

# CLIENT ALERT

## New ODOT On-The-Job Training Rules Take Effect January 1, 2019

by [Matthew K. Grashoff](#) & [O. Judson Scheaf III](#)

The Ohio Department of Transportation recently announced significant changes to the On the Job Training Program (“OJT Program”) that will take effect on January 1, 2019. Because these changes will impact on-going multi-year projects as well as new ODOT projects that will begin construction in 2019, all Ohio contractors are advised to review and familiarize themselves with the new changes. The complete OJT Program manual is available on the ODOT website [here](#). The following is a brief summary of the major changes and how they will impact Ohio contractors in the years ahead.

First and foremost, the OJT Program will no longer be voluntary: starting in 2019, the OJT Program will be mandatory for (1) “all contractors who entered into an FHWA funded highway construction contract with ODOT in that calendar year,” or (2) all contractors who “are working as a prime contractor on a multi-year contract with ODOT in that calendar year.” For calendar year 2019, the OJT goal for each such contractor is 7.6%. In some cases ODOT may also establish project-specific OJT goals.

To meet that 7.6% goal, contractors will be able to count trainee hours from all projects in Ohio, including federal, state, and privately funded projects, rather than just the ODOT project(s) that trigger the contractor’s obligation to participate in the OJT Program. However, contractors must remember that only trainee hours in the “construction crafts” are counted toward the OJT Program requirements. Trainee hours in the “administrative or lower-level management positions such as office engineers, estimators or timekeepers” generally do not count toward OJT Program requirements unless explicitly permitted by a project-specific OJT goal.

If contractors do not or cannot meet the 7.6% goal, they can maintain compliance with the OJT Program by showing “Good Faith Efforts” to meet the goal. In determining whether a contractor made sufficient Good Faith Efforts, ODOT will evaluate the “quality, quantity, and intensity of the efforts the contractor made, as well as the circumstances that may have impacted the contractor’s ability to obtain OJT Apprentices/Trainees.” The OJT Program manual lists 16 separate activities which might constitute Good Faith Efforts, including but not limited to: demonstrating the availability of opportunities, or lack thereof, to utilize trainees on projects; the potential for effective training on projects; the geographic location of projects; and the contractor’s efforts to obtain trainees by use of recruitment sources and employer-sponsored events and training classes. Contractors’ documentation to support their Good Faith Efforts must be sent to ODOT by April 1 of each year. If ODOT determines that a contractor’s Good Faith Efforts were not sufficient, the contractor will be required to submit and follow a corrective action plan.

In order to minimize the need for contractors to provide new or additional forms of paperwork, ODOT will monitor OJT Program compliance by use of the existing Ohio Department of Administrative Services Input Form 29 (“I-29”). I-29 data must be reported to ODAS by the 10th day of each month, and will then be sent to ODOT to compile a monthly OJT report. ODOT will make I-29 data available to contractors so that they can track their progress in meeting their OJT goals. Contractors must maintain any records necessary to establish compliance with the contractor’s OJT obligations for three years after final acceptance of the work.

Ohio contractors working on ODOT projects should begin considering how they can best meet their 7.6% OJT goal for 2019. If compliance will be difficult, due to the location of projects in areas without a sufficient pool of potential trainees or because projects do not present suitable opportunities for training, contractors would also be well-advised to begin documenting their efforts to meet the OJT goal so that they can demonstrate sufficient Good Faith Efforts to meet the goal. As with many aspects of the construction industry, good documentation can be a contractor's best friend when it comes to the OJT Program.

If you have any questions about the new ODOT on-the-job training program that will take effect January 1, please call or email [Hahn Loeser's Construction and OSHA Team](#).