



VIA ELECTRONIC SUBMISSION

January 30, 2024

Patricia L. Toppings
OSD Federal Register Liaison Officer
U.S. Department of Defense
1400 Defense Pentagon
Washington, DC 20301

Re: Cybersecurity Maturity Model Certification (CMMC) Program (RIN: 0790-AL49)

Dear Ms. Toppings:

Associated Builders and Contractors hereby submits the following request for an extension of the public comment period by 30 days to the U.S. Department of Defense, in response to the above-referenced proposed rule published in the Federal Register on Dec. 26, 2023, at 88 Federal Register 89058.¹

About Associated Builders and Contractors

ABC is a national construction industry trade association representing more than 22,000 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.²

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 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)³ and industry workforce employment (nearly 81% of the construction

¹ <https://www.federalregister.gov/documents/2023/12/26/2023-27280/cybersecurity-maturity-model-certification-cmmc-program>

² For example, see ABC's 33rd Excellence in Construction Awards program from 2023: <https://www.abc.org/Portals/1/2023/EIC/33rd%20Annual%20Excellence%20in%20Construction%20Program.pdf?ver=gsV6cu81Y5la-XT6lqP4Vg%3d%3d>

³ 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>.

industry is employed by small businesses).⁴ In fact, construction companies that employ fewer than 100 construction professionals comprise 99% of construction firms in the United States and account for 69% all construction industry employment.⁵ In addition, the vast majority of small businesses are not unionized in the construction industry.

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 and regulations.

ABC's diverse 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.

Request for Extension of Comment Period

The DOD proposes extensive regulations to require federal contractors and subcontractors competing for DOD contracts to demonstrate continued compliance with a wide range of cybersecurity measures. It will be critically important for ABC and our contractor members to understand how this proposed rule would impose new cybersecurity compliance, assessment and certification requirements; establish a new waiver process; and implement other significant updates.

ABC will need to work closely with its chapters, member companies and industry stakeholders to fully understand the potential impacts of the proposal and provide meaningful comments to the DOD regarding important clarifications and changes needed to the cybersecurity regulations outlined in the proposed rule.

For ABC to best accommodate the agency's request for comments from the regulated community, additional time will be needed to review the substantial proposed rule; reach out to ABC members and receive feedback; analyze responses and data received from these members; and finally, draft comprehensive and well-considered regulatory comments.

Unfortunately, the current 60-day comment period does not provide sufficient time for ABC to effectively communicate with its members before providing these comments. Additionally, the current deadline of Feb. 26 does not provide enough time for ABC members interested in providing their own comments to the DOD.

For the reasons outlined above, a 30-day extension from the current deadline of the

⁴ 2022 Small Business Profile, U.S. Small Business Administration Office of Advocacy (2022), at page 4, <https://advocacy.sba.gov/wp-content/uploads/2022/08/Small-Business-Economic-Profile-US.pdf>.

⁵ 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>.

comment period will be vital to ensure that the DOD can receive thorough input from all stakeholders affected by this proposed rule.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ben Brubeck". The signature is fluid and cursive, with the first name "Ben" and last name "Brubeck" clearly distinguishable.

Ben Brubeck
Vice President of Regulatory, Labor and State Affairs