

****FOR USE ON FEDERAL AID PROJECTS WITH ON-THE-JOB TRAINING HOURS****
****FILL IN TOTAL REQUIRED HOURS IN SECTION 1.01****
****USE WITH PAY ITEM 9230003****

(923OJT, 09/17/20)

SECTION 923 BLANK: the title and text of the Standard Specifications is revised to read:

SECTION 923 ON-THE-JOB TRAINING WITH GOALS:

923-1 Description:

The contractor shall provide On-The-Job training (OJT) aimed at moving minorities, women, and disadvantaged trainees into journeymen in various types of construction trades or job classifications in accordance with 23 CFR Part 230, Part 230.111 and Part 230, Appendix B.

It is the intention of these Special Provisions that training be provided in the construction classifications/crafts rather than for office support positions. Some off-site training is permissible as long as the training is an integral part of an approved training program and does not comprise of a significant part of the overall training.

923-1.01 General:

Training and upgrading of minorities and women toward journeyman status is the primary objective of these Special Provisions. Accordingly, the contractor shall make every effort to enroll minority, women, and disadvantaged trainees (e.g., by conducting systematic and direct recruitment through public and private sources likely to yield minority and women trainees) to the extent that such persons are available within a reasonable area of recruitment. The contractor 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 these Special Provisions. 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 OJT goal on this project is **XXXX** hours with a minimum required number of training hours of 600 for each trainee.

The contractor shall provide training and see that all trainees are afforded opportunities to participate in as much training as is practically possible to provide. Due to turnover and attrition of trainees in any one trainee slot, it is expected that continuous trainee replacements may be necessary during the contract work period.

Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training. Trainees shall 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. The ratio of apprentices and OJT Trainees to journeymen shall not be greater than permitted by the terms of the approved training program being utilized.

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 assigned work classification or until the trainee has completed the training program. It is not required that all trainees be on the project for the entire length of the contract.

No employee shall be employed as a trainee in a classification in which they have successfully completed a training course leading to journeyman status, or in which they have been employed as a journeyman. The contractor shall satisfy this requirement by including appropriate questions in the employment application or by other suitable means. The contractor shall maintain documentation that shows the employee's work and training history.

923-1.02 Subcontractor OJT Trainees:

The contractor may, at its discretion, utilize approved subcontractors on the project to meet its OJT goal on the project. In the event that the contractor subcontracts a portion of the contract work, the contractor shall determine how many, if any, of the trainees are to be trained by the subcontractor. However, the contractor shall retain the primary responsibility for meeting the training requirements outlined in this Special Provision. The contractor shall ensure that these Special Provisions are made applicable to such subcontract.

The subcontractor's OJT Trainee(s) must be employed by the subcontractor and be enrolled in an approved training program.

923-1.03 Definitions:

Banking-Carryover Hours:

OJT hours completed by a trainee that exceeds the amount of required hours on the project and are eligible to be credited to a future project. Banked-Carryover hours will only be credited when the same trainee that completed the excess hours is used on the future project.

Business Engagement and Compliance Office (BECO):

BECO is responsible for oversight of the OJT program, which targets under-represented segments of the U.S. workforce, including minorities, women and disadvantaged individuals. BECO assesses OJT hour goals on contracts and monitors them to ensure that trainees receive the required number of training hours.

Classification/Craft:

Type of occupational category, trade, or job being done by a trainee on a federal-aid funded highway construction project.

Disadvantaged Persons:

A person who meets one of the following:

- (1) Receives, or is a member of a family and/or household, which receives cash payments under a Federal, State, or local income-based public assistance program;
- (2) Is a member of a family and/or household that receives (or has been determined within the 6-month period prior to registration for the program involved to be eligible to receive) Food Stamps/EBT card under the Food Stamp Act of 1977;
- (3) Is a foster child on behalf of whom State or local government payments are made;
- (4) Does not have a high school diploma or GED; or
- (5) Is from a family whose total annual household income is below the federal poverty limits.

Journeyman:

A person who is capable of performing all the duties within a given job classification or craft.

OJT Trainee:

A person who is:

- (1) A minority, woman, or disadvantaged individual enrolled in an approved training program; or
- (2) Any other individual enrolled in an approved training program, whose training hours are, approved by the Department, and can be credited toward the OJT contract goals.

Show Cause Notice:

A written notification from the Department to the contractor based on a determination of non-compliance with the requirements of these Special Provisions. The notice informs the contractor of the specific basis for the determination and provides the opportunity for the contractor to present an explanation why they were unable to meet the training goal.

923-1.04 Computation of Time:

In computing any period of time described in this OJT special provision, the day from which the period begins to run is not counted, and when the last day of the period is a Saturday, Sunday or Federal or State holiday, the period extends to the next day that is not a Saturday, Sunday, or Federal or State holiday. In circumstances where the Department's offices are closed for all or part of the last day, the period extends to the next day on which Department's offices are open.

923-1.05 OJT Training Programs:

The minimum length and type of training for each classification will be established in the training program selected by the contractor and approved by the Department and FHWA. The Department and FHWA will approve a program if it is reasonably calculated to meet equal employment opportunity obligations and qualifies the average trainee for journeyman status in the classification concerned by the end of the training period as defined in the training program.

The Department recognizes the following OJT Training programs:

- (A) OJT Programs approved by FHWA or Apprenticeship programs the Department of Labor (DOL) prior to the start of the trainee commencing work.
- (B) Registered union or other approved apprenticeship programs registered with the Bureau of Apprenticeship, U.S. DOL, Employment and Training Administration, Bureau of Apprenticeship and Training or the Arizona Apprenticeship Office, Arizona Department of Economic Security programs recognized by the Bureau.

Approval of a training program other than those specified above to be used for the contract must be approved by the Department and FHWA prior to the trainee commencing work on the classification covered by the program. Contractors intending to submit a training program for approval prior to the start of a contract must submit the program as soon as possible after notification of contract award as approval of a training program may take up to four weeks. Several FHWA approved training program templates for specified classifications are available on the BECO website.

The contractor shall furnish each trainee with a copy of the Training Program the trainee is enrolled in, and other documentation related to the training program. The contractor shall provide training that develops the skills outlined in the training program. Multiple OJT training programs can be used on the project.

All training programs shall be administered in a manner consistent with the equal employment obligations of federal-aid highway construction contracts. The Department

reserves the right to request documentation that the contractor's training program fulfills these obligations.

The trainee will be paid the appropriate trainee Davis-Bacon wage rates for training classifications/crafts on federally-funded projects. The contractor shall compensate trainees not less than the rate outlined in the approved training program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination.

The contractor shall provide for the maintenance of records and furnish/submit required information and reports documenting its performance under these Special Provisions. Such records shall be available at reasonable times and places for inspection or review by the Department and FHWA.

923-1.06 OJT Liaison:

The contractor shall designate an OJT Liaison who shall be responsible for monitoring and administering the contractor's OJT Program and monitoring the trainees' progress. The OJT Liaison may have other responsibilities for the contractor. The OJT Liaison shall serve as the point of contact for the Department regarding information, documentation, and conflict resolution relating to the contractor's OJT program.

923-2 Online Resources:

OJT System Website:

<https://adot.dbesystem.com>

BECO Website:

<https://azdot.gov/business/business-engagement-and-compliance>

923-3 Requirements:

923-3.01 Documentation:

Documentation related to OJT training can be found on the Department's BECO website. The contractor shall complete and submit the following information to the Department:

(A) OJT Commitment/Schedule:

The contractor shall submit the completed OJT Commitment/Schedule through the Department's online OJT System, no later than the preconstruction conference. The OJT Commitment/Schedule shall include the project information, project training plan information, project training schedule, and the contractor's signature of acknowledgement.

If the monthly training hours commitment, as shown on the OJT Commitment/Schedule changes, or is projected to change, during the progression of the project a supplemental

OJT Commitment/Schedule shall be submitted in the online OJT System. The supplemental OJT Commitment/Schedule shall be submitted within 5 days of a change.

If the OJT Commitment/Schedule or the supplemental OJT Commitment/Schedule shows less than the OJT goal for the project, the contractor shall submit to the Engineer Good Faith Effort documentation, as described below in Subsection 923-3.01(C), that demonstrates reasons why the contractor cannot meet the OJT goal.

(B) OJT Enrollment and Progression:

(1) OJT Enrollment:

OJT Enrollment information shall be submitted through the Department's online OJT System by the contractor at least 5 days prior to a trainee's start date. OJT Enrollment information shall be completed and includes the trainee's name and address, employment status, gender and ethnicity, training program (s), classification/craft, and whether banked hours are being requested from a previous project.

BECO will review the OJT Enrollment information within 5 days, and if approved, hours will be retroactively credited to the date the OJT Enrollment information is received by BECO.

To receive OJT credit, apprentice's current apprentice certificate or proof of registration from a union or approved apprenticeship program shall be uploaded into LCPTracker by the contractor within 5 days of the apprentice's start date, in addition to completing the OJT enrollment information in the online OJT System.

If the Arizona Apprenticeship Office Representative's signature is missing from the apprentice certificate, the contractor shall also upload the apprentice's US Department of Labor, Office of Apprenticeship Certificate to LCPTracker. The contractor shall not receive training credit or reimbursement until the certificate is uploaded.

(2) Progression of Training and Change of Status:

Progression of Training-Level Up and Change of Status shall be submitted through the Department's online OJT System each time a trainee advances, progresses to another training level or milestone in his/her training program, or has a change of job classification. Hours will be retroactively credited to the date the information is received.

Hours that exceed the maximum indicated in the program for a certain level will not be credited. Once a level is completed, the trainee should be moved to the next level towards journeyman status.

(C) Good Faith Efforts:

Good Faith Efforts are those efforts designed to achieve equal opportunity through positive, proactive and continuous results-oriented measures (23 CFR 230.409(g)(4)). Good Faith Efforts may include, but are not limited to:

- (1) Solicitation of existing employees to gain referrals for minority, women, and disadvantaged persons;
- (2) Upgrading minority, women, and unskilled workers into the skilled classifications when possible;
- (3) Accepting applications at the project site, at the contractor's office or online;
- (4) Review and follow up on previously received applications from minority, women, and disadvantage persons;
- (5) Documentation of efforts to achieve diversity on federal-aid projects and the contractor's workforce in general;
- (6) Contact the ADOT BECO OJT Supportive Services Program to inquire about potential trainee candidates from ADOT-sponsored Pre-Apprentice programs.
- (7) Contact construction recruitment organizations throughout Arizona;
- (8) Review of the construction-specific recruitment publications in Arizona;
- (9) Publish a recruitment notification in local newspapers and other sources.

923-3.02 Training Program Completion:

Once the trainee completes the required number of levels and hours of training for the same classification or craft, or completes an approved training program, the trainee is considered to have completed the training program it is enrolled under. The contractor shall not receive OJT credit for hours exceeding the maximum number of training hours required for completion of the selected training program.

Once a trainee completes a specific training level for a classification or craft, the contractor shall not be permitted to submit that trainee for enrollment or reimbursement at that same level within the same classification or craft, however the same trainee can be enrolled in a different classification or craft.

The contractor shall provide documentation showing the type and length of training satisfactorily completed to each trainee and the Department upon successful completion of a training program.

For an apprenticeship program, the Apprenticeship office will issue a certificate of completion in said craft, a DOL certificate, and a journeyman's card.

923-3.03 Banking-Carryover Hours:

At the completion of the project, the contractor may submit a Banking-Carryover Hours request in the Department's online OJT System, to carryover training hours for a specific trainee on the project to be used on a future project. Banked hours that are carried over to a project may lower the required number of training hours the contractor is required to complete on that project. The trainee shall be placed on a subsequent project with the intent that the trainee is progressing towards completion of a training program. Banked hours cannot be transferred to other trainees. No additional payment will be paid for banked hours carried over to other projects.

Trainee hours working on multiple projects at the same time can be accumulated to be counted as banked hours to be used on a single future project by the same trainee.

923-3.04 OJT Project Completion and Banked Hours Request:

OJT Project Completion and Banked Hours shall be submitted through the Department's online OJT System within 60 days of completion of training.

923-4 Method of Measurement:

OJT training hours will be measured by the hour to the nearest half hour.

Measurement of hours towards the training goal will be made as the OJT trainee completes hours on the project. Hours are considered complete if the trainee performs hours on the project, is OJT enrolled, and provides required training by the program.

No measurement for payment will be made for trainee hours in which OJT enrollment information has not been received and approved by the Department.

923-5 Basis of Payment:

The accepted quantities of hours, measured as provided above, will be paid for at a unit price of \$3 per hour for training provided to trainee/apprentice in accordance with an approved training program and minimum number of training hour goal on the project.

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 Effort on the part of the contractor in meeting the requirements of this Special Provision.

The Engineer may approve reimbursement for training hours in excess of the minimum training requirement of the project not to exceed the maximum number of training hours for the trainee's current level of training outlined in the training program.

Payment for offsite training may only be made when the contractor does one or more of the following and the trainees are concurrently employed on a federal-aid project;

- (A) Contributes to the cost of the training,
- (B) Provides the instruction to the trainee
- (C) Pays the trainee's wages during the offsite training period.

No additional payment will be made for banked hours utilized to meet the project goal.

923-6 Monitoring and Compliance Mechanisms:

(A) Monthly Reporting:

Contractors shall report monthly hours for each trainee in the online OJT System by the 15th of the month following the month of training hours completed.

(B) Monitoring:

The Department will conduct periodic reviews of trainee hours and monitor contractor's progress towards meeting the OJT goal on the project.

(C) Site Visits:

The Department may conduct periodic monitoring site visits to the worksite to review OJT Program compliance, during working hours on the project. The Department will notify the OJT liaison at least 24 hours prior to a site visit if the OJT Liaison is required to be at the site visit. The site reviews may include, among other activities, interview of trainees, the contractor, and its employees. The contractor shall cooperate in the review and make its employees available. The contractor's OJT Liaison shall be reasonably available to meet with Department staff as well as be available to respond to periodic emails and phone calls from the Department to check on the progress of OJT Trainees. The Department will make efforts to ensure minimal disruption to the work and coordinate site visit times with other Department divisions, as applicable (for example, Davis-Bacon interviews).

(D) Compliance Determination:

Compliance will be determined at the end of the project by the Departments evaluation of:

- (1) The contractor's use of trainees in conformance with the approved training program;
- (2) The number of trainees and hours completed on the project as reported on the OJT Project Completion in the Department's online OJT System; or
- (3) Any Good Faith Effort documentation submitted by the contractor throughout the life of the project as to why the contract OJT goal was not met.
- (4) Whether the trainees used in the project were a minority, woman or disadvantaged individual

If at the conclusion of the project, the contractor shows evidence of a lack of Good Faith Effort with the compliance requirements identified above the Department will issue a Show Cause Notice outlining any findings of non-compliance.

The contractor may submit a written response to the Department providing any additional evidence that it made Good Faith Efforts to meet the OJT goal within 30 days of receiving a Show Cause Notice.

If the contractor fails to submit a written response to the Show Cause Notice within the specified period or the written response to the Show Cause Notice does not cause the Department to change its findings of non-compliance, the Department will issue its Final Notice of non-compliance to the contractor regarding the non-compliance.

If a Final Notice of non-compliance is issued, the Department will deduct an amount equal to twice the contract unit price (\$3) multiplied by the number of hours not completed towards the goal as shown in the equation below. The amount will be deducted from the contractor's final payment.

$$2 \times \text{Contract Unit Price } (\$3) \times (\text{OJT Hour Goal} - \text{OJT Hours Completed})$$