

S-1 (2041) ON-THE-JOB-TRAINING PROGRAM

Section II. 6.b of the "Required Contract Provisions-Federal-Aid Contracts" set forth elsewhere in this Proposal is deleted and the following substituted therefore:

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 journeyman in the type of trade involved. **THE NUMBER OF HOURS OF TRAINING TO BE FULFILLED UNDER THIS CONTRACT WILL BE ____; UTILIZING AT LEAST ____ TRAINEES.** In the event the Contractor subcontracts a portion of the Contract work, he/she shall determine how much of the training requirement will be fulfilled by the subcontractor, provided, however, that the Contractor shall retain the primary responsibility for meeting the training requirements imposed by this special provision. This Contractor shall insure that these provisions are 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 (1) the basis of the Contractor's needs and (2) the availability of journeymen in the various classifications within a reasonable area of recruitment. The contractor must complete all sections of the "On-the-Job Training (OJT) Program Approval Form" The form should be submitted to Mn/DOT's Office of Civil Rights within ten (10) days of Contract Award and must be received no later than at the time of the pre-construction conference to the Project Engineer. The Form can be found in the attached Equal Employment Opportunity (EEO) Special Provisions on EEO Page 25, and on the Mn/DOT Office of Civil Rights website - <http://www.dot.state.mn.us/civilrights/documents/OJTPre-ConstructionForm.pdf>. The Contractor will be credited for each trainee who is currently enrolled or becomes enrolled in an approved program and will be reimbursed for such trainees as provided hereinafter.

THE COMPLETED FORM MUST BE SUBMITTED TO MN/DOT NO LATER THAN AT THE TIME OF THE PRE-CONSTRUCTION CONFERENCE. The Contractor may use one of the following means to submit their completed On-the-Job Training (OJT) Program Approval Form.

- a) Mail the form to Mn/DOT Office of Civil Rights 395 John Ireland Blvd. MS 170 Saint Paul, MN 55155
- b) The form may be faxed to Christian Guerrero at 651-366-3129.

A CONTRACTOR WHO IS APPROVED AND ACCEPTED INTO MN/DOT'S ON-THE-JOB TRAINING (OJT) ALTERNATIVE PROGRAM WILL SUBMIT THEIR TRAINING PLAN WITHIN THE TIMEFRAMES SPECIFIED BY THAT PROGRAM AND THEREFORE WILL NOT BE REQUIRED TO SUBMIT THE "ON-THE-JOB TRAINING (OJT) PROGRAM APPROVAL FORM" WITHIN TEN (10) DAYS OF CONTRACT AWARD OR AT THE TIME OF THE PRE-CONSTRUCTION CONFERENCE. The trainees that have been approved as part of their Contractor – based assignment of positions, must be utilized in accordance with the following provisions set forth here.

Training and upgrading of minorities and women toward journeyman status is a primary objective of these requirements. 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 such persons are available within a reasonable area of recruitment. The Contractor will be responsible for demonstrating the steps that he/she has taken in pursuance thereof, prior to a determination as to whether the Contractor is in compliance with these requirements. 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 employees shall be employed as a trainee in any classification in which he/she has successfully (1) completed a training course leading to journeyman status or (2) in which he/she has been employed as a journeyman. The Contractor shall 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 shall document the findings in each case.

The Contractor should also note the following in regards to qualification of candidates to meet the OJT requirements:

1. All apprentices that are officially registered in one of the approved training programs listed below are eligible to be accepted as a OJT candidates as long as they have not worked more hours than the stated number of hours of their crafts apprenticeship program.
2. Movement of approved trainees from project to project or from contractor to contractor is allowed for OJT credit, if that practice is not determined to constitute a practice of "bicycling" and/or result in a disproportionate adverse effect upon minority and women apprentice members or trainees. Bicycling – is the transfer of minority or female employees or trainees from contractor to contractor and/or from project to project for the sole purpose of meeting the Contractor's goals. "Bicycling" shall be a violation of this Special Provision and the regulations in 41 CFR Part 60-4.

The minimum length and type of training for each classification will be as established on the "On-the-Job Training (OJT) Program Approval Form" submitted by the Contractor and approved by the State Transportation Department and the Federal Highway Administration. The State Transportation Department and the Federal Highway Administration will approve a program if it is reasonably calculated to meet the equal employment opportunity obligations of the Contractor and will 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, 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 contracts.

Examples of approved training programs are not limited to but include the following:

- MN Construction Laborers Apprenticeship Program
- Local 49 Operating Engineers Apprenticeship Training Program
- North Central States Regional Council of Carpenters Training Program
- Iron Workers Apprenticeship Program
- MN Teamsters Construction Apprenticeship Training Program
- MN Cement Masons Apprenticeship Training Program
- Painters and Allied Trades District Council 82 Finishing Trades Apprenticeship Program
- MN Electricians Union Apprenticeship Programs.

Any training program proposed by a contractor to meet the obligations set forth in this Provision which is not included in the list of approved programs cited above will be subject to approval by Mn/DOT's Office of Civil Rights, and must include a minimum of 500 training hours but shall not to exceed 2,000 hours. If a contractor proposes to utilize an approved apprenticeship program from one of the examples cited above, the contractor must provide the Apprenticeship Form or Indenture Number when submitting for approval. The Contractor shall also furnish to Mn/DOT's Office of Civil Rights a list of currently employed apprentices in each trade they wish to utilize. The list must include: Name, Gender, Ethnicity and current year of apprenticeship. The number of hours an approved trainee who is enrolled in a certified apprenticeship program can retain eligibility for trainee status will be consistent with the amount of hours that have been established as the minimum requirement necessary to be completed prior to achieving journey level status.

Approval or acceptance of a training program shall be obtained from Mn/DOT's Office of Civil Rights prior to any work by 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. Any and all training provided by a contractor to meet the obligations in this Provision must provide a significant and meaningful training experience for the trainee candidate.

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 noted below, the Contractor will be reimbursed at the appropriate Contract price per hour for each employee that is trained in accordance with, and for at least the minimum period specified in the approved training program. As approved by the Engineer, 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/she does one or more of the following and the trainees are concurrently employed on a Federal-aid project; (1) contributes to the cost of the training, (2) provides the instruction to the trainee or (3) 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 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. If a contractor lays off or terminates a trainee for any reason, that contractor must complete and submit the "Trainee Termination Form" which can be found in the EEO Special Provisions. A Contractor will have fulfilled his/her responsibilities under this special provision if he/she has provided a significant, meaningful training experience and/or 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 Departments 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 Special Provision.

The Contractor shall furnish the trainee a copy of the program he/she 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 shall provide for the maintenance of records and furnish periodic reports documenting his/her performance under these Special Provisions. Any trainee that has been approved by the Office of Civil Rights and employed by the Contractor, and subsequently terminated must be documented on the "On-the-Job Training Trainee Termination Form" located in the EEO Special Provisions of this Contract on EEO Page 26. All required forms needed to satisfy the requirements of these Special Provisions can be found in the attached EEO Special Provisions, pages 23-26 or on the Mn/DOT Office of Civil Rights website - <http://www.dot.state.mn.us/civilrights/>.

Compliance with the foregoing requirements for timely filing of the reports may be a condition precedent to the processing and payment of partial and final payments. If it is determined that a contractor has not acted in "Good Faith" with efforts to comply with this provision or engages in willful violations, a contractor may be subject to sanctions including but not limited to: monetary deductions associated with the trainee line item in the contract, withholding of partial and/or final payment.

The trainee period will be measured by time in hours as specified hereinbefore, and payment will be made under Item 2041.610 (Trainees). This item will be shown on the Bid Schedule at the fixed rate amount of \$1.00 per hour.

SP2005-57

OJT Special Provision for State-Aid and/or Delegated Authority Mn/DOT projects

August 25, 2010

With appropriate documentation, an additional \$4.00 per hour (maximum total of \$5.00 per hour) will be paid to the Contractor for hours worked on the project by employees recruited from Mn/DOT's OJT Supportive Services Programs. In conjunction with any employees recruited from Mn/DOT's OJT Supportive Services Programs, an additional \$5.00 per hour (maximum total of \$10.00 per hour) will be paid to the Contractor for hours worked on the project by employees recruited from Mn/DOT's OJT Supportive Services Programs, if the Contractor provides a mentor for the trainee(s) while the trainee(s) is working on the project. Approval for payments to be made under Item 2041.610 (Trainees) for any amount which exceeds the fixed rate amount of \$1.00 must be received in writing from the Mn/DOT Office of Civil Rights. The ratio of trainee to mentor may not exceed 3 to 1. A listing of Mn/DOT's OJT Supportive Services Programs can be found on the Office of Civil Rights website cited above.