

**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION**  
**SPECIAL PROVISION**  
**ON-THE-JOB TRAINING PROGRAM**

PURPOSE

The purpose of the On-the-Job Training (OJT) Program is to provide training for minority, female, and economically disadvantaged individuals, hereafter known as the targeted group, in order that they may develop marketable skills and gain journeyworker status in the skilled craft classifications in which they are being trained.

INTRODUCTION

- A. The OJT program has been prepared through the cooperative efforts of the Associated General Contractors of North Dakota (AGC); the Federal Highway Administration (FHWA); and the North Dakota Department of Transportation (Department).
- B. Successful operation of the OJT program requires that contractors follow uniform and basic procedures in training, keeping records of trainee progress toward journeyworker status, and reporting each trainee's successful completion or termination from the OJT program.
- C. The bidder's signature on the proposal sheet indicates the bidder agrees to take part in the OJT program and to abide by the provisions of this OJT program special provision.
- D. Projects funded solely with county funds and emergency relief projects that are not included in the Department of Transportation's bid openings will be excluded from the OJT program.

FUNDING

The Department will establish an OJT fund annually from which contractors may bill the Department directly for eligible trainee hours. The funds for payment of trainee hours on federal-aid projects will be allocated from the ½ of 1% provided for OJT funding to a maximum of \$100,000. The funds for payment of trainee hours on state-aided projects will be allocated to a maximum of \$10,000.

ASSIGNMENT OF TRAINEE POSITIONS

- A. Trainee positions will be assigned to contractors and will not be project specific. The number of trainee positions assigned will be determined by applying a formula based on calculations involving specific project specification numbers on applicable projects funded with federal highway dollars awarded by the Department to a contractor from October 1 to September 30. The Department will annually review and make necessary changes to the formula based on the Construction Cost Index maintained by the Department's Planning and Programming Division.
- B. The dollar value of projects subject to Tribal Employment Rights Ordinances (TERO), concrete pavement repair (CPR) projects, electrical projects, rest area projects, signing projects, striping projects, and **state-aid highway** projects will be excluded.

C. In early April, a summary of the trainees required to date and an OJT program package will be sent to participating contractors. The package will also be provided to contractors as they become eligible for trainees throughout the remainder of the year. The number of trainees assigned to each contractor in the summary provided in April will increase proportionately, as shown in the following table, for any applicable federally funded projects awarded to them between April 1 and September 30. Projects awarded after September 30 will be included in the following year's OJT program.

D. The number of trainees required will be assigned and will increase as follows:

For all federal highway dollars awarded from October 1 to September 30.

\$ 4.5 - 8 million	= 1 trainee
\$ 9 - 15 million	= 2 trainees
\$16 - 23 million	= 3 trainees
\$24 - 30 million	= 4 trainees

Capped at \$30 million (no more than 4 total trainees will be assigned to any contractor regardless of dollar amount).

E. Contractors not qualifying for the OJT program, or contractors desiring to train more than the allotted number of trainees, may apply to the Department for additional training positions. Approval of additional positions will be at the sole discretion of the Department. The Department will take into consideration whether there is enough work for the trainee to successfully complete the curriculum and whether the contractor will be exceeding the allowable ratio of trainees to journeyworkers (generally considered to be one trainee or apprentice to every three to five journeyworkers).

The additional positions may be filled by individuals outside of the targeted groups. The contractor may pay the reduced training rates to additional trainees outside of the targeted groups and receive hourly reimbursement for those individuals.

#### TRAINING PROGRAM APPROVAL

A. To use the OJT program, the contractor will notify the Department's Civil Rights Division using the Request For On-the-Job Training Program Approval (SFN 9762). This form is included as Exhibit A in the Department's OJT program package and is available on the Department's website at:

<http://www.dot.nd.gov/forms/sfn09762.pdf>

A completed request form and the training curriculum must be submitted for each trainee in the OJT program. Requests must be submitted by April 15 or within 15 days of notification of additional trainee assignments. The training curricula are included in the Department's OJT program package.

B. The contractor may request to train an individual in a classification not included in the OJT program package. The request must be submitted, in its entirety, for approval by the Department and FHWA. Training programs for classifications not covered under the Davis-Bacon and Related Acts will be considered on a limited basis. If approved,

the new classification must comply with the provisions specified in the OJT program package. The request must include:

1. A training curriculum, including the classification requested, minimum number of hours required, and type of training the individual will receive to achieve journeyworker status.
  2. A minimum wage scale.
- C. The contractor may train an individual on a combination of equipment if each piece of equipment falls within the same groups of power equipment operators identified in the training curricula (groups 1-3 and groups 4-6). These power equipment operator groups are referenced to the federal Davis-Bacon wage rates contained in the contract proposal. As an example, a "utility operator" may receive training on a broom, a front-end loader less than 1½ cubic yards, or other piece of equipment that is used around a paver if each piece falls within either groups 1-3 or groups 4-6. When multiple wage rates apply, the trainee's wage will be based on the equipment being operated at the time or on the highest of the applicable wage rates.
- D. Use of the classification "pickup machine operator (asphalt dump-person)" as a group 4 power equipment operator is considered standard industry practice. The classification is defined as: "Operates the controls on the pickup machine that runs in front of the paver, trips the levers on the dump trucks, and balances the loads for the paver. The pickup machine operates on similar principles as a shouldering machine."

#### DEPARTMENT'S RESPONSIBILITIES

- A. Department project staff will monitor contractor payrolls for payment of correct wage rates and fringe benefits. The Civil Rights Division will maintain a master list, by contractor name and trainee name, to aid project staff in monitoring payrolls for trainees working on multiple projects.
- B. Targeted group trainees will be counseled periodically during their training period. The contractor will make trainees available for counseling. To facilitate counseling sessions, contractors will be contacted for the location of the trainees.

#### CONTRACTOR'S RESPONSIBILITIES

The contractor:

- A. Will identify all trainees on the payrolls, for example: "grp. 4 roller operator trainee." This includes trainees in job classifications not covered under the Davis-Bacon and Related Acts.
- B. Will assign each trainee to a particular person—either a supervisor or an employee proficient in the skill—who shall see that timely, instructional experience is received by the trainee. This person, cooperating with the company EEO Officer, will ensure that proper records are kept and the required training hours are completed according to the training curriculum.
- C. May terminate the training period of a trainee who has completed 90% or more of their hours and advance the trainee to journeyworker status.
- D. Will notify the Department when a trainee completes the OJT program. The Department will issue a certificate of completion to the trainee.

- E. May upgrade trainees from one power equipment operator group or truck driver group to another. Trainees upgraded will not be required to complete the entire number of hours assigned to the new training curriculum. The minimum number of hours required will be:

- Power Equipment Operator Groups 4-6 to Groups 1-3 = 400 hrs.
  - Class C Truck Driver to Class B = 200 hrs.
  - Class B Truck Driver to Class A = 200 hrs.

Depending on the variety of experience the trainee has gained under the previous curriculum, the difference in the hours may be deducted from the actual operation of the piece of equipment or truck. The contractor will need to review the trainee's past performance in order to make this determination.

- F. May transfer trainees from one project to another in order to complete the OJT program. If transfers are made, the Civil Rights Division must be notified and the contractor must document when the transfer was made. The training hours will count toward overall OJT program completion.
- G. May use trainees on municipal, private, or other non-highway work and work performed out of state. The training hours will count toward overall OJT program completion; however, no program reimbursement will be made for those hours. In addition, the hours will be limited to no more than 25% of the total hours required under the training curriculum.
- H. May reassign trainee positions to subcontractors with the approval of the Department. OJT program reimbursements will be made to the prime contractor.
- I. May use trainees on projects subject to TERO requirements as part of the core crew or as part of the skilled labor supplied by the contractor.
- J. Contractors may not use one trainee to fill multiple trainee positions. For instance, a subcontractor may not use the same trainee in the same training program to simultaneously fill two or more trainee positions reassigned to them by prime contractors.
- K. May use a trainee on a piece of equipment in groups 1-3 or groups 4-6 for one assigned trainee position, then once that trainee has completed the program, the trainee may be trained on a different piece of equipment in groups 1-3 or groups 4-6 to fulfill a second assigned trainee position. When a trainee is used for a second time within a group, the contractor must pay that trainee at the higher wage rate as described in paragraph B under Wage Rates (page 5).

#### CLASSROOM TRAINING

- A. Classroom training may be used to train employees. The contractor will submit a proposed classroom training curriculum to the Department for approval. The classroom training curriculum must define the type of training the individual will receive and the minimum number of hours required. The Department will determine the number of hours of credit each trainee will receive toward their training. Each classroom training curriculum must be pre-approved by the Department if the contractor wishes to count the classroom hours as training hours.

- B. Contractors will be reimbursed for classroom training hours after the trainee has completed 80 hours of work on highway construction projects.
- C. With the exception of qualified testing technicians and concrete testing technicians/inspectors, reimbursement for classroom training will be limited to 60 hours per trainee per construction season. Reimbursement for classroom training required under the Department's Transportation Technician Qualification Program will be at the Department's discretion.
- D. The minimum wage scale to be used for classroom training will be that of the first federal-aid highway construction project on which the trainee will be employed. If the trainee is already employed on a federal-aid highway construction project, the trainee will be paid in accordance with the minimum wage scale applicable to that project.

#### WAGE RATES

- A. The minimum wage rates shall not be less than 80% of the journeyworker rate for the first two quarters of training, 85% of the journeyworker rate for the third quarter, and 90% of the journeyworker rate for the fourth quarter. In no case shall the minimum wage be less than that of the group 1 laborer classification in the federal Davis-Bacon wage rates contained in the contract proposal. Trainees shall be paid full fringe benefit amounts, where applicable. The contractor has the option of paying the fringe benefits into approved plans, funds, or programs or directly to its employees. The minimum wage scales for each classification are included in the Department's OJT program package. **A trainee working on a state funded only project, must be paid the Davis-Bacon wage rate in effect, at the time of award of the state funded project, for the type of work the trainee is performing. Payrolls for a trainee working on a state funded project must be made available on request by the Department.**
- B. Under the power equipment operator training curricula only, once a trainee has completed a training curriculum in either groups 1-3 or groups 4-6, the contractor may enroll the trainee in another training curriculum on a different piece of equipment in either groups 1-3 or groups 4-6. The minimum wage rate under the second program shall not be less than 85% of the journeyworker rate for the first two quarters of training, 90% of the journeyworker rate for the third quarter, and 95% of the journeyworker rate for the fourth quarter.
- C. At the completion of the OJT program, the trainee shall receive the wages of a skilled journeyworker.
- D. For the purpose of the OJT program, a quarter is 25% of the hours worked by each trainee and does not represent three months of the year. The first two quarters of a 550-hour training curriculum would end after 275 hours, the third quarter after 138 hours, and the fourth after 137 hours.

#### RECRUITMENT AND SELECTION PROCEDURES

- A. Prerequisite for Trainees:  
  
To be qualified for enrollment in the OJT program, trainees must possess basic physical fitness for the work to be performed, dependability, willingness to learn, ability to follow instructions, and an aptitude to maintain a safe work environment.

B. Licenses:

Truck driver trainees must possess appropriate driver permits or licenses for the operation of Class A, B, and C trucks. When an instructional permit is used in lieu of a license, the trainee must be accompanied by an operator who:

1. Holds a license corresponding to the vehicle being operated;
2. Has had at least one year of driving experience; and
3. Is occupying the seat next to the driver.

C. Recruitment:

1. Notices and posters setting forth the contractor's Equal Employment Opportunity Policy and the availability of the OJT program will be placed in areas readily accessible to employees, applicants for employment, and potential employees.
2. The contractor must employ minority, female, or economically disadvantaged individuals for all trainee positions assigned according to the OJT program. Additional positions requested by the contractor may be filled by individuals outside of the targeted groups.
3. The contractor will conduct systematic and direct recruitment through public and private employee referral sources.
4. Present employees will be screened for upgrading.

D. Selection:

1. The selection and employment of a person by a participating Contractor shall qualify the person for the OJT program.
2. Employment of trainees will be in accordance with the workforce requirements of the contractor. Each contractor will hire and train the trainees for use in their own organization.
3. A contractor may not employ an individual as a trainee in a job classification in which that individual has successfully completed a training course leading to journeyworker status or in which the individual has been previously employed as a journeyworker.
4. Contractors must submit the trainee's name and a completed application form to the Civil Rights Division for review and approval. Approval must be obtained before the trainee may begin work under the OJT program.
5. The economically disadvantaged certification can only be obtained from Job Service North Dakota. Written certification of individuals under this category can be provided to the contractor at the time of the interview if the applicant is referred by Job Service. Any person wishing to obtain this certification must apply to Job Service and complete the Application for Eligibility (SFN 7857). This certification must be provided to the Civil Rights Division with the other required information as part of the approval process for trainees. A contractor that has an individual who may qualify must contact the Workforce Investment

Act Program Manager at Job Service. This list of contacts is included as Exhibit C in the Department's OJT program package and is available on the Department's website at:

<http://www.dot.nd.gov/divisions/civilrights/docs/jobservice-workforce-invest-contacts.pdf>

6. Nonminority males used to fill additional trainee positions approved by the Department do not have to be certified as economically disadvantaged.

#### BASIS OF PAYMENT

- A. Contractors will be paid \$4.00 for each hour of training provided in accordance with the OJT program.
- B. Program reimbursement will be made directly to the prime contractor. To request reimbursement, prime contractors must complete the Voucher For On-the-Job Training Program Hourly Reimbursement (SFN 51023) for each trainee in the OJT program. This form is included as Exhibit B in the department's OJT program package and is available on the Department's website at:

<http://www.dot.nd.gov/forms/sfn51023.pdf>

The completed form must be submitted to the Civil Rights Division for approval. The form is due on the 15<sup>th</sup> day of every month for each trainee currently enrolled in the OJT program

#### FAILURE TO PROVIDE THE REQUIRED TRAINING OR HIRE THE TRAINEE AS A JOURNEYWORKER

No payment shall be made to the contractor if either the failure to provide the required training, or the failure to hire the trainee as a journeyman, is caused by the contractor and evidences a lack of good faith on the part of the contractor in meeting the requirements of this Training Special Provision. It is normally expected that a trainee will begin his/her 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 his/her work classification or until he/she has completed his/her training program. It is not required that all trainees be on board for the entire length of the contract. A contractor will have fulfilled his/her responsibilities under this Training Special Provision if he/she has provided acceptable training to the number of trainees specified. The number trained shall be determined on the basis of the total number enrolled on the contract for a significant period.

#### UNFULFILLED TRAINEE POSITIONS

For a variety of reasons, a contractor may be unable to fulfill the assigned number of trainee positions during a construction season. Any contractor that has not completed the assigned number of trainee positions must contact the Civil Rights Division by October 1 of the current construction season and provide documentation as to why the assigned trainee positions were not fulfilled. The Civil Rights Division will decide, on a case-by-case basis, whether to carry the trainee positions over to the next construction season.