors, journey workers, and registered apprentices and trainees. Discussion topics include coaching behavior, monitoring

development of apprentices, and providing constructive feedback to apprentices, as well as networking opportunities for apprentices with journey-level construction workers. At a minimum, one session in each region is scheduled per year, with more sessions as needed.

Mentoring Program Fact Sheet

The alliance partners will create a “how-to” fact sheet for contractors and apprenticeship-training centers to establish their own mentoring programs. This fact sheet will be distributed at the Mentoring Sessions.

Mentors

By maximizing existing services and programs, mentors will be available to meet with the participants and their employer. The mentor’s responsibilities include providing support, information, and problem-solving expertise to apprentices about their experiences with the program. Mentors are trained to handle the wide range of problems apprentices may face, including race-related or women-specific issues. The mentor is also available to assist the contractor in developing a training plan for apprentices. Joint Apprenticeship Training Committees will provide additional support to mentors as appropriate.

ODOT Site Visits

ODOT Office of Civil Rights staff will conduct periodic site visits to review the progress of the apprentices and trainees.

Retention Services

During the first year of implementing the plan, ODOT will partner with community-based organizations to provide job site mentoring for participants. The goal of this task is to address the high dropout rate from apprenticeship training programs, particularly for women and minorities. Contractors will also provide retention services through procedural job site orientations for new workers and matching new workers with a journey worker who is able to address construction culture, appropriate job site behavior, safety, and work processes. ODOT will recognize the contractor’s mentoring program as a good faith recruitment effort. The plan partners will also identify late-term minority and women apprentices who are available to mentor new apprentices.

Dispatch/Re-Employment Assessment

The objective is to continue to track participants to assure that they have continuing work. If a participant is not working, he or she will receive assistance for finding new employment. Local apprenticeship committees will be asked to make revisions to their re-employment policies that allow apprentices who have completed their work on a project for a contractor and therefore have been laid off to immediately be re-employed with the same contractor if additional OTIA III work is obtained. Additional assessment of the participant may be required to determine if additional training is needed. Job opportunities will be identified through the Bureau of Labor

and Industries, Associated General Contractors, unions, Joint Apprenticeship Training Committees, and “iMatchSkills” system.

Workforce Pilot Project

The initial implementation of the plan will occur as a pilot project for the first two years. During the pilot phase, ODOT’s increased apprenticeship requirements and women and minority utilization aspirational goals will apply only to OTIA III projects statewide and all ODOT construction projects in Multnomah, Clackamas, and Washington counties. Following this two-year period, and pending FHWA approval, ODOT will determine whether to include the new utilization numbers on all ODOT projects.

A workforce program based upon a highly successful pre-training program in Region 1 is proposed in two other regions to jumpstart the local training system capacity. Under a proposed pilot project, Region 5, which covers a rural area, will receive assistance and resources necessary to establish a pre-training program in late 2005. In 2006, Region 2, a rural/urban area, will establish its pre-training program. Please refer to Appendix 9 for a complete description of the proposed demonstration project. Appendix 10 details how the plan meets the Western Regional Summit Goals.

Apprenticeship Program Requirements

The number of on-the-job or apprenticeship training positions required by the Workforce Development Plan shall be the equivalent of 20 percent of the measured and tracked hours per craft measured to the nearest one-half hour. The ratio of apprentices to journey-level workers will be in accordance with the accepted apprenticeship standards for the particular craft. ODOT will incrementally increase apprenticeship targets from 5 percent to 20 percent over 18 months with annual program reviews and adjustments, as necessary.

Whenever a portion of the construction work is subcontracted, the prime contractor may determine how many, if any, of the trainees/apprentices will be trained by the subcontractor. However, the prime contractor retains responsibility for meeting the training requirements of the plan. Prime contractors will also ensure that these provisions apply to each subcontract when training positions are assigned by the prime.

On most projects, prime contractors and subcontractors should be able to fulfill the 5 percent, 10 percent, 15 percent, and 20 percent apprenticeship hours goal to the fullest extent possible without exceeding the apprentice ratios approved by the applicable apprenticeship program. The ratios are based upon the number of workers on the job site in each trade. Exceptions to the apprenticeship training goals may be granted for some occupations, such as iron worker or operating engineer, as these occupations have a high ratio of journey workers to apprentices. Prime and subcontracts also are excluded from this provision if the total value of the contract is less than \$300,000. However, contracts shall not be intentionally

subdivided to less than \$300,000 or split into “materials only” and “labor only” subcontracts in order to void the training requirements.

Exceptions must be approved by ODOT in writing before the contractor begins work on the project. ODOT will consider written requests for exceptions related to the training goals at the start of a project.

ODOT will review the apprenticeship training goals annually and make any necessary adjustments.

Training/Apprenticeship Programs

The prime contractor is responsible for ensuring that overall apprenticeship utilization meets the contract specifications. Apprenticeship utilization requirements will not apply to contracts less than \$300,000. If a subcontractor working on a contract worth less than \$300,000 voluntarily chooses to use apprentices, those hours would count toward the overall utilization of the project.

On contracts worth \$300,000 or more, prime contractors and subcontractors are required to meet the apprenticeship utilization specifications. Primes and subs are also required to use apprenticeship programs approved and registered with the Bureau of Labor and Industries (BOLI) to fulfill training requirements for the plan.

The contractor, not registered as a training agent with a JATC, may choose to adopt an existing ODOT training program to satisfy these requirements. Adoption of an existing training program will ensure the trainee who has completed 2,000 hours of training is eligible for entry into an apprenticeship program. Training under this program will be conducted in accordance with a Training Program Form submitted by the contractor and approved by ODOT’s Office of Civil Rights OJT staff and the Federal Highway Administration.

Support Services

The majority of current journey workers are guided to their career by an informal network of family members, friends, or through word-of-mouth. The Workforce Development Plan seeks to build on this network by providing women and minorities with the support services needed to successfully pursue—and thrive—in a career in construction.

ODOT and its partners will assist program participants with a full range of support services. Additional information on draft support services is detailed in Appendix 11.

Issue #4

Image, perception:

- **Workforce**
- **Cultural**
- **Gender**

Plan Response:

See plan response to Issue #1, especially the potential marketing campaign to schools and the community.

Issue #5

Failure among existing resources to communicate and share resources (in both public and private sectors)

Plan Response:

Several solutions have been proposed under Issue #3.

In addition:

Regional Workforce Alliance Strategy

Regional Workforce Alliances will implement the Workforce Development Plan at the regional level. The alliances comprise the plan's partners in a specific geographic area. The alliances work under the direction of ODOT's Diversity Manager and are led by an Alliance Manager. Alliance Managers are existing ODOT Office of Civil Rights staff. Each alliance will develop implementation work plans specific to their region. An alliance will cover each of the following five geographic areas: 1) Portland Metro, 2) Mid-Willamette Valley, 3) Southern Oregon, 4) Central/South Eastern Oregon, and 5) Northern Eastern Oregon. The counties included in each alliance are detailed in Appendix 2.

Due to the unique interactions between multijurisdictional entities, multiple projects with similar time frames, community-based organizations, trades, unions, and community colleges in ODOT Region 1, the Portland Metro Regional Workforce Alliance will require a modified planning, functioning, and decision-making process. Appendix 3 provides information on the Region 1 Comprehensive Construction Workforce Development Decision-Making Structure.

ODOT also will identify opportunities to collaborate with others in the Portland region to create long-term career opportunities in the construction trades on other publicly and privately funded construction projects.

Generally, each alliance is responsible for the following functions:

Operational Functions

Each alliance will assume similar operational functions, taking into account the particular nuances of the region.

Plans

Within two months of formation, each alliance will create a region-specific Alliance Plan for providing a qualified, skilled labor force. The Alliance Plan serves as an operations guide and provides benchmarks for future evaluation. A major component of the Alliance Plan is developing strategies to link the need for recruitment and skills development with the organizations and agencies providing these services. The Alliance Plan also identifies the regional partners involved with implementation efforts.

Memorandum of Understanding

The alliances are also responsible for developing a Memorandum of Understanding (MOU) with regional partners. The MOU describes the responsibilities for developing training programs and providing training services for women and minorities. Support services for contractors are also outlined, including obtaining contractor involvement in training efforts and provisions for a single point of contact for contractors to access the qualified labor pool. Other responsibilities outlined in the MOU include maximizing existing funds and resources, staff training, and job placement and follow-up services, including mentoring programs and monitoring of participants. The MOU also provides guidelines for evaluation of the plan.

Identification of Resources

Instead of creating new programs and services to implement the plan, the Regional Workforce Alliances will maximize the existing programs and services provided by the plan's partners in their region. When necessary, an alliance may recommend that ODOT issue a Request for Qualifications (RFQ) or a Request for Proposal (RFP) process to fill any gaps in services or training.

Reporting and Monitoring Functions

Quarterly meetings with service providers allow the alliance to track the plan's implementation progress. Any recommendations and revisions to the plan resulting from these meetings are subject to ODOT approval.

Participant progress is tracked using existing databases and systems administered by partners, including the Bureau of Labor and Industries, Oregon Employment Department, and the State of Oregon.

Timeline

To accommodate the OTIA III construction schedule, the Portland Metro and Northern Eastern Oregon Regional Workforce Alliances will form no later than December 2005. The Mid-Willamette Valley Workforce Alliance is expected to form in 2006. The formation of the two remaining alliances, Southern Oregon and

Central/Southeastern Oregon, will coincide with the bridge program's construction schedule and projected peak man-hour demands during the next five years.

Issue #6

Educators do not offer construction as a viable career option.

Plan Response:

As offered under the response to Issue # 1, ODOT will also consider additional recruitment elements that broaden exposure to industry opportunities and target women and minorities. They include:

- High School and Post Secondary Orientations: Periodically hosting information nights aimed at a diverse audience in the various high schools for potential candidates.
- JATC Presentations: Conduct JATC presentations in the high schools to promote the opportunities of the construction trades careers and organize tours of training facilities.
- Establish a direct recruiting link with Oregon Job Corps Training Centers.

Youth Recruitment

A long-term focus of the plan is to go beyond ODOT's existing goal of recruiting students enrolled in traditional high schools to include those enrolled in alternative school systems, with an emphasis on recruiting women and minorities. A clear and defined career path into construction trades will increase interest in and the success rate of entrance into these careers. Additional youth recruitment efforts will focus on organizations including the Native American Youth Association, Girl Scouts, and others serving minority and female youth.

Issue #7

Cultural roadblocks

- **Language**
- **Discrimination**
- **Preconceptions**
- **Confidence building**

Plan Response:

III. Mission/Objectives

During the next 10 years, Oregon will undergo historic levels of transportation construction. However, workforce studies and projections indicate that the current pool of skilled workers falls short of meeting the demand. To successfully deliver these projects on time and maintain mobility on the state's transportation system, ODOT created the Workforce Development Plan.

The mission of the plan is to create and support a diverse workforce and qualified labor pool and increase the use of apprentices and trainees to build Oregon's transportation infrastructure.

This document provides the framework for ODOT and its partners to build the qualified labor pool, while at the same time provide workers with the necessary skills to build sustainable careers. Specifically, the plan seeks to increase workforce diversity by increasing the participation of women, minorities, low-income, disadvantaged, and underemployed workers in the transportation-related construction industry. This will be assisted by expanded use of the apprenticeship and on-the-job training programs and recruiting efforts targeted to accomplish workforce diversity goals.

IV. Approach

Implementation of the Workforce Development Plan calls for ODOT and its partners to identify, train, and place skilled workers in jobs to meet the demands of historic levels of construction. Instead of developing entirely new systems to build a qualified labor pool, the plan maximizes the use of existing programs. Every effort will be made to ensure equal-opportunity recruiting practices without discrimination and with support for the development of minority, women, low-income, and disadvantaged workers. Creating sustainable careers includes efforts to retain existing minority and women construction workers and remove potential barriers to success for these and new workers. Whenever possible, best practices and lessons learned from around the country, including the Oregon Plan of Action, will be incorporated into implementation efforts. Transparency and accountability measures are built into the plan through various monitoring and reporting functions.

Context Sensitive and Sustainable Solutions Philosophy

ODOT's new decision-making framework, known as Context Sensitive and Sustainable Solutions, or CS³, is at the core of the Workforce Development Plan. The CS³ approach stresses projects that are a good fit for their community, landscape, and environment.

The plan will meet the intent of CS³ principles by using local resources (workers, goods, and services) to develop a diverse, qualified, skilled labor pool. Further, the long-term goal of the Workforce Development Plan—provide workers with the skills and resources they need to successfully pursue careers in construction—reflects the CS³ value of providing sustainable solutions for transportation construction.

Changes in Diversity Goal Numbers

ODOT's new workforce utilization aspirational goals increase the regional contract specifications for women and minorities. The following new aspirational goals will be included in ODOT's contract specifications:

- Aspirational goals for women on OTIA III and Portland-area contracts will be 8 percent.
- Aspirational goals for minorities on OTIA III and Portland-area contracts will be 9 percent.
- Aspirational goals for minorities on OTIA III projects outside the Portland area will be:
 - Marion and Polk counties – 5.8 percent
 - Benton, Clatsop, Columbia, Crook, Deschutes, Hood River, Jefferson, Lincoln, Linn, Sherman, Tillamook, Wasco, and Yamhill counties – 7.6 percent
 - Coos, Curry, Douglas, Jackson, Josephine, Klamath, Lake, and Lane counties – 4.8 percent
 - Baker, Gilliam, Grant, Morrow, Umatilla, Union, Wallowa, and Wheeler counties – 7.2 percent
 - Harney and Malheur counties – 8.8 percent

ODOT will seek approval from the Federal Highway Administration to make these goals contractual requirements.

Overall, ODOT is seeking to increase participation rates statewide to 14 percent for women and 14 percent for minorities. In the Portland tri-county area, ODOT is seeking to increase participation rates to 14 percent for women and 20 percent for minorities.

Apprenticeship requirements by craft will incrementally increase over 18 months, from 5 percent to 10 percent to 15 percent to 20 percent, with annual program reviews and adjustments.

The new utilization aspirational goals are detailed in Appendix 1.

Workforce Participation

Women, minorities, low-income, and disadvantaged workers participating in the plan's training opportunities will follow the process outlined in Appendix 4: ODOT Workforce Development Plan Service Matrix. Generally, the process is summarized below.

Participants are assigned a case manager who will provide career information and assistance in identifying career goals. The case managers are existing staff from the plan's partners already providing this service. From this information, a service plan is developed, with sustainable employment as an outcome. The case manager may also provide referrals to training programs and support services including tutoring and childcare. Additionally, mentoring from a woman or minority worker in the construction trade may be proposed.

Job-ready applicants receive job placement assistance, including referrals to apprenticeship programs and employers. Retention services to boost the rate of successful careers in the construction trades include post-placement follow-up. It is expected that at least 400 apprentices a year will gain acceptance into apprenticeship programs within the first two years of the plan's implementation.

Applicants who are unable to continue in the process due to changes in career interests, lifestyle demands, or educational constraints have an opportunity to seek alternate occupational interests.

Mentoring Sessions

These sessions provide mentoring information and techniques for service providers, contractors, journey workers, and registered apprentices and trainees. Discussion topics include coaching behavior, monitoring development of apprentices, and providing constructive feedback to apprentices, as well as networking opportunities for apprentices with journey-level construction workers. At a minimum, one session in each region is scheduled per year, with more sessions as needed.

Mentoring Program Fact Sheet

The alliance partners will create a "how-to" fact sheet for contractors and apprenticeship-training centers to establish their own mentoring programs. This fact sheet will be distributed at the Mentoring Sessions.

Mentors

By maximizing existing services and programs, mentors will be available to meet with the participants and their employer. The mentor's responsibilities include providing support, information, and problem-solving expertise to apprentices about their experiences with the program. Mentors are trained to handle the wide range of problems apprentices may face, including race-related or women-specific issues. The mentor is also available to assist the contractor in developing a training plan for apprentices. Joint Apprenticeship Training Committees will provide additional support to mentors as appropriate.

ODOT Site Visits

ODOT Office of Civil Rights staff will conduct periodic site visits to review the progress of the apprentices and trainees.

Retention Services

During the first year of implementing the plan, ODOT will partner with community-based organizations to provide job site mentoring for participants. The goal of this task is to address the high dropout rate from apprenticeship training programs, particularly for women and minorities. Contractors will also provide retention services through procedural job site orientations for new workers and matching new workers with a journey worker who is able to address construction culture, appropriate job site behavior, safety, and work processes. ODOT will recognize the contractor's mentoring program as a good faith recruitment effort. The plan partners will also identify late-term minority and women apprentices who are available to mentor new apprentices.

Issue #8

Contractors view apprentices as short-term workers with no long-term commitment to training.

Plan Response:

I. Overview: What is the Workforce Development Plan?

Oregon's transportation system is undergoing a dramatic transformation. Unprecedented levels of construction for maintenance projects, local and county roads, and highway bridges are under way and will continue through 2011. This construction activity presents a unique opportunity to revitalize the state's economy by creating new jobs for Oregon's workers.

However, workforce projections indicate a shortage of skilled workers is looming. This challenge presents an opportunity for a historic undertaking: increase the diversity of Oregon's workforce to provide a labor pool of qualified, skilled workers and increase the use of the apprenticeship and on-the-job training (OJT) programs. This effort ensures that a supply of qualified workers to build Oregon's transportation infrastructure is available now and provides workers with the skills and knowledge they need to build long-term, sustainable careers. Ultimately, this creates an improved quality of life for all Oregonians.

The Workforce Development Plan presented in the following pages is one model for providing a diverse, skilled workforce. The Oregon Department of Transportation (ODOT) will involve all partners in a collaborative process to refine the plan as needed. Our governmental and private-sector partners will ensure that workers have the apprenticeship and on-the-job training opportunities as well as the support services they need to pursue and be successful in the construction trades.

During the initial implementation of the Workforce Development Plan, the new workforce utilization aspirational goals will apply only to OTIA III projects statewide and all ODOT construction projects in Multnomah, Clackamas, and Washington counties. Following the implementation of the plan for these projects, the utilization aspirational goals will extend to all ODOT projects.

Workforce Utilization Aspirational Goals

The following new aspirational goals will be included in ODOT's contract specifications:

- Aspirational goals for women on OTIA III and Portland-area contracts will be 8 percent.
- Aspirational goals for minorities on OTIA III and Portland-area contracts will be 9 percent.
- Aspirational goals for minorities on OTIA III projects outside the Portland area will be:
 - Marion and Polk counties – 5.8 percent

- Benton, Clatsop, Columbia, Crook, Deschutes, Hood River, Jefferson, Lincoln, Linn, Sherman, Tillamook, Wasco, and Yamhill counties – 7.6 percent
- Coos, Curry, Douglas, Jackson, Josephine, Klamath, Lake, and Lane counties – 4.8 percent
- Baker, Gilliam, Grant, Morrow, Umatilla, Union, Wallowa, and Wheeler counties – 7.2 percent
- Harney and Malheur counties – 8.8 percent

ODOT will seek approval from the Federal Highway Administration to make these goals contractual requirements.

Overall, ODOT is seeking to increase participation rates statewide to 14 percent for women and 14 percent for minorities. In the Portland tri-county area, ODOT is seeking to increase participation rates to 14 percent for women and 20 percent for minorities.

Apprenticeship Requirements

Apprenticeship requirements by craft will incrementally increase over 18 months, from 5 percent to 10 percent to 15 percent to 20 percent, with annual program reviews and adjustments.

V. What the Workforce Development Plan Means to Contractors

The mission of the plan is to ensure an adequate supply of qualified workers by helping develop a diverse, skilled workforce and increasing the use of apprentices. Contractors play an integral role in making this a reality. ODOT is partnering with the construction industry by providing contractors with the support and services they need to successfully diversify their workforce, while meeting new contract specifications.

Through the Workforce Development Plan, ODOT and its partners will strive to reduce the burden on contractors to produce a skilled pool who meet industry standards. ODOT will identify a pool of pre-qualified potential workers that contractors may select from when hiring new journey workers or turn to when seeking to hire new apprentices. The plan's partners will supplement contractor training efforts by providing the necessary programs and services to successfully produce a trained, skilled workforce.

The four major differences in how contractors are impacted by the Workforce Development Plan are detailed below.

Diversifying the Workforce

Contracts for OTIA III projects statewide and all ODOT construction projects in Multnomah, Clackamas, and Washington counties will reflect the new women and minority utilization aspirational goals and expand the use of apprentices and trainees. To help contractors diversify their workforce and meet these goals, ODOT will identify a labor pool for contractors as noted above.

ODOT will provide individual assistance to contractors to help them achieve the new utilization goals. This may include providing guidance on individual employment situations, as well as providing exceptions to meeting the new contract specifications for unique and extenuating circumstances. Information posted on ODOT's web site will include contact information for accessing the qualified labor pool, in-depth information on the plan, details on the apprenticeship program, and leads for obtaining additional resources. As the plan evolves, ODOT will identify contacts for contractors to reach for more information. The goal is to have a single point of contact for contractors to access the qualified labor pool.

On-the-Job and Apprenticeship Training Opportunities

ODOT will identify and screen a pool of qualified applicants that contractors may access for apprenticeship and on-the-job training opportunities. Providing training opportunities yields many benefits for contractors. First, contractors will have the workforce they need to complete their existing projects. Second, contractors will have a qualified, skilled labor pool from which they can select workers to successfully compete for other projects. Third, by training women and minorities and expanding the use of apprenticeships and the OJT program, contractors will be able to meet their contract specifications and make major strides toward meeting the new utilization goals and subsequently their contract specifications. Finally, some individuals in the qualified pool will be available to enhance the contractor's journey-level workforce.

Monitoring/Reporting Functions

ODOT will use existing reporting functions to monitor contractor compliance with the new workforce utilization goals. The focus is not to create new or time-consuming reporting activities, but rather to leverage the existing reporting function and streamline the process—making it easier for contractors to track their progress. ODOT will review reports monthly, focusing on how contractors are providing training opportunities and their efforts to diversify their workforce. Contractors who are in compliance with the new contract goals will receive minimal oversight from ODOT.

Contract Specifications

As part of the implementation of the Workforce Development Plan, contract specifications for OTIA III and all ODOT construction projects in Multnomah, Clackamas, and Washington counties will reflect the new apprenticeship and diversity aspirational goals. Beginning in fall 2005, ODOT will provide training sessions for contractors quarterly for the following year to clarify the new specifications and what these changes mean to contractors.

The qualified labor pool composition for women and minorities on federal and federally assisted construction contracts/subcontracts in excess of \$10,000 is determined by federal standards. The goals are expressed as a percentage of the

hours worked by the contractor's total workforce per trade on all construction projects in a geographic area. The federal goal for utilization of women is 6.9 percent of work hours and applies to all of a contractor's construction sites, regardless of where the contract is performed. Aspirational goals for women on OTIA III contracts statewide and all ODOT construction contracts in Multnomah, Clackamas, and Washington counties will be 8 percent.

Ultimately, ODOT is seeking to increase participation rates statewide to 14 percent for women and 14 percent for minorities. In the Portland tri-county area, ODOT is seeking to increase participation rates to 14 percent for women and 20 percent for minorities. Appendix 5 details ODOT's regional utilization aspirational goal changes. A federal public notice process and a review at the federal level of these new specifications will also occur.

Selecting Job Candidates from the Qualified Labor Pool

Contractors are encouraged to select job candidates from the qualified labor pool and provide an evaluation of their job-readiness. When possible, contractors are encouraged to work with local apprenticeship committees to provide access into registered apprenticeship programs. By selecting workers from the qualified labor pool, contractors will be contributing to their compliance with federal "good faith" standards in the worker selection process. ODOT will monitor contractor compliance with federal requirements, which are explained in further detail in Appendix 6, EEO and Affirmative Action Requirements.

If candidates from the qualified labor pool are not selected, the contractor must provide a reason, which may include a candidate's drug and alcohol use or chronic/repeated absenteeism. ODOT has the right to reject a contractor's reason. If this happens, the contractor is required to select job candidates from the labor pool or forfeit its contract. However, if the contractor's reason is accepted, the contractor must complete a "good faith" effort to select another worker from the labor pool or it may have to forfeit its contract. If a qualified, skilled labor pool is not available, the contractor is required to follow the federal "good faith" requirements to meet its contract utilization goals.

Issue #9

Lack of mentoring and support:

- **Journey mentors**
- **Peer mentors**

Plan Response:

See proposed Mentoring Program under Issue #3.

Issue #10

Current contract constraints limit industry's creative response.

Plan Response:

See Plan's response to Issue #8.

In addition:

Regional Workforce Alliances

The five Regional Workforce Alliances will implement the Workforce Development Plan at the regional level. The goal of the alliances is to create a system to recruit, train, and retain women and minorities in the construction trades.

Partners in the alliances will include the Bureau of Labor and Industries' Apprenticeship and Training Division, local community colleges, community leaders, community-based organizations, construction contractors, general contractors, local government, high schools, Housing Authority of Portland, local Joint Apprenticeship Training Committees, Metro, minority and women chambers and organizations, ODOT, Oregon Employment Department, Oregon Health and Science University, Port of Portland, Portland Development Commission, private-sector owners, tribal representatives, and local Workforce Investment Board or Title 1B providers. A detailed description of the alliances and their responsibilities is listed in the Approach section on page 14 of the plan.

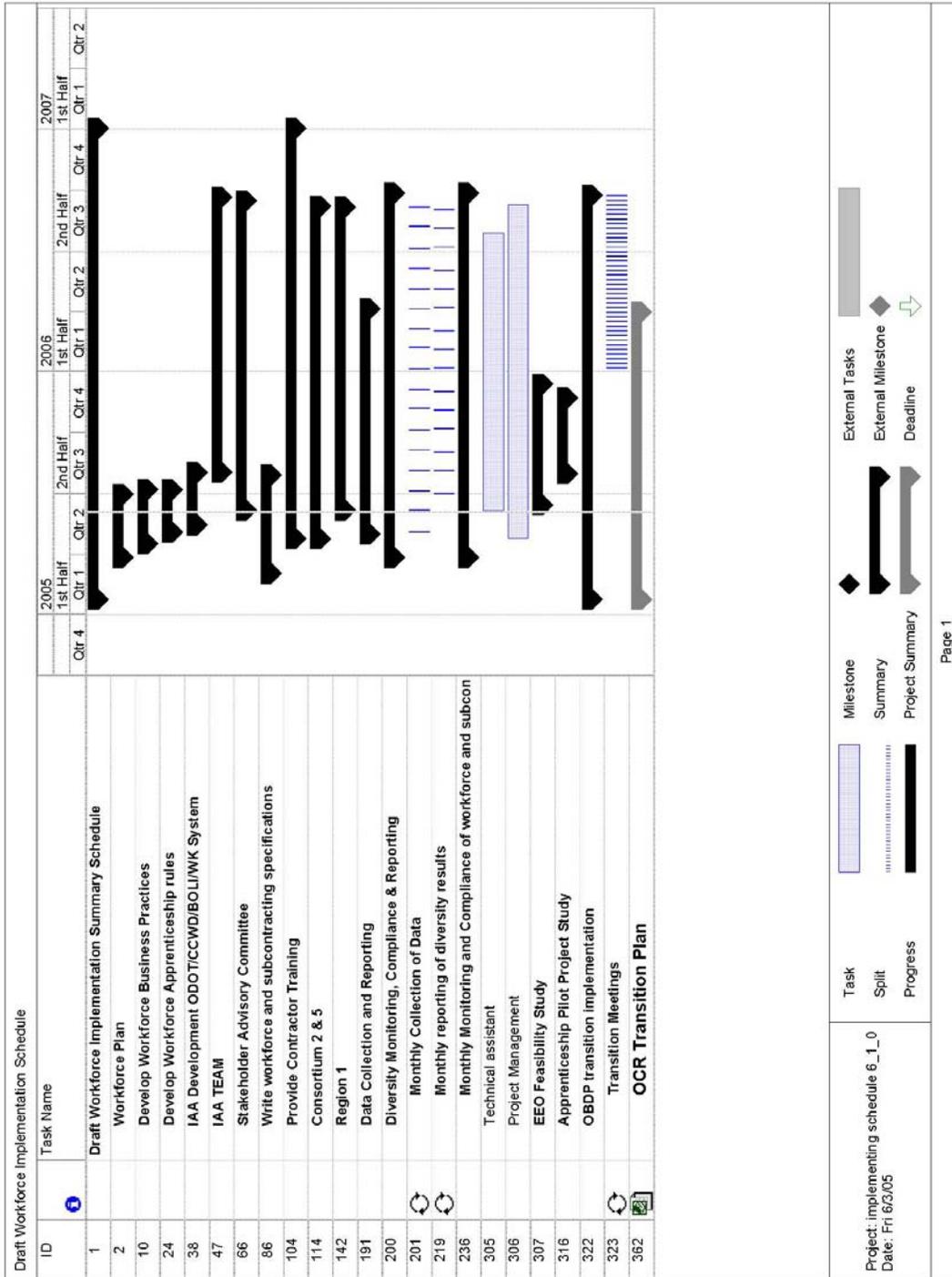
Workforce Advisory Committee

The focus of the Workforce Advisory Committee is on providing guidance and evaluation of the Workforce Development Plan for ODOT's Director and setting forth recommendations to address issues as identified. Where resolution is required outside the purview of this committee, recommendations will be forwarded to ODOT for disposition. The committee is also responsible for reporting on plan goals, implementation progress, and tracking performance measures of the plan's partners. Additionally, this committee provides a forum for partners to communicate on a regular basis and resolve issues. This committee is composed of representatives from the Bureau of Labor and Industries, Community Colleges and Workforce Development, the contracting community, Governor's Office, ODOT, Oregon Employment Department, organized labor, private-sector, women and minority individuals and businesses, local apprenticeship committees, and other partners. ODOT's Director's Office will chair this committee.

Appendix 11: Draft Support Services

FUNCTIONS & RESPONSIBILITIES	PERFORMANCE & OUTCOME
Identify individual's level of support services required	Number of adults and older youth receiving timely and appropriate supportive services. Number that are women or minorities.
Services include: <ul style="list-style-type: none"> • Appropriate clothing • Tool expenses • Transportation issues • Union dues • Drug and alcohol treatment • Health care • Medical examinations (related to commercial driver license testing) • Safety equipment • Housing issues • ESL or other language skills • Cultural training • Food • Child care • Education assistance (tuition, books, General Equivalency Diploma (GED) fees) • Strength and Conditioning 	Outcome measures include: timely response to individual's need; system-wide policies and service delivery procedures reinforce integrated services among diverse agencies; leveraging of existing resources; system feedback and analysis to determine gaps in service.
EVALUATIVE CRITERIA	
Currently is providing these services	Maintain, and if necessary, enhance coordination of services among diverse agencies.
Meet construction industry time requirements and constraints	Service delivery system will perform continuous review to assure services are flexible and responsive to industry requirements and time constraints.
Provide remote, web, camera access for child care	Placement of cameras if deemed warranted and cost effective.
Connection with Social Services	Outcome measures include maintaining a good working relationship with the consortium members, tracking enrollees, and jointly problem solving issues or barriers.
Twenty Five percent (25%) of support services (Cont'd) provided by Provider	Maintain, and if necessary, enhance coordination of services among diverse agencies.
Understand all components of Workforce Plan	Policies and service delivery procedures reinforce an integrated workforce plan.
Have the ability to accept federal funds	Eligible for federal funds.
Maintain proven track record	Maintain, and if necessary, enhance coordination of services among diverse agencies.

Appendix 12: Draft Workforce Implementation Schedule



Appendix 13: Full Agreement – Tribal Employment

SP IN PREF (04-22-04)

(Use this special provision on Federal-Aid projects when any portion of a project is off of but within 60 miles of the diminished reservation boundaries of the Umatilla Indian Reservation.)

SPECIAL PROVISION

INDIAN PREFERENCE IN EMPLOYMENT ON FEDERAL-AID HIGHWAY PROJECTS ON AND NEAR INDIAN RESERVATIONS

April 22, 2004

PURPOSE

The purpose of this special provision is to outline the "Tribal Employment Rights Office (TERO) Indian Preference in Employment" requirements and procedures to be followed by The Confederated Tribes of the Umatilla Indian Reservation, the Oregon Department of Transportation, and all Contractors or subcontractors engaged in highway construction work that is under contract with the Oregon Department of Transportation on federal-aid highway projects that are located on and near the Umatilla Indian Reservation.

BACKGROUND

The United States Code (USC), Title 23, Section 140 was amended by the 1987 reauthorization of the Surface Transportation Assistance Act by adding paragraph (d) "Indian Employment and Contracting" concerning preferential employment of Indians living on or near a reservation on federal-aid projects and contracts on Indian reservation roads. It was further amended by Section 1026 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) to include "States may implement a preference for employment of Indians on projects carried out under this title near Indian reservations." (As defined in the Tribal Employment Rights Office Code, Chapter I, Section E., the term "Indian" means "any person enrolled in a federally recognized tribe and recognized by the United States pursuant to its trust responsibility to American Indians".

AUTHORITY

The Oregon Department of Transportation (State) acknowledges the inherent sovereign authority of The Confederated Tribes of the Umatilla Indian Reservation to promulgate and enforce the TERO Code within the boundaries of the Umatilla Indian Reservation and acknowledges Title 23, Section 140(d) of the USC.

The current TERO Code of the Confederated Tribes of the Umatilla Indian Reservation and its compliance requirements and procedures are incorporated herein and made part of this special provision.

APPLICABILITY

Eligible projects for Indian Employment preference consideration under this special provision are those projects which are on roads termed "Indian Reservation Road" according to USC Title 23, Section 101(d)(12) and on roads near the boundaries of reservations and other

Indian lands. Roads "near" The Confederated Tribes of the Umatilla Indian Reservation (Tribes) are those within 60 miles of the diminished reservation boundaries.

ELIGIBLE EMPLOYEES

All Indians are eligible for Indian preference without regard to tribal affiliation or place of enrollment. However, recruiting efforts will be targeted toward those living on or near the Umatilla Indian Reservation.

Employers with collective bargaining agreements with a union are responsible for informing such unions of this requirement.

INDIAN PREFERENCE GOAL

The Indian Employment Preference goal is indicated in the project Special Provisions.

Classifications for Indian Preference goal consideration are:

- Carpenter
- Laborer
- Equipment Operator
- Cement Masons
- Truck Drivers
- Electricians
- Ironworkers

Classification shall be according to requirements for certified payrolls.

Goals will apply to total project work hours and will not be applied individually to the Contractor and subcontractors. Goals do not apply to number of persons employed at any given period of time.

These Indian employment goals are for the Contractor's work force who are other than core crew members. A Contractor's core crew is composed of full-time employed individuals necessary to satisfy his/her reasonable needs for supervisory or special experienced personnel to assure an efficient execution of the contract work. Indian employees of the Contractor shall be included in the core crew, regardless of job function, to avoid the unintended results of having a Contractor lay-off or terminate an Indian employee to hire another under this provision.

In setting these employment goals, consideration has been given to the availability of skilled and unskilled Indian workers, the type of work to be performed, the Contractor's employment requirements, the need for new hires, and unemployment rates prevailing among non-Indians. Consideration has also been given to the employment goals for minorities and women established for the area by the U.S. Department of Labor's Office of Federal Contract Compliance Programs pursuant to Chapter 41, Code of Federal Regulations, Part 60.4.

These goals may only be changed by the Oregon Department of Transportation after consultation with the Tribes and the Contractor, and after consideration of the good faith efforts of the Contractor together with the ability of the Tribes to refer workers in numbers and in time for the Contractor to meet the goals and to perform the work.

If the Tribes are unable to provide sufficient qualified or qualifiable applicants to meet the employment goal within 48 hours of the placement of a job order by the Contractor, the Contractor, ensuring nondiscrimination and providing equal employment opportunity, may

recruit from other sources off the Umatilla Indian Reservation. The Contractor shall give full consideration to all qualified job applicants referred by the Tribes. The Contractor is not required to employ any applicant who, in the Contractor's opinion, is not qualified to perform the classification of work required.

FRINGE BENEFITS

All fringe benefits for Indian workers referred by the Tribal Employment Rights Office shall be paid in cash. Indian workers who are union members will have the option of fringe benefits in cash or paid into a bonafide plan or program. However, this does not change any agreements between Indian union members and their respective unions.

PRECONSTRUCTION CONFERENCE

The preconstruction conference will be the forum for finalizing all compliance agreements and requirements between the Tribes and the Contractor and subcontractor(s) and to answer any questions regarding Indian Preference and applicable special provisions.

MANDATORY TERO WORKSHOP

The Tribal Employment Rights Office of the Confederated Tribes of the Umatilla Indian Reservation agrees to conduct mandatory prebid quarterly TERO/MOU workshops, and shall issue certificates of completion to those Contractors who sign in, attend, and participate. Contractors must have a certificate in order to be eligible to bid on ODOT Contracts that require compliance with these TERO/MOU requirements. The certificate will be good for 2 years with an updated renewal every biennium.

COMPLIANCE

The State will follow normal contract compliance procedures to effect compliance. The State may elect to invite the Tribes to assist their monitoring efforts in all or any part of its compliance process. The State will review the Contractor's employment practices and take appropriate enforcement actions when the goal is not reached after consideration of good faith efforts. See the "ON-SITE WORK FORCE AFFIRMATIVE ACTION REQUIREMENTS FOR WOMEN AND MINORITIES SPECIAL PROVISIONS" or contact the Tribal Employment Rights Office for sanctions that may be imposed for failure to meet these goals.

COMPLIANCE FEE

A compliance fee will be charged to the contractor. The compliance fee is indicated in the project Special Provisions.

TRIBAL EMPLOYMENT RIGHTS OFFICE
CODE

CONFEDERATED TRIBES
OF THE
UMATILLA INDIAN RESERVATION

TRIBAL EMPLOYMENT RIGHTS OFFICE CODE

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TRIBAL EMPLOYMENT RIGHTS OFFICE CODE

CHAPTER I. GENERAL PROVISIONS

SECTION A. TITLE

This Code shall be known as the Tribal Employment Rights Office Code.

SECTION B. PURPOSE

The purposes of this Code are:

1. To ensure compliance by employers on the Umatilla Indian Reservation with federal and tribal laws that are intended to prevent employment related discrimination against American Indians;
2. To ensure compliance by employers on the Umatilla Indian Reservation with federal and tribal laws that are intended to give preference in employment, contracting and sub-contracting, and training to American Indians; and
3. To ensure the maximum utilization of Indian workers in all employment opportunities on and near the Umatilla Indian Reservation.

SECTION C. STATEMENT OF POLICY

The Board of Trustees of the Umatilla Confederated Tribes finds that:

1. Jobs in the private employment sector on and near the Umatilla Indian Reservation are an important resource for Indians residing on and near the reservation.
2. This Code is consistent and supplemental to existing federal and tribal law prohibiting employment discrimination against Indians and providing employment and contract preference to Indian employees and Indian-owned enterprises.
3. Indian unemployment on the Umatilla Indian Reservation continues to be a problem of sufficient magnitude to warrant the enactment and implementation of this Code which is designed to improve employment opportunities for Indians living on and near the reservation.

SECTION D. JURISDICTION

1. This Code shall apply to all employers located or engaged in business on the Umatilla Indian Reservation. It shall not apply to any direct employment by the Umatilla Tribe or by federal, state or other governments; however, contractors and subcontractors of these entities shall be subject to the Code.
2. This Code is not intended to preempt or interfere with the rights or obligations set forth in the Tribes' Personnel Policies and Procedures or the Umatilla Tribal Police Department Manual. Neither the tribe nor the Umatilla Tribal Police Department are subject to the provisions of this Code. Employees of the Tribe and the Tribal Police Department shall be limited to the rights and remedies provided in the duly adopted manuals or procedures enacted by the tribe for those employees. This Code shall not apply to or be enforced against Tribal Enterprises including, but not limited to:

Wildhorse Gaming Resort, Wildhorse Hotel, Wildhorse Golf Course, Wildhorse RV Park, and the Tamustalik Cultural Institute. Preference in employment shall be afforded at each Tribal Enterprise in Personnel Manuals developed for each enterprise.

3. Contract disputes are contractual and will not be within TERO's scope of work or cause for contractor operation shutdown. Contract disputes shall be resolved through specified contract procedures for such disputes or through a court of competent jurisdiction.

SECTION E. DEFINITIONS

1. BOARD OF TRUSTEES - Shall mean the governing body of the Confederated Tribes of the Umatilla Indian Reservation.
2. COMMISSION - the term "Commission" shall mean the Umatilla Tribal Employment Rights Commission.
3. COMMISSIONER - the term "Commissioner" shall mean a member of the Umatilla Tribal Rights Commission.
4. COMMISSION CHAIRPERSON - the term "Chairperson" shall mean the Chairperson of the Commission which shall be elected by the Commission on an annual basis. The Chairperson of the Commission shall preside at all meetings of the Commission.
5. COMPLIANCE AGREEMENT - A certification signed by employers and the Tribal Employment Rights Office (TERO), setting forth how each employer will meet In Preference hiring goals and that they will comply fully with the TERO Code. The "Compliance Agreement" must be executed prior to commencement of any portion of a contract or sub-contract within the Umatilla Indian Reservation.
6. CORE CREW - The essential, permanent employees of employer. The employees must have been regular employees for at least six (6) months. "Core Crew" requests must be submitted in writing , with rationale for each position before start of any project work, and approved by TERO Program Manager.
7. EMPLOYER - Shall mean any person, company, contractor, subcontractor or other entity located or engaged in work on the Umatilla Indian Reservation. The term "employer" shall include contractors and subcontractors of state, county, tribal and all governmental agencies. The term shall not mean or include the Umatilla Tribe, federal, state or governmental agencies when they are employers.
8. ENGAGED IN WORK ON THE RESERVATION - An employer is "engaged in work on the reservation" if during any portion of a business enterprise or specific project, contract or subcontract, he or any of his employees spends time performing work within the exterior boundaries of the reservation.
9. INDIAN - The term "Indian" shall mean any person enrolled in a federally recognized tribe and recognized by the United States pursuant to its trust responsibility to American Indians.
10. INDIAN OWNED BUSINESS - A business that is at least 51 % operated and controlled by an Indian.

11. INDIAN PREFERENCE - Shall mean a preference for Indians in all aspects of employment, including but not limited to: hiring, training, promotions, layoffs, contracting and subcontracting for work within the Umatilla Indian Reservation. Qualified, available Indians shall receive Indian Preference according to negotiated Compliance Plans.
12. LOCATED ON THE RESERVATION - An employer is "located on the reservation" if during any portion of a business enterprise or specific contract or subcontract, he maintains a temporary or permanent office or facility within the exterior boundaries of the reservations
13. NEAR THE RESERVATION - Shall mean jobs within reasonable daily commuting distance of the reservation.
14. OFFICE - Shall mean the Umatilla Tribal Employment Rights Office.
15. PROGRAM MANAGER - Shall mean the Program Manager of the Umatilla Tribal Employment Rights Office.
16. RESERVATION - Shall mean the Umatilla Indian Reservation.
17. TRIBE - Shall mean the Confederated Tribes of the Umatilla Indian Reservation of Oregon.
18. TRIBAL COURT - Shall mean the Umatilla Tribal Court as established in the Tribal Criminal Code and Procedures, Part 1, Chapter 1, Sec. 1.

CHAPTER II. TRIBAL EMPLOYMENT RIGHTS OFFICE

SECTION A. PROGRAM MANAGER

The Program Manager of the Tribal Employment Rights Office (TERO) shall be responsible for administering the provisions of this Code; and provide direction, leadership & oversight to the Compliance Officer.

SECTION B - GENERAL AUTHORITIES

The Program Manager of the TERO shall have the authority to hire staff, to obtain and expend funds from tribal, federal, state, or other sources to carry out the purposes of this Code, to establish employer record-keeping requirements, to consult with the TERO Commission on policy issues related to the implementation of this Code, and to take such other actions as are necessary for the fair and vigorous enforcement of this Code.

SECTION C - SPECIFIC AUTHORITIES

The Program Manager shall have the authority to:

1. Investigate violations of the provisions of this Code;
2. Impose penalties on employers who violate the provisions of the Code;

3. Assist the Commission to develop and promulgate regulations necessary to implement the provisions of this Code;
4. Develop and impose numerical hiring goals and timetables that reflect the available Indian labor pool and other employment opportunities for each craft and skill category.
5. Require employers that have established training or apprentice programs to provide preference to Indians.
6. Establish and maintain a tribal hiring hall that maintains a record of qualified, employable Indians that is to be used by employers to fill vacancies;
7. Prohibit any employer from imposing employment qualification criteria that serve as barriers to Indian employment unless the employer can demonstrate that such criteria are required by business necessity;
8. To work cooperatively with other tribal programs, i.e. JTPA, to establish counseling and support programs for Indian workers to assist them in retaining employment;
9. To enter into cooperative agreements with federal and state agencies to minimize employment discrimination on the reservation, to promote Indian Preference in hiring, training, and contracting and to otherwise ensure compliance with this Code;
10. Through required Payroll Reports, to monitor wage scale and salaries to ensure equitable compensation of Indian workers.
11. To assess fees on employers to support the operation of the Tribal Employment Rights Office.

CHAPTER III. TRIBAL EMPLOYMENT RIGHTS PROGRAM

SECTION A. SCOPE

All employers shall give preference to Indians in hiring, promotion, training and all other aspects of employment, contracting and subcontracting, business opportunities and shall comply with the terms of this Code and its implementing regulations and a Compliance Agreement executed under this Code.

SECTION B. COMPLIANCE AGREEMENT

1. Each employer shall be required to meet with the Program Manager at the TERO office and negotiate and execute a "Compliance Agreement" which sets forth:
 - (a) The minimum number of Indians the employer shall hire during any year that the employer is located or engaged in work on the reservation; numerical goals and timetables for each craft, skill area, job classification, etc., used by the employer including, but not limited to: general labor, skilled, administrative, supervisory, and professional categories;
 - (b) Wage scale provisions and salary compensation terms;

- (c) The reporting requirements the employer shall provide the Program Manager on issues, including but not limited to: the frequency of reports, the number of Indians employed, a record of persons hired, fired or promoted during the reporting period, and an assessment of how close the employer is to meeting the hiring goals set forth in the Compliance Agreement.
2. The numerical goals set forth in the Compliance Agreement shall be based upon surveys of the available Indian work force and of projected employment opportunities on the reservation.
3. Compliance Agreements shall be reviewed annually and revised as necessary to reflect changes in the number of Indians available or changes in employer hiring plans.
4. No employer who intends to engage in temporary business on the reservation shall commence work on the reservation until a Compliance Agreement has been negotiated and signed by both the Program Manager and the employer representative. An employer who has established a permanent place of business on the reservation shall negotiate and execute a Compliance Agreement within 30 days from the date the employer receives notification from the Program Manager that a Compliance Agreement is required.
5. Any violation of an executed Compliance Agreement shall be a violation of this Code.
6. When the TERO Office is closed and an Indian worker is unable to continue working, emergency hires will be allowed, but such hires will be hired for 3 days only.

SECTION C. JOB QUALIFICATIONS AND PERSONNEL REQUIREMENTS

An employer shall not use qualification criteria or other personnel requirements that serve as barriers to Indian employment unless the employer is able to demonstrate that such criteria or requirements are required by business necessity. EEOC Guidelines shall be adopted on these matters to the extent that they are appropriate. The Program manager shall be guided by the guidelines but shall have the authority to impose additional requirements that are necessary in order to address employment barriers that are unique to Indians.

SECTION D. TRIBAL HIRING HALL

1. The Program Manager shall establish and maintain a hiring hall to assist employers in placing qualified Indians in job positions.
2. An employer shall not hire a non-Indian in violation of the Compliance Agreement until the Program manager has certified within a reasonable time that no qualified Indian is available to fill the vacancy. For purposes of this section, "reasonable time" shall be defined as follows:
 - (a) Construction jobs - the Program manager shall have 48 hours from time of notice of manpower needs, to locate and refer a qualified Indian;
 - (b) All other employment - the Program manager shall have 5 working days to locate and refer a qualified Indian.

The Program Manager may grant a waiver of a time period upon a showing by the employer that such time period imposes an undue burden upon the employer or his business.

SECTION E. TRAINING

1. The Program Manager shall identify training programs necessary in order to increase the pool of qualified Indians for employment on the reservation.
2. The Program Manager may initiate and sponsor training programs for employers to participate in, or the Program Manager may work with employers to establish and sponsor their own training programs to assist Indians to become qualified in the various job classifications used by employers.
3. The ratio of Indian trainees to fully qualified workers shall be negotiated as part of the Compliance Agreement. For construction projects, the number of Indian trainees shall be no less than the minimum ratio established by the Department of Labor.

SECTION F. UNIONS

Employers with collective bargaining agreements with a union are responsible for informing such unions of this Code and TERO rules and regulations. Unions will give absolute preference to Indians in job referrals regardless of which referral list they are on. Temporary Work Permits will be granted Indians who do not wish to join a union. Nothing herein shall constitute official tribal recognition of any union or tribal endorsement of any union activities on the Umatilla Indian Reservation.

SECTION G. CONTRACTORS AND SUBCONTRACTORS

The Indian Preference requirements contained herein shall apply to all contractors and subcontractors of an employer. The employer shall have the initial and primary responsibility for ensuring that all contractors and subcontractors comply with these requirements and both the employer and his contractors and subcontractors shall be subject to the penalties set forth herein for failure to comply with the Code requirements.

SECTION H. PREFERENCE IN CONTRACTING AND SUBCONTRACTING

Each employer shall give preference to tribal-owned or Indian owned businesses in the award of contracts or subcontracts, subject to federal laws. The Program Manager shall maintain a list of tribal-owned and Indian-owned businesses which shall be supplied to the employers upon request. Indian owned business shall be certified by the Tribe.

SECTION I. LAYOFFS

In all layoffs and reductions in force, no Indian worker shall be terminated if a non-Indian worker in the same job classification is still employed. The non-Indian shall be terminated first if the Indian possesses threshold qualifications for the job classification. If an employee lays off workers by crews, all qualified Indian workers shall be transferred to crews to be retained so long as non-Indians in the same job classification are employed elsewhere on the job site. Exceptions may be non-Indians hired as "Core Crew", according to negotiated Compliance Agreements.

SECTION J. PROMOTION

Each employer shall give Indians preferential consideration for all promotion opportunities and shall encourage Indians to seek such opportunities. For each promotion or supervisory position filled by a non-Indian, the employer shall file a report with the Program Manager stating what efforts were made to inform Indian workers about the position, what Indians, if any, applied for the position and if an Indian was not chosen, the reasons therefore.

SECTION K. COMPLIANCE FEES

The Program manager shall assess and collect a Compliance Fee based upon the following schedule:

1. Every employer with a contract in the sum of ten thousand dollars (\$10,000) or more shall pay a fee of 21/2% of the total amount of the contract. Such fee shall be paid by the employer prior to commencing work on the Umatilla Indian Reservation.
2. Each employer with gross sales of ten thousand dollars (\$10,000) or more shall pay an annual fee of 21/2% of the annual payroll of the employer. Such fee shall be paid quarterly on the 10th day following the end of each calendar quarter.
3. Compliance Fees shall be used for TERO operating budget and the percentage shall be adjusted annually to remain consistent with the national average. The Compliance Fees program shall go through the Tribes' Annual Budget Process.
4. The amount of Compliance Fee shall be at 1 % until December 31, 1996. Effective January 1, 1997 the amount shall be assessed at 21/2 for all applicable contractors and subcontractors.

The Compliance Fee shall only be assessed against those employers who engage in contract work or establish their business on the reservation after the enactment of this Code. This fee shall not be assessed or collected from religious and non-profit employers. The Compliance Fees shall be available to meet the operating costs of the TERO. The Program Manager shall receive a copy of each Compliance Fee payment. The Program Manager shall be responsible for collecting the fees and may establish such regulations as are necessary to insure a fair and timely fee collection process. Projects beginning off and ending on, or beginning on and ending off the reservation will be considered one hundred percent on-reservation, thus subject to the full Compliance Fee. However, if fifty percent (50%) or more of the work is off-reservation, the Program Manager is authorized to negotiate an appropriate Compliance Fee.

SECTION L. ON SITE INSPECTIONS

The Program Manager shall have the authority to make on-site inspections during regular working hours in order to monitor an employer's adherence to the terms of this Code and the employer's Compliance Agreement. The Program Manager shall have the right to inspect and copy all relevant records of an employer, of any signatory union or subcontractor of an employer, and shall have the right to speak to workers and to conduct an investigation on the job site. All information collected by the Program Manager shall be kept confidential unless disclosure is necessary or ordered as part of any federal or tribal judicial or administrative proceeding.

CHAPTER IV. VIOLATION PROCEDURES

SECTION A. INVESTIGATION BY THE PROGRAM MANAGER

Whenever a violation of this Code or an Agreement negotiated hereunder has been alleged and is brought to the attention of the Program Manager, the Compliance Officer shall initiate and complete a prompt and thorough investigation of the alleged violation. The Program Manager or Compliance Officer shall seek to achieve an informal settlement of the alleged violation, with a written report of findings provided to the Commission.

SECTION B. ISSUANCE OF CITATION

1. If the Program Manager determines that a violation of the Code or an Agreement negotiated hereunder exists, and an informal settlement cannot be achieved, the Program Manager shall issue a warning to the employer. This warning shall specify the nature of the violation and direct that the violation be corrected within three (3) days or sooner where warranted.
2. If the violation is not corrected within the time specified, the Program Manager shall issue a citation to the employer which shall:
 - (a) Be in writing and in the name of the Confederated Tribes;
 - (b) State the name of the violator;
 - (c) Bear the signature of the Program Manager or his authorized representative;
 - (d) State the name and section number of the Code provision or Agreement violated;
 - (e) State a brief summary of facts constituting the violation; and
 - (f) State a time and place the employer must appear to answer to the violation at a Program Manager Hearing

SECTION C. PROGRAM MANAGER HEARING

The employer shall be entitled to a hearing before the Program Manager no later than 10 working days after receipt of a Citation. Hearing procedures shall comply with the requirements of due process, but will not be bound by the formal rules of evidence. The employer shall be entitled to present evidence and to call witnesses to demonstrate that the employer has complied with the requirements of this Code or that the employer made a best effort to do so and therefore should not be subject to sanctions. On the basis of evidence presented at the hearing, and the information collected by the Office, the Program Manager shall determine whether or not the employer complied with this Code. If the Program Manager determines that the employer is out of compliance and has not made a best effort to comply, the Program Manager shall impose one or more of the sanctions provided for in the Code, as appropriate, and shall order the employer to take such corrective action as is necessary to remedy any harm done to the Tribe or individual Indians by the employer's non-compliance. The Program Manager shall send written notice to all parties within ten (10) days after its decision in the matter.

SECTION D. EMERGENCY RELIEF

When the Program Manager determines that a violation has occurred that is of a critical nature requiring immediate remedial action, the Program Manager may issue a citation without delay, stating sanctions to be placed on an employer. An employer shall have the right to appeal to the TERO Commission, any imposition of emergency sanctions on an employer by the Program Manager. The TERO Commission shall schedule a hearing on any appeal of a decision by the Program Manager granting emergency relief pursuant to this subsection within 7 working days.

SECTION E. APPEALS

Any person adversely affected by a decision of the Program Manager shall have the right to appeal the decision to the TERO Commission in accordance with this Code.

SECTION F. INDIVIDUAL COMPLAINT PROCEDURE

1. Any Indian who believes that an employer has failed to comply with the Code, or who believes that they have been discriminated against by an employer because they are Indian, may file a complaint with the Office. The complainant shall be responsible for providing the Office with evidence of the discriminatory practices. Upon receipt of a complaint supported by sufficient evidence of discrimination against an Indian complainant, the Office shall conduct an investigation of the charge and shall attempt to achieve an informal settlement of the matter. If voluntary conciliation cannot be achieved, the Program manager shall hold a hearing on the matter, shall make a determination on the validity of the charge, and shall order such relief as is necessary to make whole any Indian who is harmed by the employer's non-compliance or discriminatory behavior. The decision shall be in writing and shall be sent to all parties.
2. In conducting the hearing, the Program Manager shall have the same powers, and shall be bound by the same hearing requirements as provided in Sections (D) and (E) of this Chapter.

CHAPTER V. PENALTIES

SECTION A. PENALTIES FOR VIOLATION

Any employer who violates this Code or an agreement negotiated hereunder shall be subject to penalties including, but not limited to:

1. Denial of the right to commence or continue business on the reservation;
2. Suspension of operations on the reservation;
3. Payment of back pay and/or damages to compensate any injured party;
4. An order to summarily remove employees hired in violation of this Code or Agreement negotiated hereunder;
5. Imposition of monetary civil penalties; and
6. An order specifying requirements for employment, promotion, and training Indians injured by the violation.

SECTION B. MONETARY FINES

The maximum monetary penalty that may be imposed for a violation is five hundred dollars (\$500). For purposes of the imposition of penalties determined by the Court or sanction by the Program Manager, each day during which a violation exists shall constitute a separate violation.

SECTION C. ENFORCEMENT

1. The Program Manager shall be entitled to pursue the enforcement of any order of the TERO Commission or the Umatilla Tribal Court when necessary to collect penalties or to ensure compliance with the terms and conditions of any order issued by the Umatilla Tribal Court or the TERO Commission.
2. Any cost associated with the enforcement of such Order issued pursuant to this Code shall be assessed on the employer that is out of compliance. These may include, but not be limited to: document reproduction costs, filing fees, attorney fees and costs incurred by TERO staff related to securing enforcement of the Order.
3. Employers that do not comply with the provisions of this Code, and leave the reservation before enforcement penalties or an order by the Program Manager, the TERO Commission or the Umatilla Tribal Court, shall be denied the right of contracting or doing further business on the Umatilla Reservation.

CHAPTER VI. TRIBAL EMPLOYMENT RIGHTS OFFICE COMMISSION

SECTION A. ESTABLISHMENT

The Tribal Employment Rights Office Commission is hereby established to perform the duties and responsibilities set forth in this Code.

1. Membership - the Commission shall be comprised of 5 members appointed by the Board of Trustees. The members shall hold office for a period of 1 and 2 years, terms to be determined by the Board of Trustees. There is no limitation on the number of terms a member may serve.
2. Qualification - any Indian 18 years and older who works or resides on the Umatilla Reservation is qualified to be appointed to the Commission.
3. Commission Chairperson - the Commission shall elect annually a Chairperson from its membership. The Chairperson shall preside at all meetings of the Commission and shall be authorized to sign required documents in accordance with the powers of the Commission.
4. Duties and Powers - the Commission shall be responsible for conducting hearings on Tribal Employment Rights matters in accordance with this Code. In addition to all specific powers set forth in this Code, the Commission shall also have the following powers:
 - a. Review Contractor applications for inclusion on TERO Indian Preference List. Certify that applicant is eligible to bid on Indian Preference Contracts.

- b. Certify On-The-Job training hours as recorded by TERO staff for Tribal Apprenticeship Programs.
- c. The TERO Commission may conduct on-site visits if such visits are a part of their investigation for the decision making process for appeals.
- d. Develop procedures necessary to implement the provisions of this Code, that are consistent with this Code.
- e. Conduct an annual review of the Code.

The Commission will hold regular meetings at 1:30 pm, on the first and third Tuesday of every month. Times and procedures for hearings will be set as necessary, when an Appeal is filed on a Sanction or decision of the Program Manager. The Commission shall attempt whenever possible to execute its powers by consensus. If a consensus cannot be achieved, the affirmative vote of a majority of the 5 Commissioners shall be required to take Commission action. The Chairperson shall be entitled to vote on any decision or action. All written agreements or plans, directives, complaints and appeals which the Commission authorized or required to issue or file, shall bear the signature of at least 2 Commissioners. The Commission will not supervise TERO Personnel.

CHAPTER VII. SCOPE OF COMMISSION HEARINGS

SECTION A.

Only actions of the TERO Program Manager on the issue of a Citation under Chapter IV.B, granting Emergency Relief; under Chapter IV.D, any decision on an Individual Complaint filed under Chapter IV.F; or a penalty imposed under Chapter V.A may be appealed to the Commission.

SECTION B.

To initiate an Appeal the person appealing a sanction or decision of the Program Manager shall file a written statement with the Commission, with a copy to the Program Manager, within 7 working, days of the receipt of the Program Manager's decision. The statement shall describe the nature of the Program Manager's action and the relief requested of the Commission.

SECTION C.

Upon receipt of the written statement and response, the Commission shall establish a hearing date, time and place and notify all concerned parties. Each party shall be responsible for ensuring that appropriate witnesses attend the hearing. A hearing on an Appeal or a grant of Emergency Relief pursuant to Chapter IV.D, shall be scheduled within 7 working days of the filing of the Appeal. All other hearings shall be scheduled as soon as possible.

CHAPTER VIII. COMMISSION HEARING PROCEDURES

SECTION A.

The hearing will be opened promptly, at the time specified by the Commission Chairperson.

SECTION B.

All requests for delay must be made in writing to the Commission 3 working days prior to the hearing date.

SECTION C.

Only the complainant, the respondent, Commission and witness being examined and the recorder will be in the hearing room at any one time. Both parties may have an attorney present, but only as an advisor. The attorney may not cross-examine witnesses or the other party.

SECTION D.

Both parties will be afforded the opportunity to present opening statements with respect to what they intend to present to the Commission.

SECTION E.

As presiding official, the Commission Chairperson will control the proceedings, and will take whatever action is necessary to ensure an equitable and expeditious hearing. Parties will abide by the presiding official's rulings. The Chairperson may limit the number of witnesses when testimony would be unduly repetitious, and exclude any person from the hearing for contemptuous misbehavior that obstructs the hearing.

SECTION F.

The Commission will render a decision within 10 working days from the date of the hearing. The complainant and the respondent will be notified in writing of the Commission's decision.

SECTION G.

Hearings will be recorded. Any person wishing transcripts of the hearing shall bear the costs of reproduction.

CHAPTER IX. TRIBAL COURT ENFORCEMENT AND JUDICIAL REVIEW

SECTION A. The Program Manager may file a petition in tribal court seeking:

1. Enforcement of all or part of any order of the Commission which hasn't been appealed.
2. Enforcement of all or part of any court order issued on appeal of a Commission decision.
3. The petition shall contain all pertinent facts about the order, including a copy of the order, shall state which parts of the order need to be enforced and against whom, and shall set forth facts to show how the order is not being complied with. The Program Manager shall serve all parties to the proceeding with copies of the petition.

4. Upon receipt of the petition, the court shall schedule a hearing and subpoena all necessary parties. The hearing shall be held within 10 days from the date the petition is filed.
5. The Program Manager shall have the burden of proving to the court that either the Commission order or court order has not been complied with. The parties to the hearing

on the petition may produce oral testimony or written documentation to support their case.
6. The court shall render a decision on the petition filed by the Program Manager within 14 working days and enter whatever order is necessary or appropriate.

SECTION B.

The Umatilla Tribal Court is hereby granted exclusive jurisdiction to hear, review, and decide any issues regarding implementation, interpretation, or enforcement appeals under this Code. The decision of the Tribal court shall be final and binding.

SECTION C.

In ruling on matters arising under this Code, the Court shall have the authority to assess and collect civil penalties; to enjoin or mandate actions to enforce the revisions of this Code; and to provide any other relief the Court deems lawful and equitable. Provided that, no money damages may be claimed in any suit against the Tribe, the Tribal Employment Rights Office or its officials engaged in their official duties under this Code.

SECTION D.

The Court shall be responsible for establishing rules and procedures necessary to hear and adjudicate actions brought hereunder.

SECTION E.

Ruling on matters arising under this Code, the Tribal Court shall have the authority to assess and collect civil penalties, to enjoin or mandate actions to enforce the provisions of this Code, and to provide any other relief the Tribal Court deems lawful and equitable; provided that nothing in this Code shall be construed as a waiver of the sovereign immunity of the Confederated Tribes, nor of the tribal sovereign immunity possessed by the Tribal Employment Rights Office or its officials engaged in their official duties under this Code. Accordingly, nothing in this Code shall be construed as any authority for a claim for money damages against the Confederated Tribes, the Tribal Employment Rights Office or TERO Officials acting pursuant to their authority under this Code.

APPENDIX A
LEGISLATIVE HISTORY AND EDITORIAL CHANGES

TRIBAL EMPLOYMENT RIGHTS OFFICE CODE LEGISLATIVE HISTORY AND EDITORIAL CHANGES

The Board of Trustees of the Confederated Tribes of the Umatilla Indian Reservation enacted the Tribal Employment Rights Office Ordinance in Resolution 78-53 (August 7, 1978).

The Board enacted a revised Tribal Employment Rights Office (TERO) Ordinance in Resolution 82-64 (September 20, 1982). The revised ordinance included a new, 14 page TERO Guidelines document. The revised Tribal Employment Rights Ordinance was amended three times, as follows: Resolution 84-21 (February 15, 1984), Resolution 88-07 (November 5, 1987), and Resolution 89-32 (April 5, 1989).

The Board enacted the second revised Tribal Employment Rights Office Ordinance in Resolution 90-51 (September 19, 1990). In enacting the second revised Tribal Employment Rights Office Ordinance, the Board explicitly repealed all prior resolutions concerning the TERO, with the sole exception of Resolution 89-17. As the second revised Tribal Employment Rights Office Ordinance did not contain the TERO Guidelines, these were repealed by Resolution 90-51.

The Board enacted the third revised Tribal Employment Rights Office Ordinance in Resolution 96-67 (July 31, 1996). It has not been amended.

In Resolution 83-78 (September 7, 1983), the Board approved an agreement between the Confederated Tribes and the Four Basic Trade Unions on compliance with the Tribal Employment Rights Ordinance and Guidelines. This agreement reportedly terminated at the end of five years and was not renewed.

In Resolution 89-17 (January 25, 1989), the Board approved a Memorandum of Understanding with the State of Oregon Department of Transportation that ensured compliance with the Tribal Employment Rights Ordinance whenever the Department of Transportation contracted to perform highway construction activities on the Umatilla Indian Reservation. In Resolution 94-13 (February 22, 1994), the Board approved a new Memorandum of Understanding with the State of Oregon Department of Transportation which superceded the 1989 Memorandum of Understanding. This Memorandum of Understanding ensures compliance with the Tribal Employment Rights Ordinance whenever the Department of Transportation contracts to perform highway construction activities on the Umatilla Indian Reservation or within 60 miles of the Reservation.

A fourth revision of this code has been proposed but has not yet been enacted by the Board of Trustees. If it is enacted, it will be included in the next edition of Statutes of the Confederated Tribes of the Umatilla Indian Reservation.

During preparation of this compilation, the following editorial changes were made to this code:

1. The name was changed from "Tribal Employment Rights Office Ordinance" to "Tribal Employment Rights Office Code."

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