

STATE

OF

TENNESSEE

(Rev. 5-11-09)
(Rev. 9-7-22)

January 1, 2021

SPECIAL PROVISION

REGARDING

TRAINING PROGRAM REQUIREMENTS

Reference:

Electronic Code of Federal Regulations (e-CFR) site
23 CFR 230 Chapter 1 Subchapter C Appendix B to Subpart A

This Training Special Provision supersedes subparagraph 7b of the Special Provision Regarding Equal Employment Opportunity and is in implementation of 23 U.S.C. 140(a).

As part of the contractor's equal employment opportunity affirmative action program, training shall be provided as follows:

The contractor shall provide on-the-job training aimed at developing full journeymen in the type of trade or job classification involved.

The number of training hours under this Special Provision will be indicated in the Proposal.

In the event that a contractor subcontracts a portion of the contract work, he shall determine how many, if any, of the trainees are to be trained by the subcontractor, provided, however, that the contractor shall retain the primary responsibility for meeting the training requirements imposed by this special provision. The contractor shall also ensure that this training special provision is made applicable to such subcontract. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training.

The number of 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. Prior to commencing construction, the contractor shall submit to the Tennessee Department of Transportation OJT Program Coordinator for approval the number of trainees to be trained in each selected classification and training program to be used. Furthermore, the contractor shall specify the starting time for training in each of the classifications. The contractor will be credited for each trainee employed by him on the contract work who is currently enrolled or becomes enrolled in an approved program and will be reimbursed for such trainees as provided hereinafter.

Training and upgrading of minorities and women toward journeymen status is a primary objective of this Training Special Provision. 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 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 he has taken in pursuance thereof, prior to a determination as to whether the contractor is in compliance with this Training Special Provision. 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.

No employee shall be employed as a trainee in any classification in which he has successfully completed a training course leading to journeyman status or in which he has been employed as a journeyman. The contractor should 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 in the training program selected by the contractor and approved by the Tennessee Department of Transportation and the Federal Highway Administration. The Tennessee Department of Transportation and the Federal Highway Administration shall approve a program if 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 classification concerned by the end of the training period. Furthermore, apprenticeship programs registered with the U.S. Department of Labor, Employment and Training Administration, or with a State apprenticeship agency recognized by the Department of Labor and training programs approved but not necessarily sponsored by the U.S. Department of Labor, Office of Apprenticeship, Employment and Training Administration, shall also be considered acceptable provided it is being administered in a manner consistent with the equal employment obligations of Federal-Aid highway construction contracts. Approval or acceptance of a training program shall be obtained from the State prior to commencing work on the classification covered by the program. 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. Training in the laborer classification may be permitted provided that significant and meaningful training is provided and approved by the Federal Highway Administration division office. Some offsite training is permissible as long as the training is an integral part of an approved training program and does not comprise a significant part of the overall training.

Except as otherwise noted below, the contractor will be reimbursed 80 cents per hour of training given an employee on this contract in accordance with an approved training program. As approved by Change Order and the Affirmative Action Program Office (AAPO), reimbursement will be made for training persons in excess of the number specified herein. This reimbursement will be made even though the contractor receives additional training program funds from other sources, provided such other source does not specifically prohibit the contractor from receiving other reimbursement. Reimbursement for offsite training indicated above may only be made to the contractor where he does one or more of the following and the trainees are concurrently employed

on a Federal-aid project; contributes to the cost of the training, provides the instruction to the trainee, or pays the trainee's wages during the offsite training period.

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 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 work classification or until he has completed his training program. It is not required that all trainees be on board for the entire length of the contract. Failure of the contractor to employ a trainee in the classification he has requested by the time 15 percent of that type of work has been performed will be just cause for withholding progress estimates unless the contractor has furnished the AAPO a satisfactory explanation in writing of his failure to do so. A contractor will have fulfilled his responsibilities under this Training Special Provision if he 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.

Trainees will be paid at least 60 percent of the appropriate minimum journeyman's rate specified in the contract for the first half of the training period, 75 percent for the third quarter of the training period, and 90 percent for the last quarter of the training period, unless apprentices or trainees in an approved existing program are enrolled as trainees on this project. In that case, the appropriate rates approved by the Department of Labor or Transportation in connection with the existing program shall apply to all trainees being trained for the same classification who are covered by this Training Special Provision. However, in no case will the trainee be paid less than the minimum wage shown in the contract for the classification of laborer.

The contractor shall furnish the trainee a copy of the program he will follow in providing the training. The contractor shall provide each trainee with a certification showing the type and length of training satisfactorily completed.

The contractor will provide for the maintenance of records and furnish periodic reports documenting his performance under this Training Special Provision.

Payment is to be made under item 109-10.01, Trainee, at the unit price of \$0.80 per hour, for each hour of approved training provided. In any case the number of training hours for which payment is made will not exceed number of hours specified for the approved classification by the approved Training program.

The contractor shall not be permitted to commence construction without an approved training program. Failure of the contractor to provide an approved training program shall not be considered "As a condition not under the control of the contractor" in regards to Contract Time.