DESCRIPTION
This item of work shall consist of the meaningful and effective training of one or more apprentices/trainees leading to their qualification as journeymen in trades for the highway construction industry. The statutory authority for training requirements is described in §102-11 Equal Employment Opportunity Requirements. This specification establishes the specific requirements for a Contractor to provide training pursuant to 23 CFR 230.111 as part of Equal Employment Opportunity responsibilities. This specification, with referenced Standard Specifications, constitutes “Training Special Provisions” (TSP) pursuant to 23 CFR 230.111. The TSP supersedes any conflicting portions of Form FHWA 1273 Required Contract Provisions, Federal Aid Construction Contracts found in contract proposals.

MATERIALS
None Specified.

CONSTRUCTION DETAILS

GENERAL. The objective of these training requirements is to provide training opportunities to minorities, women and disadvantaged persons for the following reasons:
1. To address the current under-representation of minorities and women in skilled trades, and;
2. To maintain a pool of qualified minorities, women and disadvantaged persons to compete for those journeyworker positions which are created as others leave the workforce.

Disadvantaged means a person who is either a) a member of a family that receives public assistance, or b) a member of a family whose income during the previous six (6) months, on an annualized basis, was such that the family qualified for public assistance, or whose income was at or below either the poverty level or 70% of the lower living standard income (LLSI) level for the person’s county of residence.

The Contractor shall make every effort to recruit and hire minority, women and disadvantaged apprentices/trainees to the extent that such persons are available within a reasonable area of recruitment. Such training commitment is not intended to, and shall not be used to, discriminate against any applicant for training, whether a member of a minority group or not. Apprentices/trainees shall be employed and offered meaningful and effective training opportunities. Meaningful and effective training is defined as occurring when contract work provides a realistic and practical opportunity of reasonable duration for the apprentice/trainee to complete elements of the apprenticeship/OJT program in order to achieve journeyworker status.

TRAINING PROGRAMS. In accordance with §102-10D Training, an apprentice is defined as an individual who is enrolled in an apprenticeship training program that is registered with the NYS Department of Labor, and a trainee is defined as an individual who is enrolled in an On-the-Job Training (OJT) program that is approved by the Federal Highway Administration (FHWA). NYSDOT administers the trainee training programs.

Although the terms apprentices and trainees are generally used interchangeably in this specification, in Regions 1, 2, 3, 4, 5, 8, 10 and 11, the Department will only approve the use of apprentices and apprenticeship training programs, where available, in fulfillment of these requirements. In Regions 6, 7 and 9, the Department will approve the use of either apprenticeship or FHWA approved OJT trainee programs.

Prospective bidders can obtain additional information about apprentice programs from the Director of Apprenticeship Training Programs, NYS Department of Labor, State Office Building Campus, Building 12, Rm 436, Albany, NY 12240; (518) 457-6820; fax (518) 457-7154; atco@labor.state.ny.us.
ITEM 691.03000020 – TRAINING REQUIREMENTS

Approval to use a training program shall be obtained from the Department prior to commencing work involving the trade(s) covered by the program.

APPRENTICES/TRAINEES.

Recruitment. The Contractor shall decide who is hired as an apprentice/trainee. Such apprentice/trainee shall be enrolled in a registered apprenticeship or OJT program approved by the Department and satisfy the requirements under Work History.

Prior to engaging in the recruitment of new apprentice/trainees, the Contractor shall employ apprentices/trainees who are partially trained, if available, in order to facilitate completion of their apprenticeship/OJT program. Training and upgrading of minorities and women toward journeyworker status is a primary objective of the TSP requirements.

The Contractor shall make every effort to enroll minority and women apprentice/trainees (e.g., by conducting systematic and direct recruitment through public and private sources likely to yield minority and women apprentice/trainees, such as the Department’s OJT supportive services program) to the extent that such persons are available within a reasonable area of recruitment. The Contractor will be responsible for demonstrating the steps that have been taken in pursuance thereof, prior to a determination as to whether the Contractor is in compliance with the TSP requirements.

Work History. The Contractor shall not propose or use any person under this item if such person has successfully completed a training program providing journeyworker status in the same trade or work classification as will be used for training under this contract. The Contractor shall not use or propose a person who has been gainfully employed as a journeyworker in that trade by virtue of informal on-the-job training or otherwise. The Contractor shall ascertain, before training a person and before requesting payment therefore, whether the person qualifies. The Contractor shall include appropriate questions on employee application forms and shall check the personal references of an applicant for a position in order to ensure that the person is qualified for training. The Contractor shall maintain records of these findings and provide them to the Department upon request.

Termination. An apprentice/trainee may be terminated at any time during training for: excessive absenteeism; lack of punctuality; accident-proneness; lack of interest; poor attitude; and continued failure to behave in a business-like manner. However, termination will not occur without:

1. Documented counseling by the Contractor's Trainer about the reason(s) for termination; and
2. Documented efforts by the Contractor's Trainer to resolve the problem; and
3. Documented notification to the Engineer and Regional Compliance Specialist about the problem; and
4. Written notification of intent to terminate to the Engineer and the Regional Compliance Specialist stating the reason(s) therefore; and
5. An opportunity for Department representatives to discuss the impending termination with the Contractor in order to ensure compliance with Steps 1 through 4 above.

REQUIRED TRAINING EFFORT.

<table>
<thead>
<tr>
<th>CHART A</th>
<th>NUMBER OF APPRENTICE/TRAINEE FTEs REQUIRED</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Contract Bid Amount</td>
</tr>
<tr>
<td>&lt; $15M</td>
<td>1</td>
</tr>
<tr>
<td>$15M to &lt; $30M</td>
<td>2</td>
</tr>
<tr>
<td>≥ $30M</td>
<td>3</td>
</tr>
</tbody>
</table>
**Full-Time Equivalents (FTEs).** The number of apprentice/trainee full-time equivalents (FTEs) the Contractor is required to train is identified in Chart A. For the purposes of this specification, FTEs are used to designate the desired and expected level of training effort, in terms of full-time workers employed for the duration of the contract. Although the value of one FTE is not fixed, a general estimation of expected effort is approximately 1,000+ hours of work per construction season for upstate Regions and 2,000+ hours of work per construction season for downstate Regions. One FTE could be achieved with one individual working for the contract duration or with multiple individuals working full-time on a daily basis for portions of the contract duration so long as they are collectively employed for the equivalent amount of time as one full-time employee working for the entire duration of the contract. Accordingly, the Contractor may propose a different number of trainees/apprentices and a different duration of their training activities to achieve the required number of FTEs, but the proposal is subject to the approval of the Department.

**Affirmative Action (AA) Component.** The affirmative action (AA) component identifies locations and trades with programmatic under-representation of minorities and/or females as journeymen. The Contractor shall provide the appropriate number of apprentices/trainees FTEs to fulfill the affirmative action (AA) requirements of this specification in the specified trade(s) and classification(s) (minority or female). The number of AA apprentice/trainee FTEs required are identified in Chart A and the required trade/classification targets for each NYSDOT Region are identified in Chart B.

<table>
<thead>
<tr>
<th>TRADE</th>
<th>NYSDOT REGION</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1  2  3  4  5  6  7  8  9  10  11</td>
</tr>
<tr>
<td>Laborer (Female)</td>
<td></td>
</tr>
<tr>
<td>Laborer (Minority)</td>
<td></td>
</tr>
<tr>
<td>Equip. Operator (Female)</td>
<td>● ● ● ● ● ● ● ● ● ● ● ●</td>
</tr>
<tr>
<td>Equip. Operator (Minority)</td>
<td>● ● ● ● ● ● ● ● ● ● ● ●</td>
</tr>
<tr>
<td>Iron Worker (Female)</td>
<td>● ● ● ● ● ● ● ● ● ● ● ●</td>
</tr>
<tr>
<td>Iron Worker (Minority)</td>
<td>● ● ● ● ● ● ● ● ● ● ● ●</td>
</tr>
<tr>
<td>Carpenter (Female)</td>
<td>● ● ● ● ● ● ● ● ● ● ● ●</td>
</tr>
<tr>
<td>Carpenter (Minority)</td>
<td>● ● ● ● ● ● ● ● ● ● ● ●</td>
</tr>
<tr>
<td>Mason (Female)</td>
<td>● ● ● ● ● ● ● ● ● ● ● ●</td>
</tr>
<tr>
<td>Mason (Minority)</td>
<td>● ● ● ● ● ● ● ● ● ● ● ●</td>
</tr>
<tr>
<td>Painter (Female)</td>
<td>● ● ● ● ● ● ● ● ● ● ● ●</td>
</tr>
<tr>
<td>Painter (Minority)</td>
<td>● ● ● ● ● ● ● ● ● ● ● ●</td>
</tr>
<tr>
<td>Electrician (Female)</td>
<td>● ● ● ● ● ● ● ● ● ● ● ●</td>
</tr>
<tr>
<td>Electrician (Minority)</td>
<td>● ● ● ● ● ● ● ● ● ● ● ●</td>
</tr>
</tbody>
</table>

**Race/Gender Neutral (RGN) Component.** The Contractor shall also provide the appropriate number of apprentices/trainees FTEs to fulfill the race/gender neutral (RGN) requirements in accordance with Chart A. The RGN component allows the Contractor to hire apprentices without imposed race, gender or specific trade requirements. Training shall be provided to anyone (minorities/non-minorities, males/females, and disadvantaged/non-disadvantaged persons) at the Contractor’s discretion.
Although trades are not designated for the RGN apprentices/trainees, training should be provided in the construction trades rather than in clerical/administrative positions. Training is permissible, by Department authorized exception only, in lower level management positions such as office engineers, estimators, timekeepers, etc., where the training is oriented toward construction applications. On a voluntary basis, the Contractor has the option to help address areas with programmatic underrepresentations, by hiring the RGN apprentices/trainees to the designated areas outlined in Chart B – Affirmative Action Targets.

**Implementation and Distribution.** The number of apprentices/trainees FTEs shall be distributed among the trades based upon the AA component requirements, maximum opportunity for work, required journeyworker/apprentice ratios outlined in the prevailing wage rate schedule, distribution of multiple persons among multiple trades, the Contractor’s needs and the availability of apprentices/trainees within a reasonable area of recruitment.

When multiple apprentices/trainees are required, effort shall be made to hire apprentices/trainees whom are at a variety of different stages in their training programs (first year, third year, etc.) Where feasible, 25 percent of apprentices/trainees shall be in their first year of apprenticeship or training. The Contractor may allow apprentices/trainees to be trained by a subcontractor. However, the Contractor retains the primary responsibility to meet the TSP requirements and compensation is the same.

**Compliance.** A Contractor will have fulfilled the primary responsibilities under this Training Special Provision if acceptable training is provided to the number of apprentice/trainee FTEs specified or good faith efforts to attempt to provide the required training is demonstrated consistently throughout the duration of the contract.

**Training Coordinator.** The Contractor shall designate one individual who will function as the training coordinator and act as the contact person for training related concerns. The training coordinator should be someone that has regular dealings and familiarity with the actual training direction and guidance being provided. As conditions and apprentices/trainees may change throughout the duration of the contract, notify the Department if at any point a new training coordinator is designated.

**TSP PROCESS.**

**Prior to Letting.** Bidders are advised that there are a number of procedural steps in the approval of a training (apprenticeship or OJT) program, including preparation of an application, review, and resolution of questions and comments. Approval of a training program is not guaranteed, and may take 30 to 60 days. It is highly recommended to have an approved apprenticeship or OJT trainee program prior to bidding.

**Within 7 Days After Letting.** As a requirement of the contract award process, the apparent low bidder shall submit a TSP Letter to the Department within 7 work days after letting, signed and dated by an authorized company officer. A recommended form, which includes the mailing address, for the TSP Letter is available from the Department’s website at: https://www.nysdot.gov/main/business-center/contractors/construction-division/forms-manuals-computer-applications-general-information/civil-rights

The minimum content requirements for the TSP Letter include:

- A statement acknowledging the TSP requirements and a pledge to make every effort to meet them
- Recognition of the number of apprentices required under the AA component, under the RGN component, and the total
- Recognition of the Region–specific affirmative action apprentice/trainee targets by trade and
candidate classification (ex., female equipment operators, minority electricians, etc.)

- Identification of how the TSP requirements will be met (ex., union-sponsored apprentice program, contractor-sponsored apprentice program or OJT program)
- Status of program/application (if pending, attach a copy of the letter from NYSDOL verifying receipt of the application, for Department verification and consultation with NYSDOL.)
- Contact information: contact person, telephone number, E-mail address and mailing address.

**At the Pre-Construction Meeting.** The Contractor shall submit a conceptual plan for how they will fulfill the training requirements on the contract. They shall identify anticipated contract work suitable for apprentices/trainees, any timeline/scheduling issues, anticipated sources for apprentices/trainees, steps taken to date to comply with the training requirements, and how they will address the development of a training plan for each apprentice/trainee.

**Within 90 Days of Award.** The Contractor shall submit a formalized training plan for each of the apprentices/trainees. All coordination with the Engineer and the Regional Compliance Specialist (RCS) regarding the training plan should be completed at this point. The training plan may be adjusted throughout the duration of the contract as necessary. Written requests to submit the plan, or portions of the plan, at a specified latter date will be considered depending on the reason for the request. The cost estimate shall be submitted within 90 calendar days of the contract award date regardless of whether or not the training plan is allowed to be submitted at a latter date.

The minimum content requirements for the training plan(s) include:

- Name of the apprentice/trainee, trade, starting level (i.e., year of apprenticeship) and which TSP requirement (AA or RGN) the candidate is fulfilling.
- Apprentice/trainee projected start date, projected end date and the reason for ending the training (e.g., training program completed, no remaining training opportunities, contract completion, etc.).
- An outline of the training program requirements the candidate has already completed and the requirements which the candidate still has left to complete. Provide the associated number of hours for each requirement. List classroom and on-site training requirements separately.
- Total number of on-site (non-classroom) hours left to complete the training program.
- Projection of the hours and components of the remaining training program requirements which the candidate will be able to accomplish on the contract.
- A cost estimate for compensation which shows how the amount was calculated.
- Any known outside factors that might affect the training plan, such as if the apprentice/trainee will be working on other contracts or there may be time constraints of the apprentice (ex., planned future reassignment, leave to attending school, moving/relocating, etc.).
- Copies of the NYSDOL Form AT 14 (blue book), or acceptable equivalent, for each apprentice shall be made available.
- A copy of NYSDOL form AT 401 – Apprenticeship Agreement/Documentation Form.

**Monthly Training Progress Report.** The Contractor shall submit Form AAP 26 - Monthly Training Progress Report whenever an apprentice/trainee employed pursuant to this item begins work on a contract and monthly thereafter. In addition to each Monthly Training Progress Report, the Contractor shall provide the Engineer a summary of hours required to complete the various work elements of the training program, hours completed this period, and hours completed to date. This summary shall be provided in sufficient detail to allow the Engineer to determine whether the hours in the previous period are qualified hours under this pay item.
**Periodic Auditing / End of Service.** Periodically copies of the training program and the NYSDOL Form AT 14 (blue book) may be required for auditing purposes and verification of the training. Whenever an apprentice/trainee ceases to be employed on a contract, a copy of their NYSDOL Form AT 14 (blue book) shall be provided.

**WAIVER REQUEST.** A request for a waiver of all or a portion of the TSP requirements may be submitted based on unusual circumstances which make the TSP requirements impractical or unduly burdensome to complete. The TSP requirements may be reduced or completely waived if the Contractor can clearly present a case for the TSP waiver (ex., no reasonable training opportunities will exist, lack of available apprentices/trainees, lack of available work for apprentices/trainees based on apprentice-to-journeyworker ratio restrictions). A TSP waiver request may be submitted at any point in the process after the contract letting date.

TSP waiver requests made within 7 work days after contract letting may be submitted in lieu of the TSP Letter. The TSP waiver request should provide a detailed explanation for the request, steps taken to try to comply, and contact person information (name, telephone number, E-mail address).

If the TSP waiver request is for elimination of all apprentice/trainee requirements and the TSP waiver is approved, no further TSP submissions are required. If the TSP waiver request is for a reduction or an alteration to the requirements and it is approved the Contractor shall submit a TSP Letter with the authorized revisions within 3 work days of notification of the TSP waiver request being approved.

In the event that a TSP waiver request is not approved, the Contractor shall submit a TSP Letter within 3 work days of notification of the TSP waiver request being declined.

The pre-award review of the TSP waiver request will focus on the apparent low bidder’s good faith efforts to comply with these requirements, and will not eliminate the detailed review process of the contractor’s workforce planning efforts and TSP compliance efforts after contract award.

TSP waivers are not necessarily permanent, particularly if based on available workforce reasons. Throughout the contract duration, the Contractor shall continue to try to meet the original requirements under this pay item. Whenever there are changes in the construction schedule, scope of work, availability of apprentices/trainees, or any other factor that might affect the ability to hire apprentices/trainees to reasonable training opportunities, any TSP waivers shall be reevaluated. The Contractor is required to bring any such factors to the attention of the Department in a timely manner.

**TRAINING DURATION.**

**Start-Up.** An apprentice/trainee shall begin training as soon as feasible in trade related work and remain on the contract as long as training opportunities exist in the trade, until completion of the training program or until completion of the contract.

After approval of an apprentice/trainee, the individual shall be employed in the designated trade in accordance with the currently approved Form AAP 35 *Workforce Participation Plan* to the extent that training opportunities exist in the contract work. At the time an apprentice/trainee reports to the Contractor for training under this item, the Training Coordinator shall notify the Engineer to ensure that appropriate records are kept.
ITEM 691.03000020 – TRAINING REQUIREMENTS

Throughout Contract Duration. The Contractor is expected to provide maximum opportunity to the apprentice/trainee for completion of their apprenticeship/OJT program. The Contractor shall monitor the apprentice/trainee's progress, paying particular attention to completion of work elements within the training program. When a work element of the training program is completed, the Contractor shall rotate the apprentice/trainee to other work processes to the extent that training opportunities exist. Should no such training opportunities exist, the apprentice/trainee may continue to work as long as there is work. However any work not in the training program or beyond the number of hours indicated in the training program for each work element will not qualify for payment under this pay item. This continued work will not make the apprentice/trainee ineligible for continued future training in the trade.

Retention. The Contractor is expected to retain, as a journeyworker, an apprentice/trainee that completes their training program and attains journeyworker status prior to contract completion, provided there is contract work remaining. Continued work by a journeyworker will not qualify for payment under this item.

Maintaining Compliance with the FTE Requirement. The Contactor is responsible for maintaining compliance with the required number of apprentice/trainee FTEs for the duration of the contract. If the number of employed TSP apprentice/trainee FTEs falls below the required number (e.g., apprentice/trainee attains journeyworker status, leave the contract, etc.) and there are substantial training opportunities remaining, the Contractor is required to make every effort to recruit and hire additional apprentices/trainees. Although, consideration to waive the remaining training requirements will be given when there is limited contract work remaining or when, due to the retention of TSP apprentices/trainees who have reached journeyworker status, available employment opportunities are limited.

If at any point during the contract the amount of training being accomplished is significantly below the projected amount stated in the training plan(s), the Contractor is required to adjust their training efforts such that the approved number of hours of training in the training plan(s) is achieved by contract completion.

COMPENSATION. This specification provides for partial compensation to the contractor towards the cost of managing and operating the training program(s). Compensation is not intended as reimbursement towards the apprentices’ wages, but rather as general compensation for administrating the training program along with the loss of productivity on the behalf of the journeyworker(s) providing the training, guidance and supervision.

A combined negotiated amount for partial compensation of all the TSP apprenticeship/OJT programs will be added to the contract by order-on-contract. During the contract duration, revisions to the training plan(s) can be submitted. If a revised training plan, including the cost estimate, is approved then the previously negotiated amount can be adjusted by order-on-contract.

The Contractor shall attach to each Form AAP 26 Monthly Training Progress Report, a monthly summary of hours of qualifying training for each apprentice/trainee that shows the number of hours trained each day of the progress period by training program work element.

Only training hours verified and approved of by the Engineer or his designee will be considered as qualifying training. Any hours of work performed which are not in the training program or are beyond the number of hours indicated for each work element in the training program will not qualify for payment under this pay item. Off-site training or training performed at other work sites does not qualify for compensation. Classroom training hours do not qualify for compensation.
ITEM 691.03000020 – TRAINING REQUIREMENTS

The total verified hours of training provided during the month will be used to determine the monthly payment due. Regardless of the amount approved for the pay item, payments will be made only for the number qualifying hours of training accomplished.

Payment for training under the affirmative action component of this specification is contingent upon the Contractor fulfilling or demonstrating satisfactory good faith efforts to fulfill the corresponding equal employment opportunity (EEO) goals in accordance with §102-11 Equal Employment Opportunity Requirements. [Example Situation #1 - For contracts with a minority EEO goal and a female EEO goal: If achieve the minority EEO goal but not the female EEO goal, then compensation may still be allowed for a minority TSP AA apprentice/trainee but not for a female TSP AA apprentice/trainee. Example Situation #2 - For contracts with trade specific minority/female EEO goals (i.e., applicable in New York City): If achieve the minority equipment operator EEO goal but not the minority iron worker EEO goal, then compensation may still be allowed for a minority equipment operator TSP AA apprentice/trainee but not for a minority iron worker TSP AA apprentice/trainee.]

Any apprentices/trainees hired towards attempting to attain fulfillment of the EEO goals do not qualify for payment under this specification nor are they considered as TSP apprentices/trainees (i.e., still required to hire additional apprentices/trainees under this specification’s requirements).

Payment for training under the race/gender neutral component of this specification is contingent upon the Contractor fulfilling or demonstrating satisfactory good faith efforts to fulfill all of the equal employment opportunity (EEO) goals in accordance with §102-11 Equal Employment Opportunity Requirements and fulfilling or demonstrating satisfactory good faith efforts to fulfill the affirmative action component.

METHOD OF MEASUREMENT
This work will be measured on a Dollars-Cents basis. The amount shown in the proposal is not to be altered in any manner by the bidder. Should the bidder alter the amount shown, the altered figure will be disregarded, and the original price will be used to determine the total amount bid.

BASIS OF PAYMENT
Compensation towards the training program for each apprentice/trainee will be made as such:

\[
= (0.35) \times \text{(Base Journeyworker Prevailing Wage Rate)} \times \text{(Hours of Qualifying Training Accomplished)}
\]

No adjustments to the base rate shall be allowed, such as for: fringes/supplemental benefits, premium rates (overtime, holiday, etc.), worker’s compensation insurance, FICA, state or federal unemployment insurance, commercial general liability (CGL) insurance, etc. When determining compensation, use the prevailing wage rate that was current at the time the training was provided.

Qualified training time will include only verified training properly completed and accounted for, including only those hours the apprentice/trainee is actually receiving on-site training in the work elements included in his/her approved apprenticeship/OJT program. Off-site or related classroom training will not be considered as qualifying training time under this item.