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| REVIEW OF NEW SPECIFICATION OR SPECIFICATION CHANGE  | OJT-8 |
| **Specification Section No.:** N/A | **Item:** OJT |
| **Originating Office:** CRBRC | **By:** Monica Vialpando |
| **Date Sent For Review:** March 19, 2018 | **Date Comments Due: April 16, 2018** |
| Submit response to: STANDARDS AND SPECIFICATIONS UNIT, DIVISION OF PROJECT SUPPORT 4TH FLOOR, CDOT HEADQUARTERS |
| **Vote****/N** | **Concurrent Reviews – Others Commenting** | The attached Draft Specification is submitted for your review and comments. If not returned by Date Comments Due, the draft specification will be considered to be approved unless the Standards and Specifications Unit of the Project Development Branch [(303) 757-9474, (303) 757-9402] is advised otherwise.**REMARKS:** If these proposed changes are approved, our unit will issue these in a revised standard special provision. |
|  | **Spec Committee Members:** |  **✓** |
|  | Co-Chairman: Lacey |  |
|  | Region 1: Quirk |  |
|  | Region 1: Lucerna |  |
|  | Region 2: Pieper |  |
|  | Region 3: Jean |  |
|  | Region 4: Boespflug |  |
|  | Region 5: Valentinelli |  |
|  | Project Development: Lacey |  |
|  | Specifications: Brinck |  |
|  | Bridge: Bui |  |
|  | Contracts & Market Analysis: Atamo |  |
|  | Materials: Wieden |  |
|  | Traffic Engineering: Matthews |  | REVIEWER COMMENTS:( ) Approved ( ) Disapproved ( ) ModifiedIf disapproved or modified, give reason why and show any modifications on the attached draft copy: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_ Name/Signature Date |
|  | Maintenance: Weldon |  |
|  | FHWA: Larson |  |
|  | Attorney General: Milan |  |
|  |  |  |
|  | **Others:** |  |
|  | Colorado Contractors Assoc.: Moody |  |
|  |  |  |
|  | **Technical Committees:** |  |
|  | PDAC |  |
|  | Drainage Advisory Committee (DAC) |  |
|  | Water Quality Advisory Committee (WQAC) |  |

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| **COLORADO DEPARTMENT OF TRANSPORTATION****SUBMITTAL OF NEW SPECIFICATION OR SPECIFICATION CHANGE** | Log No. (Assigned by Standards and Specifications Unit)OJT-8 |
| TO: Standards and Specifications Unit, Project Development, 4th Floor | FROM:Monica Vialpando / CRBRC(Region, Branch or Technical Committee) |
| SPECIFICATION SECTION NO.N/A | ITEMOJT | Priority Routine☒ Fast☐ |
| Reason for this new or changed specification:Total rewrite of the OJT standard special provision. |
| New or Revised Specification:See attachment. |
| Note: See Procedural Directive 513.1 for a description of appropriate specification development procedures. |

 **CDOT Form 1215 10/01**

1. **Overview --** This training special provision is an implementation of 23U.S.C. 140 (a), a federal requirement to provide equal opportunity and training on Federal-Aid construction projects. CDOT’s On-the-Job Training (OJT) Program seeks to train and upgrade minorities, women, and other disadvantaged persons to ensure that a competent work force is available for construction projects. The following goals are associated with both the law and this provision:
* Ensure that non-discrimination and equal opportunity exist on federally assisted highway jobs.
* Provide training to and upgrade minorities and women toward journey-level status.
* Increase the construction labor pool.

Throughout all CDOT projects, no person shall be excluded from participation in, denied the benefits of, or in any other way be subjected to discrimination on the grounds of race, religion, color, national origin, sex, age, or disability.

After construction work has been completed on the CDOT project, CDOT will analyze the number of OJT hours that has been accumulated toward the project goal. Modifications to the mandatory number of hours must be approved by CDOT. If the number of required hours toward the OJT goals is not met, and no modifications have been made, CDOT will assign a disincentive to the Contractor. At all times during the course of the project, the contractor shall meet the requirements of the FHWA 1273 for all apprentices and trainees.

1. **Goal Setting** – CDOT will set the OJT goals for each of the federally-assisted projects. The number of training hours will be shown on the contract. Goals for the projects will be set based on the criteria that is outlined in the 23 CFR Part 230, Appendix B to Subpart A:
	1. Availability of minorities, women, and disadvantaged persons for training;
	2. The potential for effective training;
	3. Duration of the contract;
	4. Dollar value of the contract;
	5. Total normal work force that the average bidder could be expected to use;
	6. Geographic location;
	7. Type of work;
	8. The need for journey-level workers in the area.
	9. Recognition of the state’s goal
	10. A satisfactory ratio of trainees to journeymen expected to be on the work force.

In determining appropriate training goals, considerations may include, but are not limited to, the scope of work, the number of job hours, and the potential for meaningful training.

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| **Contract dollar value** | **Training hours to be provided on the project** |
| Up to 1 million | 0 |
| >1 - 2 million | 320  |
| >2 - 4 million | 640 |
| >4 - 6 million | 1280 |
| >6 - 8 million | 1600 |
| >8 - 12 million | 1920 |
| >12 - 16 million | 2240 |
| >16 - 20 million | 2560 |
| For each increment of $5 million, over $20 million | 1280 |
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**3. Program Guidelines** –The OJT goal requirement shall be met through an approved trainee or apprentice working on the CDOT project under the supervision of a journey-level worker.

**3.1 Training Program --** Contractors will recruit, select, and monitor trainees to be trained through the OJT program. Once they have identified enrollees, the appropriate plan will be identified. The plan options are:

1. CDOT’s preapproved training programs.
2. A registered U.S. Department of Department of Labor apprenticeship program.
3. An approved program through the Colorado Contractor’s Association.
4. A contractor specific plan that is subject to approval of CDOT and the Federal Highway Administration.

The minimum length and type of training for each skilled craft shall be as established in the training program selected by the Contractor and approved by the CDOT, and the Colorado Division of the Federal Highway Administration (FHWA), and / or the U.S. Department of Labor (DOL).

Once a plan is chosen, the Contractor shall submit the OJT Contractor Commitment to Meet OJT Requirements, CDOT Form 1337. Once a plan is chosen, additional preapproved training programs may be utilized, but neither the Contractor nor CDOT will change the plan that has already been chosen.

**3.2 Process for Approving an Individual**

As a condition of the OJT program, the Contractor will do the following:

* Advise all new applicants and transfer employees at least once per year about the available training programs and eligibility requirements. Contractors shall document that this information was received.
* Provide each trainee with a copy of an enrollment form and the training plan for the program.

Any of the above mentioned program plan options that are in place will follow the following timelines:

The OJT submittals (1337, 832, 838) shall be filled out completely and accepted or rejected by CDOT within ten business days. If and when approved, CDOT will add the forms to LCPtracker and will notify the Contractor of the acceptance or rejection. If more information is required, the Region Civil Rights Office will reach out to the Contractor through email or by phone. If there is no response from the Contractor within five additional business days, the forms will be denied and sent back to the Contractor. If denied because of content or because of a lack of information, the Contractor may resubmit documents for approval, and it will again follow the same time frame for approval. Until the apprentice / trainee is approved, Davis-Bacon wages will be paid to that person.

Training hours for trainees and apprentices will begin to apply toward the OJT goal on the date the CDOT Form 838 is approved or whenever meaningful training starts (when the forms have already been signed). Training plans as well as trainees must be approved by the Region Civil Rights Office before any of the hours shall count toward the OJT goal. All forms must be completed and uploaded to eDocuments within LCPtracker.

The Contractor shall retain full responsibility for meeting the training requirements imposed by this special provision.

**4. Trainee Approval** -- Two components must be considered when choosing a trainee:

1. It is a primary consideration for the Contractor to use minorities, women, and disadvantaged persons to fulfill the trainee roles, and as such, the Contractor will make every effort to enroll such individuals in the program by using “systematic and direct recruitment through public and private sources.”
2. The intent of the program is for Contractors to recruit and train entry-level individuals or individuals who will be working within new classifications and guide them toward journey-level status in that specific classification. A trainee will not be approved in any classification for which they have obtained journey-level status.

If a contractor does not meet its OJT project goal with the inclusion of some female and /or minority trainees, the company may be requested to produce documentation of adequate Good Faith Efforts taken to fill that position with a minority or female. Good Faith Efforts are those designed to achieve equal opportunity through positive, aggressive, and continuous result-oriented measures. 23 CFR § 230.409(g)(4). Good Faith Efforts should be taken as trainee hiring opportunities arise.

CDOT will consider all contractors’ documentation of Good Faith Efforts on a case-by-case basis, and take into account all of the items listed in the goal setting section of this document.

The directive to include minorities and women as a primary consideration for the program shall not be used to discriminate against any applicant for training. Although the consideration to include women and minorities is based on the regulation, it should not be used to systematically deny any one person or group from the opportunity to be a part of the OJT program. CDOT may reject non-minority male trainees for entry into the Program if it determines that a contractor failed to make sufficient Good Faith Efforts to hire minorities or female trainees and/or the contractor failed to document or submit evidence of its Good Faith Efforts to do so.

**5. Counting Hours --** For all federally funded projects in which this special provision is included, the hours of approved classifications for approved trainees / apprentices will apply toward the project goal. If there is no OJT goal for a project, CDOT will not require the submission of OJT- related forms.

A subcontractor, who is enrolled in an approved OJT program and chooses to participate in meeting a project’s OJT goal hours, may count an employee’s OJT hours to be used by the prime Contractor to satisfy the requirement of this specification. They will need to follow the same process as the prime contractor in terms of approving trainees / apprentices, submitting forms, etc. The prime contractor retains the primary responsibility for meeting the training requirements imposed by this special provision.

Contractors will submit training hours monthly using the Form 832 for each trainee and / or apprentice on the project. Payroll records should mirror the numbers submitted for training. All of this information will be verified within LCPtracker.

A failure to provide the required training without the demonstration of approved good faith efforts (GFE) to meet the goal may result in the following disincentives: A sum representing the number of training hours specified in the Contract, minus the number of total training hours worked as certified on CDOT Form 832, multiplied by the journey worker hourly wages plus fringe benefits [(A hours – B hours worked) x (C dollar per hour + D fringe benefits)] = disincentive amount.  Journey worker hours may be pulled from one classification listed on the CDOT Form 1337, or they may be average of all classifications worked.  If the Contractor does not submit any paperwork toward the OJT goal, the disincentive rate will be figured at $30.00 per hour. The engineer will provide the Contractor with a written notice at Final acceptance of the project informing the contractor of the noncompliance with this specification which will include a calculation of the disincentive of the disincentive(s) to be assessed.

**6. Contractor Training and Trainee Monitoring** -- Contractors will provide trainees a copy of the program requirements and training plan to be followed. A contractor’s representative (supervisor, manager, or other designee) will evaluate progress for the on-the-job trainee monthly using the CDOT Form 832 which will be submitted to the project engineer. Each trainee will be given a copy of the CDOT said Form 832 by the end of the following month. This evaluation should include what the trainee did well and what needs to be improved. The signed copy will be completed manually or electronically and uploaded into Edocs within LCPtracker.

Completion of the training module requires the accumulation of a specified number of qualifying project work hours and the successful performance of predefined proficiencies. A trainee can complete training in two ways: module or craft area. The completion in a module is one component of the whole plan. Graduation of a craft area is the completion of two or more modules. For each module completion, the contractor will print a copy of the hours completed by the trainee. In anticipation of a craft area journey-level worker graduation, the Contractor will work with CDOT to determine that the employee did meet the requirements of the OJT Program. Upon determination that the employee did meet the requirements for the craft graduation, CDOT will print a certificate (located within LCPtracker) for the employee, and a copy of the graduation certificate will be uploaded into LCPtracker.

**7. Wages --** The Contractor may pay trainee wages at a reduced rate for those trainees that are in an approved program. Please note: The Contractor may always pay above the required minimum; however, they may not pay less than the outlined rates of the common / general laborer classification (base rate and fringe) as indicated on the wage decision. Trainees will be paid at minimum:

First half of the training period -- at least 60 percent of the appropriate minimum journeyman’s rate

Third quarter of the training period – at least 75 percent of the appropriate minimum journeyman’s rate

Last quarter of the training period -- at least 90 percent of the appropriate minimum journeyman’s rate

Rates will be paid according to the scaled adjustments for approved DOL programs, and for all other programs, approved amounts (at minimum) will be paid. Fringes (both in cash and bona fide benefits in lieu of cash) will be paid in full. If choosing to pay the reduced rates, the percentage will be based on the base rate of pay. Once the trainee is approved by the region, regional personnel will notify CDOT HQ to set up the apprentice wages (even if at 100% of the journey worker wage) within LCPtracker.

**8. Contractor Reporting** -- Contractors will keep all data associated with the trainees and the project for a period of at least three years from the closing date of the contract.

**9. Reimbursement to Contractors –** A contractor will have satisfied its responsibilities under this specification if the CDOT Regional Civil Rights Manager has determined that it has fulfilled the acceptable number of training hours. Contractors will be reimbursed at a rate of $10.00 per hour per apprentice / trainee for all OJT hours worked in approved classifications up to the project goal.

**10. Non-Compliance --** In the case of non-compliance, CDOT project personnel may not reimburse Contractors for the hours that have been worked by OJT trainees, and a disincentive may be applied. Please see the “Counting Hours” section for the disincentive formula and additional information.

**11. OJT Good Faith Efforts (GFE)** – If the project goal cannot be met, contractors shall submit a Waiver Request for Contract’s OJT Hours, CDOT Form 1336, and outline all good faith efforts made (toward recruiting employees to the program and hiring minorities and women in their companies) when they do not think that the required number of training hours will be met. If GFE is not demonstrated, contractors may be subject to payment reductions outlined in the Counting Hours and Non-Compliance Section.