



ON-THE-JOB TRAINING PROGRAM MANUAL

Civil Rights Division

DEFINITIONS

In relation to this guidance, the following terms are defined as follows:

- A. **Apprenticeship Training Program** means any program approved under 23 CFR CH 1, §230.111(f)(1) and (f)(2). Apprenticeship programs approved by the U.S. Department of Labor as of the date of proposed use by a federal-aid highway contractor or subcontractor need not be formally approved by the State highway agency or the Federal Highway Administration Division (FHWA) Administrator. Such programs, including their minimum wage provisions, are acceptable for use, provided they are administered in a manner reasonably calculated to meet the equal employment opportunity (EEO) obligations of the contractor. Other training programs approved by the U.S. Department of Labor as of the date of proposed use by a federal-aid highway contractor or subcontractor are also acceptable for use without the formal approval of the State highway agency or the division Administrator provided:
 - i. The U.S. Department of Labor has clearly approved the program aspects relating to EEO and the payment of trainee wage rates in lieu of prevailing wage rates.
 - ii. They are reasonably calculated to qualify the average trainees for journeyworker status in the classification concerned by the end of the training period.
 - iii. They are administered in a manner calculated to meet the equal employment obligations of the contractors.
- B. **Contractor** means any person, corporation, partnership, or unincorporated association that holds an FHWA direct or federally assisted construction contract or subcontract regardless of tier.
- C. **Federal-aid contract** is any contract between TxDOT and a contractor that is paid for in whole or in part with FHWA assistance.
- D. **FHWA** means the U.S. Department of Transportation, Federal Highway Administration
- E. **Journeyworker** means a person who can perform all the duties within a given job classification or craft.
- F. **Program** means the Federal On-the-Job Training program established in accordance with regulation 23 CFR Part 230, Subpart A, Equal Employment Opportunity on Federal and Federal-aid Construction Contracts.
- G. **Supportive Services** means those services provided in connection with approved on-the-job training programs for highway construction workers and highway construction contractors which are designed to increase the overall effectiveness of training programs through the performance of functions determined to be necessary in connection with such programs, but which are not generally considered as comprising part of actual on-the-job craft training.
- H. **Trainee** means a person who receives on-the-job training, whether through an apprenticeship program or other programs approved by or accepted by the FHWA.
- I. **TxDOT** means the Texas Department of Transportation.

Table of Contents

Introduction	1
Nondiscrimination Statement.....	1
Nondiscrimination Authorities.....	1
PROGRAM GUIDELINES.....	2
Training Program Overview.....	2
Trainee Selection and Enrollment.....	3
Wage Rates.....	3
Data Submission and Reporting Requirements.....	4
Reimbursement.....	4
Goal Credit.....	5
Banked Credit.....	5
Good Faith Effort.....	5
Records.....	5
Compliance.....	5
OJT PROGRAMS.....	6
Contractor-Based Goals.....	6
Project-Specific Goals.....	6
GOAL METHODOLOGY.....	7
STAKEHOLDER RESPONSIBILITIES.....	7
Contractor Responsibilities.....	8
TxDOT Responsibilities.....	8
SUPPORTIVE SERVICES.....	9

Introduction

TxDOT has established a Federal On-the-Job Training (OJT) Program in accordance with regulation 23 CFR Part 230, Subpart A, Equal Employment Opportunity on Federal and Federal-aid Construction Contracts. It is the policy of the Department to require full utilization of all available training and skill-improvement opportunities to ensure the increased participation of minority groups, disadvantaged persons, and women in all phases of the highway construction industry.

The Program is administered through the following special provisions:

- **Special Provision 000-2638 (04), On-the-Job Training Program** – Included in all federal-aid highway construction contracts.
- **Special Provision, On-the-Job Training Program for Design-Build and Comprehensive Development Agreement Projects** – Included in all Design-Build and Comprehensive Development Agreement contracts.

Nondiscrimination Statement

Title VI of the Civil Rights Act of 1964, prohibits discrimination based upon race, color, and national origin. Specifically, 42 USC 2000d states that “No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

Nondiscrimination Authorities

The authorities applicable to the Program include:

Title VII of the Civil Rights Act (1964) – Equal Employment Opportunity

Title VII of the Civil Rights Act of 1964 prohibits discrimination in employment and was passed to bring equality in hiring, transfers, promotions, compensation, access to training, and other employment-related decisions.

Form FHWA-1273

Section II.1(b) states that the contractor will accept as its operating policy the following statement: "It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, sexual orientation, gender identity, color, 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/or on-the-job training."

Section II.6(a) and (b) states that the contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance.

Title 49, Code of Federal Regulations, Part 21

Title 49, Code of Federal Regulations (CFR), Part 21 states that no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of Transportation.

Title 23 CFR 230

The provisions of 23 CFR 230 - are applicable to all state transportation agencies that receive federal financial assistance in connection with the Federal-aid Highway Program. Subpart A requires the establishment of an on-the-job training and on-the-job training supportive services program.

PROGRAM GUIDELINES

The Program targets women, minorities, and disadvantaged individuals for entry into journey-level positions to ensure that a competent workforce is available to meet highway construction hiring needs, while addressing the historical under-representation of members of these groups in skilled highway construction crafts.

The program addresses the following considerations:

- Recruitment of individuals who are interested in pursuing a career in the highway construction industry,
- Upgrading the skills of the current workforce in highway construction trade craft classifications, and
- Assisting contractors as they strive to meet their EEO goals on federal-aid projects.

Training Program Overview

The Program has been designed to ensure that trainees consistently receive quality training necessary to perform as journeyworkers in their respective skilled trade classifications. Standard training programs¹ for each skilled highway construction trade classification were developed as a collaboration between TxDOT, the Associated General Contractors (AGC), construction industry representatives, and other stakeholders. Each training program details the curriculum and maximum number of hours for each job classification. The training curriculum serves as a general guideline, as contractors expect different things from their employees. It is at the contractor's discretion how training should flow, and when the trainee should be graduated from the program. Keep in mind, however, that the hours listed are a maximum, and **a trainee shall not be kept in the training program for longer than the maximum number of hours listed.**

¹ Approved training programs can be accessed here: <https://ftp.txdot.gov/pub/txdot-info/civ/oit/training-classifications-and-programs.pdf>

An alternative skilled or semi-skilled craft training program may be proposed for use in fulfilling a contractor's OJT requirements, based on workforce needs. It is the intention of 23 CFR Part 230 Appendix B of Subpart A that training be provided in the highway construction crafts rather than clerk-typists or secretarial-type positions. Therefore, training is permissible in lower-level management positions such as office engineers, estimators, timekeepers, etc., where the training is oriented toward highway construction applications. A written request detailing the reason for the proposed training program along with a copy of the program curriculum should be submitted via email to TxDOT's Civil Rights Division. Some offsite training is permissible if it is an integral part of an approved training program and does not comprise a significant part of overall training. Apprenticeship programs shall be considered acceptable provided they are being administered in a manner consistent with the equal employment obligations of Federal-aid highway construction contracts.

Trainee Selection and Enrollment

The contractor shall make every effort to enroll minorities, women, and disadvantaged individuals to the extent that such persons are available within a reasonable area of recruitment. This training commitment is not intended, and shall not be used, to discriminate against any applicant for training, whether a member of a minority group or not.

The proposed trainee must meet the following requirements:

- Must express interest in participating in the Program
- Must express sufficient commitment in completing training (this commitment is indicated by completion of the Trainee Signature form)
- Must not have completed a training course leading to journeyworker status for the proposed training classification
- Must not have experience or worked as a journeyworker in the proposed classification
- Must not be enrolled in another training classification

The contractor will submit enrollments within at least seven business days of the trainee start date.

Wage Rates

Trainees will be paid the appropriate Davis-Bacon wage rate or prevailing wage rate for training crafts on TxDOT projects. Contractors shall compensate trainees at least the following percentage of minimum journeyworker rate specified in the contract:

- 60 percent during the first half of the training period
- 75 percent for the third quarter of the training period
- 90 percent for the last quarter of the training period

If the trainees are enrolled in another program approved by the Department of Labor or other agency, such appropriate rates shall apply.

Data Submission and Reporting Requirements

The Diversity Management System (DMS) is the online tool used by TxDOT to capture, track, and maintain OJT data and records. The system provides all stakeholders with access to current training data, goal progress, and all program communication.

- **Training Plan**

Contractors will submit a training plan to specify how they intend to fulfill the assigned goal. For annual goals, training plans are submitted if the contractor is not able to enroll at least one trainee within 60 days of goal notification. For project-specific goals, training plans will be submitted by the assigned due date. If no trainees have been enrolled by the anticipated training start date, the plan must be updated.

- **Enrollments**

Contractors will submit proposed trainee information via DMS, uploading a completed copy of the (2784) Trainee Signature form.

- **Monthly Reporting**

Contractors must submit the previous month's training data by the 10th of each current month. All data should be accurate, including the District(s) and Area Office(s) where training took place. If no hours were worked during the month, the report should be *marked as no work*. **Certified payroll must reflect the trainee's training classification and the actual number of hours training for that payroll period.** Contractors request addition of OJT training classification codes to the training project by submitting the CST-C-1 form to the project Area Office.

- The Trainee Signature and CST-C-1 forms may be accessed here: [On-the-Job Training Forms \(txdot.gov\)](https://www.txdot.gov).

Reimbursement

Upon request, the contractor will be reimbursed 80 cents per training hour upon completion of trainee participation. The contractor is ineligible for reimbursement if:

- the failure to provide required training, or to hire the trainee as a journeyworker in the training classification, is caused by the contractor;
- there is lack of good faith effort to meet the requirements of the Training Special Provision, which includes timely submission of enrollments and program reporting; or
- reported training hours are not on a federal-aid project.

Goal Credit

The contractor will have fulfilled its responsibilities under the Program by providing acceptable training to the number of trainees specified in their goal assignment. Goal credit is earned when:

- A trainee graduates from the Program
- A trainee is terminated from the Program, but Good Faith Effort is earned
- A graduate from the TCCA program is hired and retains employment for 30 days
- A ConnectU2Jobs (CU2J) participant graduates
- A CU2J graduate is hired and retains employment for 180 days

Goal credit will not be earned when the contractor fails to provide acceptable training or evidences a lack of good faith effort in meeting the requirements of the Program.

Banked Credit

Contractors assigned an annual goal have an opportunity to earn additional OJT goal credits once the assigned trainee goal has been met. This is referred to as *banking*. If the contractor enrolls additional trainees that graduate from the program, are approved for good faith effort, or hires graduates from the OJTSS programs, the additional credit(s) will be banked towards the following calendar year goal. However, if the contractor is not assigned an annual goal the following year, goal credit will be lost.

Good Faith Effort

If a trainee is terminated from the Program, either voluntarily or by contractor decision, Good Faith Effort can be requested to earn OJT credit. CIV shall determine good faith effort on a case-by-case basis using fair and reasonable judgment. Criteria used to determine good faith effort includes, but is not limited to, the following:

- Timely submission of required monthly reporting
- Significant completion of the trainee's maximum training hours
- Reason for trainee termination
- Reasonable effort made to enroll a new trainee within 30 days
- The state of the contractor's workforce

Records

The contractor shall retain the original training records for a period of three years following completion of the contract work. Such records shall be available at reasonable times and places for inspection by authorized representatives of TxDOT and FHWA.

Compliance

The contractor has a fundamental role and responsibility to take all reasonable and necessary steps to ensure that the terms and conditions of its contract are fully met, including the implementation of the equal employment opportunity policy that ensures equal access to employment and training.

TxDOT has the authority to conduct contractor compliance reviews to ensure compliance with the equal employment opportunity contract provisions and implementation of special requirements for the provision of on-the-job training (23 CFR 230.111). **A Contractor's failure to comply with the requirements of the OJT Special Provision will constitute a material breach of the contract.**

OJT PROGRAMS

TxDOT has implemented a hybrid approach to the OJT Program with the administration of two separate programs: 1) Annual contractor-based goals are assigned each calendar year, and 2) Project-specific goals are assigned to Design-Build projects. Guidelines specific to each program are outlined below.

Contractor-Based Goals

Annually, TxDOT assigns contractors an OJT goal specifying the number of trainees to be enrolled and trained for the calendar year.

The annual contractor-based program offers contractors the flexibility to select which projects to enroll trainees on. Additional training requirements include:

- Trainee must be enrolled on a federal-aid highway construction project which contains the applicable OJT special provision
- Training may occur on Department state-funded construction, maintenance, and local-administered federal-aid projects, with approval of the local entity and contractor willingness and ability to provide supporting payroll documentation

Project-Specific Goals

TxDOT assigns OJT goals to Design-Build projects by specifying the number of trainees in the training special provision included in the contract. These projects have longer construction periods and therefore more training opportunities. Additional training requirements include:

- Trainees must be enrolled on the Design-Build project which contains the training special provision
- All training must occur on the Design-Build project until the training is completed

GOAL METHODOLOGY

Periodically, the goal methodology will be reviewed to maximize training potential. The formulas for assigning goals are illustrated in the following tables:

ANNUAL (Contractor-Based) GOALS ARE BASED ON PREVIOUS FISCAL YEAR AWARDS WITH TxDOT

Annual Estimated Total – Beginning Range	Annual Estimated Total – Ending Range	Trainees Required Annually
Over \$290,000,000.01	-	11
\$260,000,000.01	\$290,000,000.00	10
\$230,000,000.01	\$260,000,000.00	9
\$200,000,000.01	\$230,000,000.00	8
\$170,000,000.01	\$200,000,000.00	7
\$140,000,000.01	\$170,000,000.00	6
\$110,000,000.01	\$140,000,000.00	5
\$80,000,000.01	\$110,000,000.00	4
\$50,000,000.01	\$80,000,000.00	3
\$20,000,000.00	\$50,000,000.00	2

PROJECT-SPECIFIC (Contract-Based) GOALS ARE BASED ON THE CONSTRUCTION COST ESTIMATE OF THE DESIGN-BUILD PROJECT

From	To	Trainees
\$0	\$9,999,999.99	0
\$10,000,000	\$19,999,999.99	1
\$20,000,000	\$39,999,999.99	2
\$40,000,000	\$59,999,999.99	3
\$60,000,000	\$79,999,999.99	4
\$80,000,000	\$99,999,999.99	5
\$100,000,000	\$119,999,999.99	6

Thereafter for each increment of \$20 million, goal is increased by one trainee/ Goal is capped at 50 trainees for projects of \$1B or more.

STAKEHOLDER RESPONSIBILITIES

Contractor Responsibilities

- Advise new hires and current employees of available training programs and entrance requirements for participation; and encourage eligible individuals to participate
- Provide trainees with a copy of their enrollment signature form, the program curriculum, and regular training progress reports
- Submit required monthly reporting in an accurate and timely manner
- Provide trainees with a certificate documenting successful completion of training
- If a trainee terminates, make a good faith effort to enroll a new trainee within 30 calendar days of termination; the new trainee does not need to be enrolled in the same training classification
- Ensure the Design-Build OJT Special Provision is included in all subcontracts. Training may be provided by a subcontractor; however, program compliance is still the responsibility of the contractor assigned the goal
- The contractor checklist can be accessed and downloaded here: [On-the-Job Training \(OJT\) Program Contractor Checklist \(txdot.gov\)](#)

TxDOT Responsibilities

TxDOT's Civil Rights Division collaborates with District and Area Office Compliance Staff to monitor and ensure contractor compliance with Program requirements.

CIV is responsible for the review and approval of:

- Contractor training plans
- Trainee enrollments
- Trainee graduations and terminations
- Contractor good faith effort requests
- Reimbursement requests

CIV is responsible for submission of an annual report to FHWA that details whether the previous year's training goals were accomplished, and what the current year's training goals will be. If the annual training goal is not accomplished, CIV must provide a written explanation of the specific reasons why the goal was not achieved and what steps will be taken to ensure goals are met moving forward.

District and Area Office staff are responsible for:

- Submission of CST-C-1 forms to Labor Compliance for addition of OJT classification codes to training projects
- Review and approval of monthly training reports
- Follow-up with contractors on overdue and returned monthly reports to facilitate timely completion of training and goal fulfillment
- Conducting one labor interview per trainee during training
- Payment of approved training reimbursement
- The compliance staff checklist can be accessed and downloaded here: [On-the-Job Training \(OJT\) Program TxDOT Staff Checklist \(state.tx.us\)](#)

SUPPORTIVE SERVICES

The On-the-Job Training Supportive Services (OJT/SS) Program was established in accordance with Title 23 Code of Federal Regulations, Part 230 (23 CFR Part 230.113(f)(1)(2)) to increase the overall effectiveness of approved training programs and pursue innovative ways to increase training opportunities for women, minorities, and disadvantaged individuals. The following are TxDOT's current OJTSS Programs:

- The Texas Construction Career Academy (TCCA) is a recruitment, pre-employment, and skills-improvement program conducting training sessions throughout the state designed to offer participants entry-level courses related to heavy highway construction. Participants earn industry recognized certifications, hands-on heavy equipment operation training, and soft skills training.
- The Highway Construction Workforce Partnership (HCWP) is a collaborative partnership between government agencies, heavy highway construction firms, educational institutions, and community organizations to provide HEO NCCER Level 1 certifications and earn-while-you-learn training opportunities to emerging adults ages 18-24 for an opportunity to embark on careers in the transportation industry.

Both programs provide an opportunity for participating contractors to earn OJT credit.