



VIA ELECTRONIC SUBMISSION

May 13, 2024

Brent Parton
Principal Deputy Assistant Secretary
Employment and Training Administration
U.S. Department of Labor
200 Constitution Ave. NW
Washington, DC 20210

Re: RIN 1205-AC16, Comments on DOL’s Labor Certification for Permanent Employment of Foreign Workers in the United States; Modernizing Schedule A To Include Consideration of Additional Occupations in Science, Technology, Engineering, and Mathematics (STEM) and Non-STEM Occupations [ETA-2023-0006]

Dear Principal Deputy Assistant Secretary Parton:

Associated Builders and Contractors hereby submits the following comments to the U.S. Department of Labor’s Employment and Training Administration in response to the above-referenced request for information published in the Federal Register on Dec. 21, 2023, at 88 Fed. Reg. 88290.

About Associated Builders and Contractors

ABC is a national construction industry trade association representing more than 23,000 member companies. ABC and its 68 chapters help members develop people, win work and deliver that work safely, ethically and profitably for the betterment of the communities in which ABC and its members work.

ABC’s membership represents all specialties within the U.S. construction industry and is comprised primarily of general contractors and subcontractors that perform work in the industrial and commercial sectors for government and private sector customers.¹

The vast majority of ABC’s contractor members are also small businesses. This is consistent with the U.S. Census Bureau and U.S. Small Business Administration’s Office of Advocacy’s findings that the construction industry has one of the highest concentrations of small businesses (82% of all construction firms have fewer than 10 employees)² and industry workforce employment (nearly 81% of the construction industry is employed by small

¹ For example, [ABC’s 34rd National Excellence in Construction Awards program from 2024](#).

² U.S. Census Bureau 2021 County Business Patterns:
<https://data.census.gov/table?q=CBP2021.CB2100CBP&tid=CBP2021.CB2100CBP&hidePreview=true>
and <https://www.census.gov/programs-surveys/cbp/data/tables.html>.

businesses).³ In fact, construction companies that employ fewer than 100 construction professionals comprise 99% of construction firms in the United States and account for 69% of all construction industry employment.⁴

ABC's Comments in Response to the DOL's Request for Information

As the DOL modernizes the Schedule A shortage occupation list, ABC urges the agency to include the construction industry. Despite not having been updated for almost three decades,⁵ the Schedule A list is crucial for addressing the evolving needs of our economy. During this period, significant changes, including the emergence of critical workforce shortages in high-demand industries, have become apparent. The construction industry, in particular, is facing widespread shortages of skilled workers.

Earlier this year, an ABC analysis of government data⁶ showed that construction companies need to attract 501,000 new workers to meet demand in 2024. The analysis also revealed that every \$1 billion in extra construction spending generates an average of at least 3,550 construction jobs. With the federal government working to implement the Infrastructure Investment and Jobs Act, CHIPS and Science Act and Inflation Reduction Act, and the hundreds of billions of dollars in funding for construction provided by these bills and other legislation, the industry will need to find hundreds of thousands of workers above the normal pace of hiring annually.

Further, the construction industry has limited access to current U.S. visa programs that could help address workforce shortages. Currently, the best employment-based visa program available for the industry continues to be the H-2B visa program, which allows foreign nationals into the United States to perform temporary, nonagricultural work. However, because the program is a tedious, time-consuming and expensive process for many contractors, it is not widely utilized. Additionally, the H-2B program fails to meaningfully address the needs of the construction workforce due to the typical cap of 66,000 visas per year. In fiscal year 2023, only 6,903 H-2B visas were certified for construction laborers, approximately only 3.3% of H-2B visas.⁷

Thus, it is critical to expand access to mechanisms like Schedule A, which can streamline the process for construction employers to fill critical vacancies by recognizing the industry's acute labor shortages.

³ 2023 Small Business Profile, U.S. Small Business Administration Office of Advocacy (2023), at page 4, <https://advocacy.sba.gov/wp-content/uploads/2023/11/2023-Small-Business-Economic-Profile-US.pdf>.

⁴ U.S. Census County Business Patterns by Legal Form of Organization and Employment Size Class for the U.S., States and Selected Geographies: 2021, available at <https://data.census.gov/table/CBP2021.CB2100CBP?q=CBP2021.CB2100CBP&hidePreview=true>.

⁵ 88 Fed. Reg. at 88291.

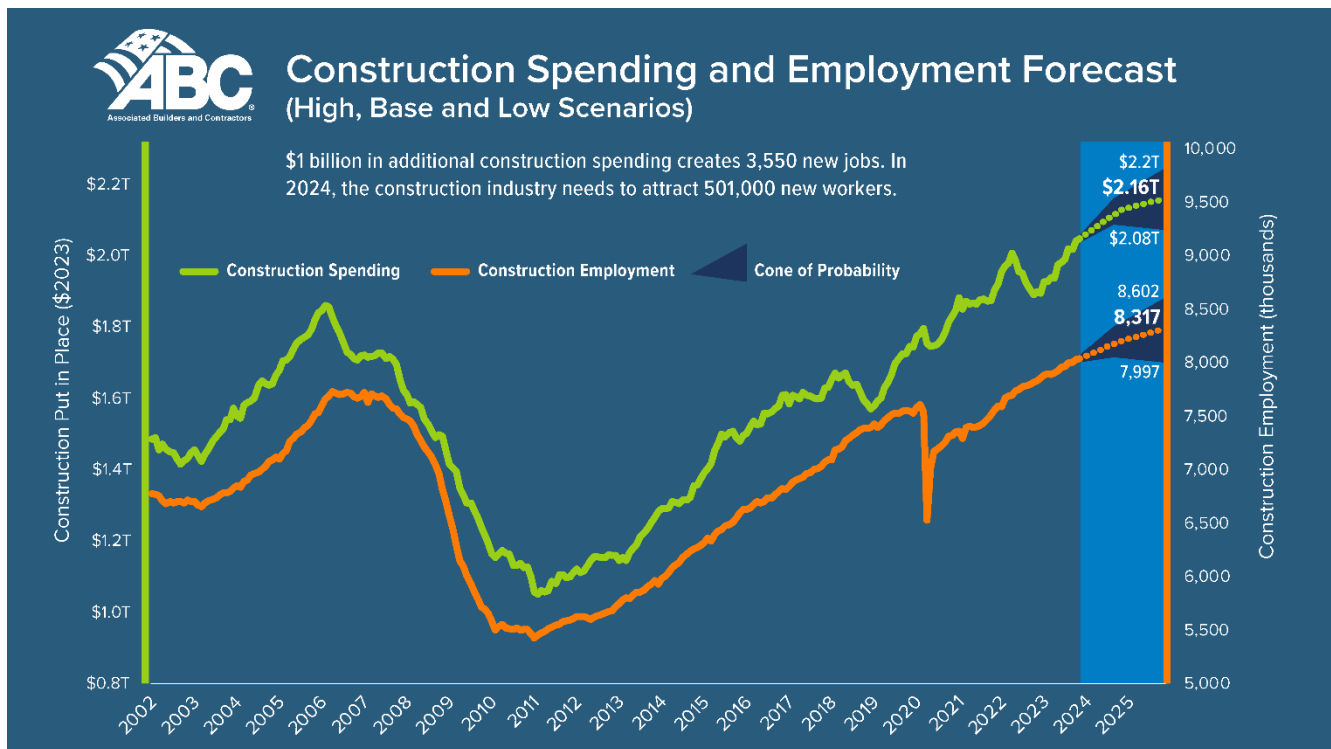
⁶ View the [methodology of ABC's 2024 construction workforce shortage model](#).

⁷ See [H-2B Temporary Non-Agricultural Program – Selected Statistics, Fiscal Year \(FY\) 2023](#).

ABC’s detailed overview of the workforce shortage in the construction industry and the data/methodology used is explained below.

ABC Analysis of Construction Industry Workforce Shortage

The construction industry will need to attract an estimated 501,000 additional workers on top of the normal pace of hiring in 2024 to meet the demand for labor,⁸ according to a proprietary model developed by ABC.⁹ In 2025, the industry will need to bring in nearly 454,000 new workers on top of normal hiring to meet industry demand, and that’s presuming that construction spending growth slows significantly next year.



ABC’s model uses the historical relationship between inflation-adjusted construction spending growth, sourced from the U.S. Census Bureau’s Value of Construction Put in Place Survey, and payroll construction employment, sourced from the U.S. Bureau of Labor Statistics, to convert anticipated increases in construction outlays into demand for construction labor at a rate of approximately 3,550 jobs per billion dollars of additional spending. This increased demand is added to the current level of above-average job openings. Projected industry retirements, shifts to other industries and other forms of anticipated separation are also embodied within the computations.

The following data series are used as inputs to the model:

⁸ See [ABC: 2024 Construction Workforce Shortage Tops Half a Million.](#)

⁹ View the [methodology of ABC’s 2024 construction workforce shortage model.](#)

- Construction Spending (U.S. Census Bureau)
- Construction Employment (U.S. Bureau of Labor Statistics)
- Construction Job Openings (U.S. Bureau of Labor Statistics)
- Consumer Price Index (U.S. Bureau of Labor Statistics)
- Job-to-Job Flows (U.S. Census Bureau)
- Construction Worker Demographics (U.S. Bureau of Labor Statistics)
- Forecasted Construction Spending Growth (Associated Builders and Contractors)

Based on historical Census Bureau Job-to-Job Flows data, an estimated 1.9 million construction workers will leave their jobs to work in other industries in 2024. This should be offset by an anticipated 2.1 million workers who will leave other industries to work in construction. These frictional interindustry transfers are estimated exogenously and serve as inputs to the model.

The U.S. construction industry unemployment rate averaged 4.6% for the second straight year, matching the second lowest level on record, while job openings remained historically elevated at an average of 371,000 per month in 2023.¹⁰ As a result of labor shortages, contractors laid off workers at a slower rate than in any year between the start of the data series in 2000 and 2020.

Broadly, there are two factors shaping the interaction between construction worker supply and demand. There are structural factors, including outsized retirement levels, megaprojects in several private and public construction segments and cultural factors that encourage too few young people to enter the skilled construction trades. There are also additional structural factors, including those related to interest rates, consumer sentiment and general economic performance.

For example, more than 1 in 5 construction workers are 55 or older, meaning that retirement will continue to contract the industry's workforce. These are the most experienced workers, and their departures are especially concerning.

While construction employment is growing, it is not growing fast enough to meet the demand to complete the work on the books for 2024. ABC and its members are working hard to recruit, educate and upskill the nation's future construction workforce. ABC contractor members invested \$1.5 billion on workforce education in 2022, providing craft, leadership and safety education to nearly 1.3 million course attendees to advance their careers in commercial and industrial construction, according to the 2023 ABC Workforce Development Survey.¹¹ ABC member contractors are building the people who build America by investing billions in flexible, competency-based and market-driven education methodologies to cultivate their long-term skill sets, creating a brighter future for their workers and their families.

¹⁰ See [ABC: Construction Job Openings Remain Elevated in December](#).

¹¹ See the [2023 ABC Workforce Development Survey](#).

Further, exclusionary policies and programs that do not welcome all to compete to build our public works projects—such as project labor agreement mandates that harms 89.3% of U.S. construction industry workforce because they are not affiliated with unions¹²—will further exacerbate this shortage and undermine significant investments made by taxpayers in infrastructure, clean energy and manufacturing projects. Taxpayers and workers are best served by inclusive, win-win policies that create a level playing field for all contractors to compete to build public works projects.

More information on industry hiring can be found in the monthly Construction Confidence Index,¹³ a diffusion index that signals construction contractors' expectations for sales, profit margins and staffing levels. ABC also produces a monthly employment news release¹⁴ and job openings news release¹⁵ based on Bureau of Labor Statistics data.

Conclusion

As the DOL considers modernizing Schedule A to add new occupations, including the construction industry would be a critical tool to help address our ongoing and projected workforce shortage.

Respectfully submitted,



Ben Brubeck

Vice President of Regulatory, Labor and State Affairs

¹² See [ABC, Lawmakers and Industry Groups Call on President Biden to Withdraw His Inflationary PLA Mandate Policies.](#)

¹³ See the monthly [Construction Confidence Index.](#)

¹⁴ See ABC's monthly [employment news release.](#)

¹⁵ See ABC's [job openings news release.](#)