



Sept. 29, 2022

The Honorable Peter DeFazio
Chair
House Committee on Transportation and
Infrastructure

The Honorable Sam Graves
Ranking Member
House Committee on Transportation
Infrastructure

Dear Chair DeFazio and Ranking Member Graves:

On behalf of Associated Builders and Contractors, a national construction industry trade association with 68 chapters representing more than 21,000 members, I write to comment on the U.S. House Committee on Transportation and Infrastructure Committee hearing, “Investing in our Nation’s Transportation Infrastructure and Workers: Why it Matters.”

According to the committee’s description, “The purpose of this hearing is for Members to hear from stakeholders on how the American Rescue Plan Act of 2021, the Infrastructure Investment and Jobs Act, and the Inflation Reduction Act of 2022 have impacted American families, workers, and communities.” ABC is happy to offer feedback to the committee on how the recently passed bills have largely missed the mark on providing pathways into the construction industry for all Americans as they have effectively prevented merit shop contractors, representing 87.4% of the industry’s workers, from having a fair chance at competing on projects funded by these bills.

Snapshot of the Construction Industry Labor Market

Construction is poised to power America’s recovery and economic engine, as the industry offers competitive wages and many [opportunities](#) to both begin and advance. However, despite adding 16,000 jobs on net in August, according to [ABC analysis of data](#) released by the U.S. Bureau of Labor Statistics, severe labor market conditions persist.

The construction industry continues to face many workforce challenges going forward, particularly the need for qualified, skilled craft professionals, as the [industry faces a shortage of 650,000 workers in 2022](#). To help meet this demand, ABC member contractors use flexible, competency-based and market-driven education methodologies to build a construction workforce that is safe, skilled and productive. This all-of-the-above approach to workforce development has produced a network of ABC chapters and affiliates across the country that offer more than 800 apprenticeship, craft, safety and management education programs—including more than 300 government-registered apprenticeship programs across 20 different occupations—to build the people who build America.

With the implementation of the ARP, IIJA and IRA, the federal government will pump hundreds of billions in new spending into our nation’s most critical infrastructure. However, to fully take advantage of the investments in infrastructure, ABC urges the committee to address unnecessary, restrictive labor requirements and regulations that resulted from these bills, limiting job opportunities and making it more difficult to fill critical, skilled positions. ABC urges the committee to consider ways in which they can promote all of America’s workers and an all-of-the-above workforce development strategy—and not limit the benefits of federal legislation from reaching the vast majority of construction workers due to their labor affiliation.

Project Labor Agreements

ABC believes that several discriminatory policies being pursued by the Biden administration in the implementation of the new legislation will prevent many opportunities for the entire construction industry, particularly small businesses, to benefit from infrastructure investments.

Among these key concerns are President Biden's [executive order](#) and [proposed rule](#) to require project labor agreements on federal construction contracts of \$35 million or more, which will effectively prevent merit shop contractors from having a fair chance at competing to rebuild America. ABC estimates this proposal, once finalized, could affect 120 federal contracts valued at \$10 billion, which is roughly 40% of the value of federal construction put in place on an annual basis.

PLA mandates discourage the 87.4% of the private construction workforce that chooses not to belong to a union and experienced nonunion contractors from competing to win taxpayer-funded contracts to rebuild their communities. By mandating PLAs, this EO will significantly exacerbate the ongoing construction workforce shortage, limit potential infrastructure investment by [raising costs by 12 to 20%](#) per project and discriminate against nearly the nearly 9 out of 10 construction workers who choose not to join a union.

ABC members are also concerned with language contained in federal agency grant opportunities that encourages applicants, including state and local governments, to support PLA requirements in their bids for federal grant funds. Further, ABC has identified over \$95 billion in [federal grant programs](#) that include the promotion of PLA mandates or union-only preference language in federal agency grant applications. We have heard from our state chapters and members that this “encouragement” language could have a chilling effect on otherwise qualified contractors bidding on projects in their communities, limiting competition and increasing costs.

ABC believes that taxpayer-funded construction contracts should be awarded through fair and open competition—guaranteeing the best value for hardworking taxpayers while prohibiting a rigged federal procurement process that discriminates against many small construction businesses. This is critically important as federal agencies begin to implement hundreds of billions in federal dollars for infrastructure construction projects authorized through the IJA and ARP, which notably did not have any mention of PLAs, let alone mandate them on federal projects.

Further, ABC urges members of the subcommittee to support the Fair and Open Competition Act, [H.R. 1284](#), which would prevent federal agencies and recipients of federal assistance from requiring contractors to sign controversial project labor agreements as a condition of winning a federal or federally assisted construction contract. This bill would ensure that taxpayer-funded construction contracts are awarded through fair and open competition—guaranteeing the best value for hardworking taxpayers while prohibiting a rigged federal procurement process.

Inflation Reduction Act

Ahead of the IRA's passage, ABC issued a [statement](#) opposing the legislation's harmful provisions, which are highlighted [in this ABC analysis of the IRA's troubling tax hikes and restrictive labor policies](#).

With construction input prices up [16.7% from a year ago and more than 40% since February 2020](#), ABC believes the IRA will fail to effectively address the supply chain and inflation issues facing the industry as borrowing costs and the risk of recession rise.

The IRA also uses the U.S. tax code to enact pro-labor policies and sets a dangerous precedent that rewards special interests and distorts the free market's compensation and workforce development practices on private construction projects. This bill provides a full tax credit to developers who require general contractors and subcontractors to pay federal Davis-Bacon Act prevailing wages and utilize apprentices enrolled in government-registered apprenticeship programs. ABC believes that these tax credits, which penalize employers that believe in fair and open competition and pay wages based on experience, quality and market rates, on top of the new [ABC-opposed](#) Department of Labor [Davis-Bacon regulations](#), will make construction more expensive and discourage participation from small businesses.

By forcing private developers of solar, wind, hydrogen, carbon sequestration, electric vehicle charging stations and other vital energy projects to follow these restrictive and inflationary pro-union policies or lose critical tax incentives, the bill will handicap open shop construction contractors and further jeopardize construction workforce needs at this critical time, ultimately resulting in fewer clean energy projects.

Conclusion

ABC encourages the committee to promote policies that welcome all of America's construction industry to compete to rebuild our nation's crumbling infrastructure, increase accountability and competition and reduce waste and favoritism in the procurement of public works projects.

ABC and our members are committed to building taxpayer-funded projects with the highest standards of safety and quality. ABC members stand ready for the opportunity to build and maintain America's infrastructure to the benefit of the communities that it will serve. ABC appreciates the opportunity to comment on the committee's important work to improve our nation's infrastructure.

Sincerely,



Kristen Swearingen
Vice President, Legislative & Political Affairs