

LEGAL REQUIREMENTS AND RESPONSIBILITY TO THE PUBLIC (REV 7-27-23) (FA 5-7-24) (8-24)

ARTICLE 7-25 is deleted and the following substituted:

7-25 On-The-Job Training Requirements.

As part of the Contractor's equal employment opportunity affirmative action program, ~~training shall be provided as follows:~~ the Contractor shall provide training aimed at developing full journeymen in a trade or job classification involved on all applicable roadway and bridge construction projects receiving federal funds.

~~The Contractor shall provide On-The-Job Training aimed at developing full journeymen in the type of trade or job classification involved in the work. In the event the Contractor subcontracts a portion of the contract work, it shall determine how many, if any, of the trainees are to be trained by the subcontractor provided, that the Contractor shall retain the primary responsibility for meeting the training requirements imposed by this Section. Ensure that, when feasible, 25% of trainees in each occupation are in their first year of training. The Contractor shall incorporate the requirements of this Section into such subcontract.~~

~~The number of trainees will be estimated on the number of calendar days of the contract, the dollar value, and the scope of work to be performed. The trainee goal will be finalized at a Post-Preconstruction Trainee Evaluation Meeting and the goal will be distributed among the work classifications based on the following criteria:~~

~~1. Determine the number of trainees on Federal Aid Contract:~~

~~a. The anticipated minimum number of trainees will be initially derived from construction contract calendar days and dollar value as represented within the provided Table 7-1. A final training goal will be determined at the Training Evaluation Meeting based upon the Department's consideration of all relevant factors including qualitative evidence in the form of contractor efforts to advance equal employment opportunity beyond mere compliance with legal obligations; the availability of eligible trainees; potential for effective training; contractor workforce; project location; type of work and work items; and contractor participation in other approved training or workforce development programs.~~

~~No trainees will be required for contracts~~ Federal-aid Contracts administered with a Contract Time allowance of less than 275 calendar days.

~~b. If When~~ the Contract Time allowance is 275 calendar days or more, the ~~number of trainees shall be established in accordance with the following chart:~~ estimated required number of trainees shown in Table 7-1, with all other relevant factors, be the basis in determining totals. The ability of the contractor to successfully achieve completion of required training goals is desired. From consideration of all criteria presented during the Training Evaluation Meeting, the District Contract Compliance Manager may adjust the minimum number of trainees regarding those totals.

Table 7-1	
Estimated Contract Amount <u>Values</u>	<u>Anticipated Required</u> <u>Trainees Required</u>
<u>\$3,500,000 or less</u>	<u>0</u>
<u>2Over \$3,500,000 to \$7,500,000</u> or less	<u>02</u>

Usage Note: Implemented by Mandatory No. 1 Use on All Jobs August 1, 2024 and later

<u>Table 7-1</u>	
Estimated Contract Amount <u>Values</u>	<u>Anticipated Required</u> <u>Trainees</u> <u>Required</u>
Over \$ 2,07,500,000 to \$ 412,000,000	23
Over \$ 412,000,000 to \$ 620,000,000	34
Over \$ 620,000,000 to \$ 1230,000,000	56
Over \$ 1230,000,000 to \$ 1840,000,000	78
Over \$ 1840,000,000 to \$ 2460,000,000	910
Over \$ 2460,000,000 to \$ 3175,000,000	12
Over \$ 31,000,000 to \$ 37,000,000	13
Over \$ 3775,000,000 to \$ 4390,000,000	14
Over \$ 4390,000,000 to \$ 49100,000,000	15
Over \$ 49,000,000 to \$ 55,000,000	16
Over \$ 55100,000,000 to \$ 62125,000,000	17
Over \$ 62,000,000 to \$ 68,000,000	18
Over \$ 68,000,000 to \$ 74,000,000	19
Over \$ 74125,000,000 to \$ 81150,000,000	20
Over \$ 81,000,000 to \$ 87,000,000	21
Over \$ 87150,000,000 to \$ 93175,000,000	22
Over \$ 93,000,000 to \$ 99,000,000	23
Over \$ 99,000,000 to \$ 105,000,000	24
Over \$ 105175,000,000 to \$ 112200,000,000	25
Over \$ 112,000,000 to \$ 118,000,000	26
Over \$ 118,000,000 to \$ 124,000,000	27
Over \$ 124,000,000 to \$ 130,000,000	28
Over \$ 130,000,000 to *	
Over \$200,000,000* One additional trainee per \$610,000,000 of estimated additional Construction Contract amount over \$130,000,000	

Further, if the Contractor or subcontractor requests to utilize banked trainees as discussed later in this Section, a Banking Certificate will be validated at this meeting allowing credit to the Contractor for previously banked trainees. Banked credits of prime Contractors working as Subcontractors may be accepted for credit. The Contractor's Project Manager, the Construction Project Engineer and the Department's District Contract Compliance Manager will attend this meeting. Within ten days after the Post-Preconstruction Training Evaluation Meeting, the Contractor shall submit to the Department for approval an On-The-Job Training Schedule indicating the number of trainees to be trained in each selected classification and the portion of the Contract Time during which training of each trainee is to take place. This schedule may be subject to change if any of the following occur:

1. When a start date on the approved On-The-Job Training Schedule has been missed by 14 or more days;
2. When there is a change in previously approved classifications; or
3. When replacement trainees are added due to voluntary or involuntary termination

The revised schedule will be resubmitted to and approved by the Department's District Contract Compliance Manager.

Usage Note: Implemented by Mandatory No. 1 Use on All Jobs August 1, 2024 and later

~~———— The following criteria will be used in determining whether or not the Contractor has complied with this Section as it relates to the number of trainees to be trained:~~

~~———— 1. Credit will be allowed for each trainee that is both enrolled and satisfactorily completes training on this Contract. Credit for trainees, over the established number for this Contract, will be carried in a “bank” for the Contractor and credit will be allowed for those surplus trainees in subsequent, applicable projects. A “banked” trainee is described as an employee who has been trained on a project, over and above the established goal, and for which the Contractor desires to preserve credit for utilization on a subsequent project.~~

~~———— 2. Credit will be allowed for each trainee that has been previously enrolled in the Department’s approved training program on another contract and continues training in the same job classification and completes their training on a different contract.~~

~~———— 3. Credit will be allowed for each trainee who, due to the amount of work available in their classification, is given the greatest practical amount of training on the contract regardless of whether or not the trainee completes training.~~

~~———— 4. Credit will be allowed for any training position indicated in the approved On-The-Job Training Schedule, if the Contractor can demonstrate that a good faith effort to provide training in that classification was made.~~

~~———— 5. No credit will be allowed for a trainee whose employment by the Contractor is involuntarily terminated unless the Contractor can clearly demonstrate good cause for this action.~~

Training and upgrading of ~~minorities~~ **minority, nonminority**, women, and economically disadvantaged persons toward journeyman status is a primary objective of this Section. Accordingly, ~~the Contractor shall make every effort to enroll minority trainees and women (e.g., by conducting systematic and direct recruitment through public and private sources likely to yield minorityies and women trainees)~~ **the Contractor shall make every effort to enroll candidates** to the extent such ~~persons~~ **individuals** are **located and** available within a reasonable area of recruitment. ~~If a non-minority male is enrolled into the On-The-Job Training Program, the On-The-Job Training Notification of Personnel Action Form notifying the District Contract Compliance Manager of such action shall be accompanied by a disadvantaged certification or a justification for such action acceptable to the Department’s District Contract Compliance Manager. The Contractor will be given an opportunity and will be responsible for demonstrating the steps that it has taken in pursuance thereof, prior to a determination as to whether the Contractor is in compliance with this Section.~~ This training is not intended, and shall not be used, to discriminate against any applicant ~~for training or prevent access of~~, whether a ~~minority,~~ **nonminority**, woman, or **persons believed economically** disadvantaged ~~person~~.

~~No employee shall be employed as a trainee in any classification in which they have successfully completed a training course leading to journeyman status, or have been employed as a journeyman. The Contractor may satisfy this requirement by including appropriate questions in the employee application or by other suitable means. Regardless of the method used, the Contractor’s records should document the findings in each case.~~

~~———— The minimum length and type of training for each classification will be as established at the Post-Preconstruction Trainee Evaluation Meeting and approved by the Department. Graduation to journeyman status will be based upon satisfactory completion of a Proficiency Demonstration set up at the completion of training and established for the specific training classification, completion of the minimum hours in a training classification range, and the employer’s satisfaction that the trainee does meet journeyman status in the classification of~~

Usage Note: Implemented by Mandatory No. 1 Use on All Jobs August 1, 2024 and later

~~training. Upon reaching journeyman status, the following documentation must be forwarded to the District Contract Compliance Office:~~

- ~~_____ 1. Trainee Enrollment and Personnel Action Form~~
- ~~_____ 2. Proficiency Demonstration Verification Form indicating completion of each standard established for the classification signed by representatives of both the Contractor and the Department.~~

~~_____ The Department and the Contractor shall establish a program that is tied to the scope of the work in the project and the length of operations providing it is reasonably calculated to meet the equal employment opportunity obligations of the Contractor and to qualify the average trainee for journeyman status in the classifications concerned, by at least, the minimum hours prescribed for a training classification. Furthermore, apprenticeship programs registered with the U.S. Department of Labor, Bureau of Apprenticeship and Training, or with a State apprenticeship agency recognized by the Bureau and training programs approved but not necessarily sponsored by the U.S. Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training shall also be considered acceptable provided it is being administered in a manner consistent with the equal employment obligations of Federal Aid highway construction contract. Approval or acceptance of a training schedule shall be obtained from the Department prior to commencing work on the classifications covered by the program.~~

~~_____ A voluntary On The Job Training Program is available to a Contractor which has been awarded a state funded project. Through this program, the Contractor will have the option to train employees on state funded projects for "banked credit" as discussed previously in this provision, to be utilized on subsequent Federal Aid Projects where training is required. Those Contractors availing themselves of this opportunity to train personnel on state funded projects and bank trainee hours for credit shall comply with all training criteria set forth in this Section for Federal Aid Projects; voluntary banking may be denied by the Department if staff is not available to monitor compliance with the training criteria.~~

~~_____ It is the intention~~ intent of these provisions ~~that is to provide~~ training ~~is to be provided~~ in the construction crafts rather than ~~clerk typists or secretarial~~ clerical type positions. Training is permissible in lower-level management positions such as ~~office engineers, estimators,~~ Office Engineers, Estimators etc., where the training is oriented toward construction applications. Training in the laborer classifications, except Common/ or General Laborer, may be permitted provided that significant and meaningful training plan is provided and approved by the District Contract Compliance ~~Office~~ Manager. Training as a Helper for any position, Rodman/Chainman, and Timekeeper classifications will not be approved for the On-The-Job Training Program.

The Contractor may incorporate the requirements of this Section, including responsibility for training a portion of trainees, in any such subcontract maintaining continued primary responsibility and satisfaction of requirements imposed by this Section.

The Department and the Contractor shall establish a training program which is tied to construction scope of work, length of operations, and satisfy all equal employment opportunity obligations of the Contractor. Other additionally recognized apprenticeship or training programs may be considered acceptable provided those are being administered in a manner consistent with the equal employment obligations of Federal-aid Highway Construction Contracts. Approval or acceptance of a training schedule shall be obtained from the Department prior to commencing work with classifications covered by such programs.

The Department and Contractor shall determine the training goal, classification types and minimum total hours needed during the Trainee Evaluation Meeting. An On-the-Job Training

Usage Note: Implemented by Mandatory No. 1 Use on All Jobs August 1, 2024 and later

Schedule indicating number of training candidates and appropriate Proficiency Standards for each classification must be submitted by the Contractor within ten days after the meeting for approval by the Department.

This schedule may be subject to change and a revised schedule shall be submitted for approval by the Department if any of the following occur:

Start date on the approved On-The-Job Training Schedule or Plan has been missed by 14 or more days.

1. Start date on the approved On-The-Job Training Schedule or Plan is accelerated to commence earlier than 14 or more days.

2. A change in previously approved classifications.

3. ——— When approved in advance by the District Contract Compliance Manager, credit will be given for training of persons in excess of the number specified herein under the current contract or a Contractor will be allowed to bank trainees who have successfully completed a training program and may apply those trainees to a training requirement in subsequent project(s) upon approval of the Department's District Contract Compliance Manager. This credit will be given even though the Contractor may receive training program funds from other sources, provided such other source do not specifically prohibit the Contractor from receiving other form of compensation. Offsite training is permissible as long as the training is an integral part of an approved training program and does not compromise a significant part of the overall training. Credit for offsite training indicated above may only be made to the Contractor when it does one or more of the following and the trainees are concurrently employed on a Federal Aid Project: Replacement trainees are added due to voluntary or involuntary termination.

The Contractor is responsible for identifying qualified candidates for enrollment and feasibly 25% of trainees in each occupation are in their first year of training. To ensure eligibility, the Contractor should include appropriate questions in the employee application or by other suitable means.

1. Contributes to the cost of the training;

2. Provides the instruction to the trainee;

3. Pays the trainee's wages during the offsite training period.

Regardless of the method used, the Contractor's records should document the findings in each case. The Department will gather additional information regarding the proposed Candidates' previous work experience, training, as well as understanding of the On-the-Job Program and Proficiency Standards established for the classification.

The Trainee Enrollment and Notification of Personnel Action form is to be submitted fourteen days prior to the requested enrollment date. To be considered for enrollment, the proposed trainee candidate must meet the following criteria:

1. The candidate did not successfully complete a training course leading to journeyman status for the proposed classification.

2. The candidate did not gain sufficient experience by working in the proposed classification.

3. The candidate was not hired as a journeyman in the proposed classification.

4. The candidate is not currently enrolled in the On-the-Job Program.

The Contractor shall compensate the trainee at no less than the laborer rate established in the Contract at the ~~onset~~ commencement of training. The compensation rate will be increased to the journeyman's wage upon graduation from the training program for the remainder of the time the trainee graduate works in the classification in which they were trained.

Usage Note: Implemented by Mandatory No. 1 Use on All Jobs August 1, 2024 and later

If an economically disadvantaged non-minority person is enrolled, such action shall be accompanied by a disadvantaged certification or a justification for such action acceptable to the Department. The Contractor will be responsible for, and provided an opportunity to identify actions and steps taken in pursuance thereof, prior to a determination of compliance with this Section being assessed the Contractor.

The Contractor may only enroll a trainee in one active classification per instance prior to approval of an additional classification for that trainee on the same project unless approved by the District Contract Compliance Manager. At beginning of training, the Contractor shall furnish the trainee a copy of the scheduled program they will follow in providing during the intended training. The Contractor shall provide each trainee with a period and upon completion, award certification showing the indicating type and length of training total hours satisfactorily completed. The Contractor shall enroll a trainee in one achieved.

To complete training classification at a time to completion before the, the transfer of trainees from project to project and from district to district is permitted. This includes transfers between multiple projects which could include non-FDOT government projects (City, County, etc.) provided there is the existence of an agreement to monitor the OJT Trainees in accordance with the OJT Program with the contractor, FDOT and other participating agencies. A trainee can be only allowed to be enrolled in another classification on the same project on the original project.

The Contractor shall generate, maintain records to document the actual hours each and furnish the District Contract Compliance Manager with the Monthly Time Report reflecting known training hours apart from other work hours performed by each individual trainee is engaged in training on work being performed as apart of this Contract. The report shall be submitted no later than the tenth day of the subsequent month and identify proficiency occurring.

Graduation to journeyman status will be based upon satisfactory accomplishment of:

1. Proficiency Demonstration being achieved upon conclusion of training as established for the specific training classification.
2. Completion of the minimum hours in a training classification range.
3. The employer's satisfaction that the trainee does meet journeyman status in the classification of training.

The Contractor shall furnish the following documentation to the Department within seven days of successfully demonstrating proficiency:

1. Trainee Enrollment and Notification of Personnel Action form.
2. Proficiency Demonstration Verification Form signed by representatives of both the Contractor and the Department as well as the trainee indicating successful completion of each Proficiency Standard established for the classification.

The Contractor shall submit to the District Contract Compliance Manager Department a copy of an On-The-Job Training the Trainee Enrollment and Notification of Personnel Action form no later than seven days after the effective date of the action when the following actions occur: a trainee is transferred on the project, transferred from the project to continue training on another contract, completes training, is upgraded to journeyman status or voluntarily terminates candidate is voluntarily or involuntary involuntarily terminated from the project program.

When approved in advance, the Department provides the Contractor the opportunity to participate in "Voluntary On-the-Job Training Program for Banking". Banking Certificates will be issued when the Contractor desires to preserve credit for a trainee. Further, if the Contractor or subcontractor requests to utilize banked trainees, the Banking Certificate will be validated

Usage Note: Implemented by Mandatory No. 1 Use on All Jobs August 1, 2024 and later

allowing credit to the Contractor on a subsequent Federal-Aid Project. Banked credits of Prime Contractors working as Subcontractors may be accepted for credit. Voluntary On-the-Job Training Program for Banking can be considered under the following circumstances:

1. Federal-aid Projects – Banking Certificates are issued for training of persons in excess of the required number of candidates based on the awarded Contract amount less items of work for which no training can be afforded.

2. State Funded Projects - the Contractor will have the option to train employees on project for which On-the-Job Training Program mandates do not apply. However, the request to participate must be evaluated and will be considered if adequate Department staff are available to monitor compliance with the training criteria.

The following criteria will be used in determining if the Contractor has complied with the requirements of this specification:

1. Credit will be allowed for each trainee who satisfactorily completes training for the classification in which the trainee is enrolled.

2. Credit will be allowed for each trainee who continues training in the same job classification and who completes their training on a different contract.

3. Credit will be allowed for a trainee who is given the greatest practical amount of training on the contract; however, the trainee is unable to complete the training due to insufficient amount of work available in the classification.

~~4. The Contractor shall furnish to the District Contract Compliance Manager a copy of a Monthly Time Report for each trainee. The Monthly Time Report for each month shall be submitted no later than the tenth day of the subsequent month. The Monthly Time Report shall indicate the phases and sub-phases of the number of hours devoted to each proficiency.~~

~~Highway or Bridge Carpenter Helper, Mechanic Helper, Rodman/Chainman, and Timekeeper classifications will not be approved for the On-The-Job Training Program.~~

~~The number of trainees may be distributed among the work classifications on the basis of the Contractor's needs and the availability of journeymen in the various classifications within a reasonable area of recruitment.~~

. Credit will be allowed for any position indicated in the approved On-the-Job Training Schedule or Plan, for which the Contractor can demonstrate that a good faith effort was made to provide training.

5. No credit will be allowed for a trainee whose employment by the Contractor is involuntarily terminated unless the Contractor can clearly demonstrate good cause for this action.

6. Banking certificates may be redeemed within five (5) years of issuance. The issuance and redemption of banking certificates are tracked by each District and the EEO.

7. Earned banking credits are redeemed by presenting the original banking certificate to the DCCM of the district where the project on which the credit is to be applied.

8. A contractor utilizing banking credit(s) to fulfill agreed upon trainee requirement(s), must present the original banking certificate for redemption. If the contractor has determined at the TEM that banked credits will be used to meet trainee requirements, then the certificate(s) is submitted with the initial training schedule. A prime contractor working as a subcontractor to another prime, may redeem their earned banking certificates for the prime.

9. If the contractor subsequently determines to use banked credit(s) to meet trainee requirements, then the certificate(s) are submitted with the revised training schedule.

Usage Note: Implemented by Mandatory No. 1 Use on All Jobs August 1, 2024 and later

The Contractor will have fulfilled the responsibilities of this Specification when acceptable training has been provided to the trainee as specified above.