

1 (November 2, 2022)

2 **Special Training Provisions**

3 **General Requirements**

4 The Contractor's equal employment opportunity, affirmative action program shall
5 include the requirements set forth below. The Contractor shall provide on-the-job
6 training aimed at developing trainees to journey-level status in the trades involved.
7 The number of training hours shall be *** \$\$1\$\$ ***. Trainees shall not be assigned
8 less than 400 hours per individual per Contract. The Contractor may elect to
9 accomplish training as part of the work of a subcontractor, however, the Prime
10 Contractor shall retain the responsibility for complying with these Special Provisions
11 (achieving the training goal). When the Contractor's training plan includes trainees
12 for subcontractors or lower-tier subcontractors, this special provision shall be
13 included in the subcontract.
14

15 **Trainee Approval**

16 The Contractor shall make every effort to employ/enroll minority and women trainees
17 to the extent such persons are available within a reasonable recruitment area. This
18 training provision is not intended and shall not be used to discriminate against any
19 applicant for training, whether that person is a minority, woman or otherwise. A non-
20 minority male trainee or apprentice may be approved provided the following
21 requirements are met:
22

- 23 1. The Contractor is otherwise in compliance with the contract's Equal
24 Employment Opportunity (EEO) and On-the-Job Training (OJT)
25 requirements and provides documentation of the efforts taken to fill the
26 specific training position with either minorities or females
27
- 28 2. or, if not otherwise in compliance, furnishes evidence of his/her systematic
29 and direct recruitment efforts in regard to the position in question and in
30 promoting the enrollment and/or employment of minorities and females in
31 the craft which the proposed trainee is to be trained
32
- 33 3. and the Contractor has made a good faith effort towards recruiting of
34 minorities and women. As a minimum good faith efforts shall consist of the
35 following:
36
 - 37 a. Distribution of written notices of available employment opportunities
38 with the Contractor and enrollment opportunities with its unions.
39 Distribution should include but not be limited to; minority and female
40 recruitment sources, WSDOT's OJT Support Services Coordinator,
41 and minority and female community organizations.
42
 - 43 b. Records documenting the Contractor's efforts and the outcome of
44 those efforts, to employ minority and female applicants and/or refer
45 them to unions.
46
 - 47 c. Records reflecting the Contractor's efforts in participating in
48 developing minority and female on-the-job training opportunities,
49 including upgrading programs and apprenticeship opportunities.
50
 - 51 d. Distribution of written notices to unions and training programs
52 disseminating the Contractor's EEO policy and requesting

1 cooperation in achieving EEO and OJT obligations (and their written
2 responses). For assistance in locating trainee candidates, the
3 Contractor may call WSDOT's OJT Support Services Coordinator at
4 (360) 705-7090 or email ojtssinfo@wsdot.wa.gov.
5

6 No employee shall be employed as a trainee in any classification in which the
7 employee has successfully completed a training course leading to journey-level
8 worker status or in which the employee has been employed as a journey-level
9 worker. The Contractor's records shall document the methods for determining the
10 trainee's status and findings in each case. When feasible, 25 percent of apprentices
11 or trainees in each occupation shall be in their first year of apprenticeship or training.
12

13 For the purpose of this specification, acceptable training programs are those
14 employing trainees/apprentices registered with the following:
15

- 16 1. Washington State Department of Labor & Industries — State
17 Apprenticeship Training Council (SATC) approved apprenticeship
18 agreement:
19

20 a. Pursuant to RCW 49.04.060, an apprenticeship agreement shall
21 be;
22

- 23 i. an individual written agreement between an employer and apprentice
24
25 ii. a written agreement between (an employer or an
26 association of employers) and an organization of
27 employees describing conditions of employment for
28 apprentices
29 iii. a written statement describing conditions of employment
30 for apprentices in a plant where there is no bona fide
31 employee organization.
32

33 All such agreements shall conform to the basic standards and other
34 provisions of RCW Chapter 49.04.
35

- 36 2. Apprentices must be registered with U.S. Department of Labor —
37 Apprenticeship Training, Employer, and Labor Services (ATELS) approved
38 program.
39

40 Or
41

- 42 3. Non-ATELS/SATC programs that have been submitted to the Contracting
43 Agency for approval by the FHWA for the specific project.
44

45 **Obligation to Provide Information**

46 Upon starting a new trainee, the Contractor shall furnish the trainee a copy of the
47 approved program the Contractor will follow in providing the training. Upon
48 completion of the training, the Contractor shall provide the Contracting Agency with
49 a certification showing the type and length of training satisfactorily completed by each
50 trainee.
51

Training Program Approval

The Training Program shall meet the following requirements:

1. The Training Program (DOT Form 272-049) must be submitted to the Engineer for approval **prior to commencing contract work** and shall be resubmitted when modifications to the program occur.
2. The minimum length and type of training for each classification will be as established in the training program as approved by the Contracting Agency.
3. The Training Program shall contain the trades proposed for training, the number of trainees, the hours assigned to the trade and the estimated beginning work date for each trainee.
4. Unless otherwise specified, Training Programs will be approved if the proposed number of training hours equals the training hours required by contract and the trainees are not assigned less than 400 hours each.
5. After approval of the training program, information concerning each individual trainee and good faith effort documentation shall be submitted (on DOT Form 272-050).
6. Flagging programs will not be approved. Other programs that include flagging training will only be approved if the flagging portion is limited to an orientation of not more than 20 hours.
7. It is the intention of these provisions that training is to be provided in the construction crafts rather than clerk-typists or secretarial-type positions. Training is permissible in lower-level management positions such as office engineers, estimators, timekeepers, etc., where the training is oriented toward construction applications. Some off-site training is permissible as long as the training is an integral part of an approved training program.
8. It is normally expected that a trainee will begin training on the project as soon as feasible after start of work, utilizing the skill involved and remain on the project as long as training opportunities exist in the work classification or the trainee reaches journey-level status. It is not required that all trainees be on board for the entire length of the contract. The number trained shall be determined on the basis of the total number enrolled on the contract for a significant period.
9. Wage Progressions: Trainees will be paid at least the applicable ratios or wage progressions shown in the apprenticeship standards published by the Washington State Department of Labor and Industries. In the event that no training program has been established by the Department of Labor and Industries, the trainee shall be paid in accordance with the provisions of RCW 39.12.021, which reads as follows:

Apprentice workers employed upon public works projects for whom an apprenticeship agreement has been registered and approved with the State Apprenticeship Council pursuant to RCW 49.04, must be paid at least the prevailing hourly rate for an apprentice of that trade. Any

1 worker for whom an apprenticeship agreement has not been registered
2 and approved by the State Apprenticeship Council shall be considered
3 to be a fully qualified journey-level worker, and, therefore, shall be paid
4 at the prevailing hourly rate for journey-level worker.
5

6 **Compliance**

7 In the event that the Contractor is unable to accomplish the required training hours
8 but can demonstrate a good faith effort to meet the requirements as specified, then
9 the Contracting Agency will adjust the training goals accordingly.
10

11 **Noncompliance and Sanctions**

12 When a contractor violates EEO provisions of the contract, the Contracting Agency
13 may impose damages in accordance with WSDOT's Equal Opportunity Compliance
14 Program and the FHWA 1273. These damages consist of additional administrative
15 costs including, but not limited to, the inspection, supervision, engineering,
16 compliance, and legal staff time and expenses necessary for investigating, reporting,
17 and correcting violations, as well as loss of federal funding, if any. Damages
18 attributable to a contractor's violations of the EEO provisions may be deducted from
19 progress payments due the Contractor. Before any money is withheld, the Contractor
20 will be provided with a notice of the basis of the violations, the amount to be withheld
21 and provided an opportunity to respond. The monetary value of the sanction will be
22 calculated on a case-by-case basis and based on the damages incurred by the
23 Contracting Agency.
24

25 The Contracting Agency's decision to recover damages for an EEO violation does
26 not limit its ability to suspend or revoke the contractor's pre-qualification status or
27 seek other remedies as allowed by federal or state law. In appropriate circumstances,
28 the Contracting Agency may also refer the Contractor to other state or federal
29 authorities for additional sanctions.
30

31 **Requirements for Non ATELS/SATC Approved Training Programs**

32 Contractors who are not affiliated with a program approved by ATELS or SATC may
33 have their training program approved (by FHWA) provided that the program is
34 submitted for approval on DOT Form 272-049, and the following standards are
35 addressed and incorporated in the Contractor's program:
36

- 37 1. The program establishes minimum qualifications for persons entering the
38 training program.
39
- 40 2. The program shall outline the work processes in which the trainee will
41 receive supervised work experience and training on-the-job and the
42 allocation of the approximate time to be spent in each major process. The
43 program shall include the method for recording and reporting the training
44 completed shall be stated.
45
- 46 3. The program shall include a numeric ratio of trainees to journey-level worker
47 consistent with proper supervision, training, safety, and continuity of
48 employment. The ratio language shall be specific and clear as to application
49 in terms of job site and workforce during normal operations (normally
50 considered to fall between 1:10 and 1:4).
51

- 1 4. The terms of training shall be stated in hours. The number of hours required
2 for completion to journey-level worker status shall be comparable to the
3 apprenticeship hours established for that craft by the SATC. The following
4 are examples of programs that are currently approved:

5

| CRAFT | HOURS |
|--------------------------|-------------|
| Laborer | 4,000 |
| Ironworker | 6,000 |
| Carpenter | 5,200-8,000 |
| Construction Electrician | 8,000 |
| Operating Engineer | 6,000-8,000 |
| Cement Mason | 5,400 |
| Teamster | 2,100 |

14

- 15 5. The method to be used for recording and reporting the training completed
16 shall be stated.

17

18 **Measurement**

19 The Contractor may request that the total number of "training" hours for the contract
20 be increased subject to approval by the Contracting Agency. This reimbursement will
21 be made even though the Contractor receives additional training program funds from
22 other sources, provided such other sources do not prohibit other reimbursement.
23 Reimbursement to the Contractor for off-site training as indicated previously may only
24 be made when the Contractor does one or more of the following and the trainees are
25 concurrently employed on a Federal-aid project:

- 26
- 27 1. contributes to the cost of the training,
 - 28 2. provides the instruction to the trainee,
 - 29 3. pays the trainee's wages during the off- site training period.
- 32

33 Reimbursement will be made upon receipt of a certified invoice that shows the related
34 payroll number, the name of trainee, total hours trained under the program,
35 previously paid hours under the contract, hours due this estimate, and dollar amount
36 due this estimate. The certified invoice shall show a statement indicating the
37 Contractor's effort to enroll minorities and women when a new enrollment occurs. If
38 a trainee is participating in a SATC/ATELS approved apprenticeship program, a copy
39 of the certificate showing apprenticeship registration must accompany the first
40 invoice on which the individual appears. Reimbursement for training occurring prior
41 to approval of the training program will be allowed if the Contractor verbally notifies
42 the Engineer of this occurrence at the time the apprentice/trainee commences work.
43 A trainee/apprentice, regardless of craft, must have worked on the contract for at
44 least 20 hours to be eligible for reimbursement.

45

46 Training hours that are not in compliance with the approved training plan will not be
47 measured.

48

49 **Payment**

50 The Contractor will be reimbursed under the item "Training" per hour for each hour
51 of approved training provided under the Contract.