

REIMBURSABLE FEDERAL ON-THE-JOB and APPRENTICESHIP TRAINING

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

SECTION 1: ABBREVIATIONS AND DEFINITIONS

(a) Abbreviations

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

EEO - Equal Employment Opportunity

OCR - Office of Civil Rights

OJT - On-the-Job Training

(b) Definitions

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

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

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

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

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

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

SECTION 2: POLICY STATEMENT

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

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

The Contractor shall adopt the following policy:

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

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

SECTION 3: APPRENTICESHIP TRAINING PROGRAM

(a) General

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

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

(b) EEO Requirements

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

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

(c) Reports

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

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

Forms are published on the ODOT OCR website at:

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

SECTION 4: OJT PROGRAM

(a) EEO Requirements

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

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

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

(b) Training Requirements

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

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

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

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

(c) Reports

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

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

Forms are published on the ODOT OCR website at:

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

SECTION 5: MONITORING AND COMPLIANCE

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

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

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

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

SECTION 6: MEASUREMENT AND PAYMENT

(a) General

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

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

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

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

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

Examples of achieving the Training Goal:

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

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

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

(b) Disincentive

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

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

Examples of *not* achieving the Training Goal:

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

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

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