



October 13, 2021

The Honorable Jack Reed
Chairman
Committee on Armed Services
United States Senate
Washington, DC 20515

The Honorable Jim Inhofe
Ranking Member
Committee on Armed Services
United States Senate
Washington, DC 20515

Dear Chairman Reed and Ranking Member Inhofe:

On behalf of Associated Builders and Contractors, a national trade association with 69 chapters representing more than 21,000 members, I am writing to express our concerns regarding several provisions included in the House-passed National Defense Authorization Act for Fiscal Year 2022 (H.R. 4350) that would be detrimental to the nation's defense contractors and cost additional taxpayer funds. The Senate language of the NDAA does not contain similar provisions. We urge you to maintain the Senate language during conference committee negotiations.

Section 2806 of the House NDAA contains a provision on the use of qualified apprentices by military construction contractors and requires contractors to have a goal of 20% of all workers employed on a contract to be a qualified apprentice, defined as an employee participating in a U.S. Department of Labor-registered apprenticeship program. While ABC encourages the expansion of apprenticeship opportunities, we are concerned that this will have the effect of reducing these opportunities for many of America's workers and exclude many otherwise qualified contractors from bidding on military construction projects, including ABC members. While some ABC members use registered apprenticeship programs, many also rely on more flexible and innovative industry-recognized and market-driven programs to provide their workers with the skills they need.

The bill's narrow focus to exclusively elevate DOL-registered programs would also serve as a detriment to military construction. Registered programs represent just a small segment of programs the construction industry utilizes to invest in its workers and address labor needs. In fact, registered programs only yielded approximately 40,000 completers in 2020 for construction, according to [DOL and state government data](#). These shortfalls prove that the registered system cannot meet the construction industry's workforce development needs alone, as the industry is currently facing a [430,000-worker shortage](#). If the Senate's bipartisan infrastructure investment were to pass, this would only be exacerbated.

ABC opposed similar language that was included in the FY20 NDAA final conference agreement but later removed by the Senate in the FY21 NDAA. ABC again hopes that the Senate will recognize the faults of the House's proposal and prevent the implementation of this ill-advised provision.

During House consideration of the NDAA, amendment No. 205, offered by Rep. Pramila Jayapal, D-Wash., was also included, which would implement harmful debarment procedures against military contractors. ABC supports efforts to make workplaces safer and ensure a level playing field for federal contractors; however, this flawed “blacklisting” proposal will threaten federal contractors’ due process rights, override current, proven compliance processes, and create dangerous incentives for initiating baseless allegations against contractors. The blacklisting proposal will lead to delays, increased costs and a reduction in goods and services critical to the mission of the Department of Defense and our national security.

Finally, amendment No. 18, offered by Rep. Andy Kim, D-N.J., establishes a new requirement and preference for contractors and subcontractors that hire more than half their workforce from local areas. ABC supports the goal of ensuring more local workers can be hired for construction projects in their communities; however, ABC and our members remain concerned that by imposing “local hire” requirements the federal government’s restrictive, one-size-fits-all requirements do not consider market realities and workforce availability in varying parts of the country. Instead, ABC believes we must focus on policies that truly expand workforce development and construction career opportunities for all of America’s workers to ensure more local workers have the skills and experience needed to fill jobs in their communities.

ABC remains concerned about the inclusion of these restrictive labor policies in our defense authorization. We urge you to maintain the bipartisan language introduced by the Senate Armed Services Committee earlier this year and reject these harmful proposals. ABC members stand ready to do the important work needed in military construction to better serve our nation’s troops and defense infrastructure.

Thank you for your consideration.

Sincerely,



Kristen Swearingen
Vice President, Legislative & Political Affairs

CC:

The Honorable Adam Smith
Chairman
Committee on Armed Services
United States House of Representatives
Washington, D.C. 20515

The Honorable Mike Rogers
Ranking Member
Committee on Armed Services
United States House of Representatives
Washington, D.C. 20515