



VIA ELECTRONIC SUBMISSION

Sept. 2, 2025

Susan Frazier
Acting Assistant Secretary for Employment and Training
Employment and Training Administration
U.S. Department of Labor
200 Constitution Ave. NW
Washington, DC 20210

Re: Prohibiting Illegal Discrimination in Registered Apprenticeship Programs (RIN 1205-AC21)

Dear Ms. Frazier:

Associated Builders and Contractors hereby submits the following comments to the U.S. Department of Labor in response to the above-referenced proposed rule published in the Federal Register on July 2, 2025.

About Associated Builders and Contractors

ABC is a national construction industry trade association established in 1950 with 67 chapters and more than 23,000 members.

Founded on the merit shop philosophy, ABC helps 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 firms that perform work in the industrial and commercial sectors.

The vast majority of ABC's contractor members are small businesses. This is consistent with the U.S. Census Bureau's and U.S. Small Business Administration Office of Advocacy's findings that the construction industry has one of the highest concentrations of small businesses (81% of all construction firms have fewer than 10 employees)¹ and industry workforce employment (81% of the construction industry is employed by small businesses).² In fact, construction companies that employ fewer than 100 construction professionals

¹ U.S. Census Bureau 2023 County Business Patterns:
<https://data.census.gov/table/CBP2023.CB2300CBP?q=CBP2023.CB2300CBP&hidePreview=true> and
<https://www.census.gov/programs-surveys/cbp/data/tables.html>.

² 2024 Small Business Profile, U.S. Small Business Administration Office of Advocacy (2024), at page 4,
https://advocacy.sba.gov/wp-content/uploads/2024/11/United_States.pdf.

comprise nearly 99% of construction firms in the United States and account for 69% of all construction industry employment.³

In addition to small business member contractors that build private and public works projects, ABC also has large member general contractors and subcontractors that perform construction services for private sector customers and federal, state and local governments procuring construction contracts subject to respective government acquisition policies.

Of interest to this notice of proposed rulemaking, thousands of ABC member contractors participate in government registered apprenticeship programs administered by their company, ABC's 67 chapters across the United States, other construction trade associations and other community and education system workforce development providers. Likewise, ABC member contractors signatory to union agreements participate in the National Joint Apprenticeship Training Committee programs affiliated with unions.

In addition, nationwide, ABC's network of 67 chapters currently provide more than 450 RAPs in over 20 construction industry trades such as electrical, plumbing, carpentry, HVAC, welding, etc.⁴ None of these ABC chapter RAPs are affiliated with unions.

ABC's membership is bound by a shared commitment to the merit shop philosophy in the construction industry. The philosophy is based on the principles of nondiscrimination due to labor affiliation and the awarding of construction contracts through open, competitive bidding based on safety, quality and value.

Summary of ABC's Response to the Proposed Rule

ABC strongly supports the proposed rule, which will benefit the growth of the RAP system by reducing unnecessary administrative burdens related to nondiscrimination and affirmative action requirements for RAP sponsors.

ABC agrees with the DOL's acknowledgement that the government-registered apprenticeship system is underutilized in the United States; more can be done to modernize it in order to build capacity and ensure long-term resilience of mutual benefit to employers and apprentices. This proposed rule would represent an important step toward accomplishing this goal.

I. The Construction Industry and ABC's RAP and Workforce Development Footprint

³ U.S. Census County Business Patterns by Legal Form of Organization and Employment Size Class for the U.S., States and Selected Geographies: 2022, available at <https://data.census.gov/table/CBP2022.CB2200CBP?q=CBP2022.CB2200CBP&hidePreview=true>.

⁴ To locate one of more than 450 RAPs provided by ABC chapters, visit www.abc.org/grapmap.

It is critical that DOL regulators understand how the current RAP system is performing and perceived by apprentices, employers and association RAP participants in order to create new policy and regulations to improve the system and meet the needs of RAP stakeholders.

ABC and many ABC member contractors champion RAPs as an important part of an all-of-the-above approach to workforce development within the construction industry.⁵ Nationwide, ABC's network of 67 chapters currently provide more than 450 RAPs in over 20 construction industry trades such as electrical, plumbing, carpentry, HVAC, welding, etc.⁶ Typical ABC chapter RAPs last four or five years—depending on the trade—and use curriculum created by NCCER.⁷ ABC chapter RAP participants graduate to journeyperson status after completing all related technical instruction and on-the-job training hours identified in Appendix A of the approved apprenticeship standards.⁸

ABC member contractors who participate in ABC chapter apprenticeship programs usually sponsor individual employee apprentices through their progression in an ABC chapter apprenticeship program. In such circumstances, ABC chapters do not “employ” apprentices; the member contractors are the employers, a fact which fundamentally differs from JATC programs that provide RAPs for a pool of apprentices referred by unions to multiple employer participants. Only a small handful of ABC chapters offer RAPs with a pool of apprentices that are shared across multiple employer RAP participants.

Many ABC members sponsor their own RAPs approved by appropriate federal or state agencies in charge of regulating apprenticeship programs. Contractors run these independent of ABC chapters and/or rely on ABC chapters to help address the RAP registration process and paperwork burdens. Under these arrangements, required classroom hours may or may not be performed in ABC chapter facilities.

Other ABC member contractors sponsor employee apprentices in other programs provided by third parties (schools, other trade associations, community workforce development providers, etc.) not affiliated with ABC.

Finally, ABC's union-signatory members typically participate in one or more Joint-Apprenticeship Training Committee programs administered by their signatory union(s) where multiple employers utilize apprentices from a shared pool of apprentices specific to a construction trade.

ABC has engaged in longstanding efforts to strengthen and reform the RAP system to make it more attractive to more RAP stakeholders and expand capacity to meet industry's skilled labor needs and supports the proposed rule's attempt to further this important goal.

⁵ [ABC: Government-Registered Apprenticeship Programs Not Keeping Up With Construction Industry Needs](#), Feb. 22, 2024.

⁶ To locate one of more than 450 RAPs provided by ABC chapters, visit www.abc.org/grapmap.

⁷ The National Center for Construction Education and Research, at www.nccer.org, was spun off from ABC in 1991 to give the entire construction industry access to workforce development curricula.

⁸ Of note, there are ways to accelerate the education and time-based requirements in certain circumstances; for example, the granting of advanced standing or credit for previously acquired experience, training or skills for all applicants equally, with commensurate wages for any progression step so granted.

II. ABC's Comments in Opposition to the 2016 Rulemaking

To a large extent, the new proposed rule is a much-needed correction to the 2016 rule. In the 2016 rule, the department improperly expanded the scope of protected characteristics and subjected apprenticeship program sponsors to an expanded set of administratively burdensome requirements. The new burdens included mandating that sponsors provide anti-harassment training; imposing a needlessly complex scheme of demographic and utilization analyses on sponsors to determine whether apprenticeship programs were meeting arbitrary affirmative action goals; and requiring program sponsors to review their personnel practices annually to determine their compliance with the new standards.⁹

ABC voiced numerous concerns about the 2016 rulemaking in comments filed on Jan. 20, 2016.¹⁰ ABC was particularly concerned about the newly required data collection and utilization analysis of disabled apprentices based upon inadequate data. ABC further noted that the 2016 NPRM did not fully acknowledge the many complex factors contributing to the apparent unwillingness of some minority groups and women to apply to enter the construction industry, despite the best efforts of program sponsors to make training available to all qualified applicants. ABC expressed concerns that the 2016 NPRM placed too much weight on raw statistics of underutilization and dated studies relying on anecdotal evidence of discrimination.

ABC specifically took issue with the Affirmative Action Plan requirements imposed on small programs under Section 30.4 and the utilization analysis of programs' composition by race, ethnicity, sex and disability under Section 30.5 and 30.7, which ABC's members characterized as "confusing," "very expensive" and "onerous." ABC particularly criticized the new 7% goal for qualified individuals with disabilities and the compelled on "voluntary self-identification" of such individuals. ABC further opposed the new burdens imposed in the outreach, recruitment and selection process for apprentices, particularly with regard to merit-based programs that do not have direct control over apprentices who are exclusively employed by association members.

Throughout the 2016 rulemaking, the department failed to meaningfully address the distinction between nonunion programs where the chapter sponsor does not "employ" the apprentices, as opposed to typical JATC programs, where the RAP controls to a greater extent the terms and conditions of the apprentices' employment.

As discussed below, many of ABC's expressed concerns about the 2016 rule have come true. The 2016 rule imposes unjustified burdens on apprenticeship programs generally, but particularly with regard to nonunion association programs. ABC applauds the department for

⁹ 81 FR 92026 (Dec. 19, 2016).

¹⁰ RIN 1205-AB59, ABC Comments on ETA's Notice of Proposed Rulemaking Apprenticeship Programs; Equal Employment Opportunity (Jan. 20, 2016).

recognizing the flaws in the current rule and taking corrective actions to avoid illegal discrimination and undue burdens.

III. General Comments on the Proposed Rule

ABC fully supports the proposed rule's revisions to 29 CFR Parts 29 and 30.

These changes would alter RAP nondiscrimination provisions from a burdensome duplicative set of additional regulations on apprenticeship sponsors and employers, to a requirement that employers and sponsors comply with existing laws prohibiting discrimination.

By revising 29 CFR Part 30.3 to direct RAP sponsors simply to comply with all applicable federal and state laws and regulations prohibiting illegal discrimination,¹¹ the proposed rule eliminates requirements for an unnecessarily complex array of goals, analyses, outreach and annual reviews.

The proposed revision to the 2016 rule represents a major streamlining of RAP regulations, with the elimination of 11 entire sections of the Part 30 regulation and a focus on compliance with nondiscrimination laws that employers are already familiar with.

Rescinding these provisions would represent significant regulatory relief for ABC chapters and employers who sponsor apprenticeship programs, as well as the broader construction industry and any industries seeking to upskill workers through the RAP system.

The department's proposed rule would preserve important nondiscrimination protections while ensuring that more sponsors choose to participate in RAPs, ultimately resulting in increased access to careers in construction for all Americans.

In particular, ABC advocates those aspects of the proposed ruling that will achieve the following overdue objectives:

- Removing previous requirements to establish an equal employment opportunity coordinator (29 CFR 30.3(b)(1))
- Rescinding duplicative requirements to conduct anti-harassment training (29 CFR 30.4(i))
- Rescinding most of the burdensome record-keeping requirements (29 CFR 30.12), and (for programs with more than five apprentices) removing the requirement to conduct workforce and utilization analyses (29 CFR 30.5(b))

¹¹ <https://www.federalregister.gov/d/2025-12317/p-313>.

- Doing away with duplicative and burdensome affirmative action program requirements (§§ 30.4–30.9 and 30.11)
- Rescinding the arbitrary 7% utilization goal for individuals with disabilities (§ 30.7) as well as the invitation to self-identify as an individual with a disability (§ 30.11)
- Taking steps to ensure that State Apprenticeship Agencies conform their practices to the federal standard and prevent SAAs from discriminating against merit-based apprenticeship programs.¹²

IV. ABC's Small Business Concerns

Further, ABC supports the proposed rule as it will have a positive impact on small businesses interested in participating in RAPS, many of which have been discouraged from doing so by excessively burdensome regulations.

In February 2024, ABC conducted a survey of contractor members and ABC chapters regarding RAPS, with respondents supporting the need for improvements to RAP regulations.¹³ Small business contractor participants/providers and multiemployer RAP providers reported that the RAP system is particularly burdensome to small businesses. This sentiment was shared by larger contractors who rely on quality performance by small businesses in order to deliver construction projects safely, on time and on budget and meet small business contracting goals.

Of all construction firms, 82% have fewer than 10 employees¹⁴ and construction companies that employ fewer than 100 construction professionals comprise 99% of construction firms in the United States.¹⁵

This proposed rule would help reverse a trend of federal regulations and policies that have reduced small business participation in government contracting and specifically federal contracting. Small businesses have suffered a 60% decline in the number of firms awarded federal contracts from 2010-2020, according to SBA data.¹⁶

¹² This is not an exclusive list; ABC reiterates its support for the proposed rule in its entirety.

¹³ [ABC Survey: Biden's Proposed Apprenticeship Rule Will Strongly Discourage Construction Apprenticeship Program Participation](#), Feb. 27, 2024.

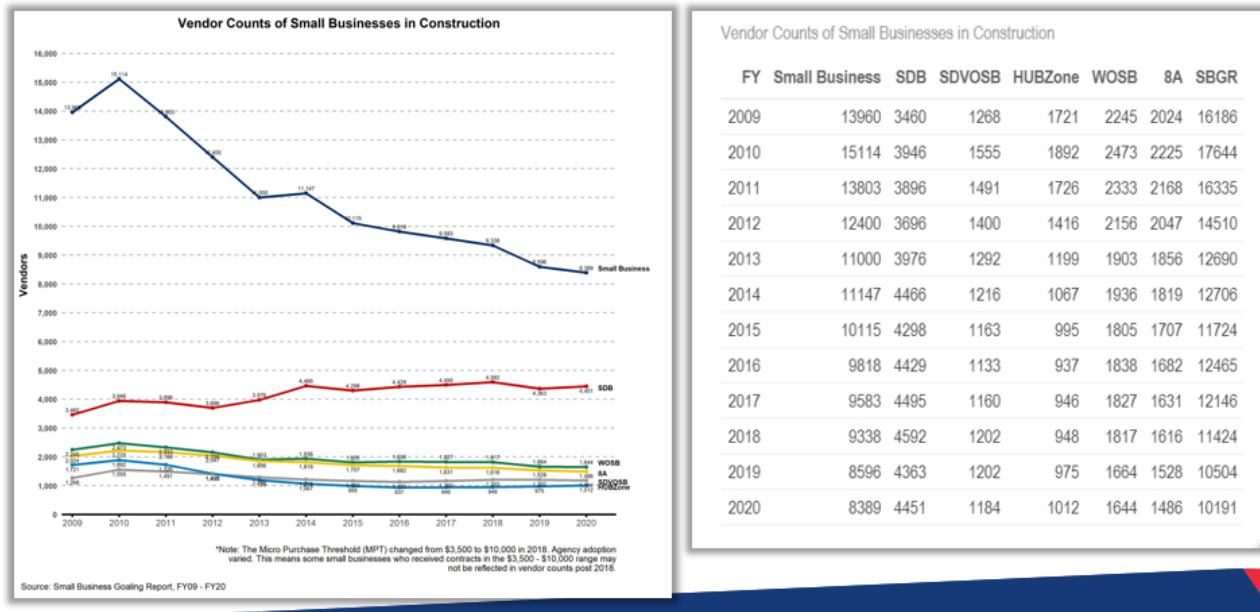
¹⁴ U.S. Census Bureau 2021 County Business Patterns: <https://data.census.gov/table?q=CBP2021.CB2100CBP&tid=CBP2021.CB2100CBP&hidePreview=true> and <https://www.census.gov/programs-surveys/cbp/data/tables.html>.

¹⁵ 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>.

¹⁶ Chart available at: <https://thetruthaboutplas.com/wp-content/uploads/2022/09/60-percent-decline-of-small-businesses-awarded-federal-construction-contracts-2010-to-2020.png>. The data was prepared by an SBA economist who said, "The charts represent data on vendors who have received obligations. The definition of 'small' comes from the contracting officer's determination when the contract was awarded. The COs follow the NAICS size standards." Data is from FPDS that can be publicly accessed through SAM.gov: <https://sam.gov/reports/awards/standard>.



Number of Construction Industry Small Businesses Awarded Federal Contracts Declined 60% From 2010-2020



The decline in small business participation in federal contracts directly correlates with increasing federal regulatory burdens. Small businesses generally have a much harder time absorbing additional regulatory costs—and their costs are proportionately greater compared to larger firms.¹⁷ Surveys of ABC members have found that small business contractors often choose to bid on private sector and state or local government contracts with increased regulatory clarity and lower regulatory burdens, which reduce costs related to the need for expertise from attorneys and compliance professionals.¹⁸

Conclusion

ABC appreciates the DOL's goal of improving access to RAPs through streamlining of unnecessary regulations and supports the finalization of this rule as proposed to deliver relief to RAP sponsors and apprentices.

ABC would welcome the chance to facilitate additional industry outreach, collaboration and discussions on these issues. Please do not hesitate to contact us with any questions.

¹⁷ See Mercatus Center, George Mason University, [Regulatory Accumulation and Its Costs](#), May 4, 2016.

¹⁸ [Survey: 97% of ABC Contractors Say Biden's Government-Mandated Project Labor Agreement Policies Would Make Federal Construction More Expensive](#), ABC Newsline, Sept. 28, 2022.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kristen Swearingen". The signature is fluid and cursive, with the first name "Kristen" being more prominent than the last name "Swearingen".

Kristen Swearingen

ABC Vice President of Government Affairs

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