

May 9, 2023

Ms. Pam Eddinger  
Chairperson  
Advisory Committee on Apprenticeship  
U.S. Department of Labor  
200 Constitution Ave. NW  
Washington, DC 20210

Submitted via email to: [AdvisoryCommitteeonApprenticeship@dol.gov](mailto:AdvisoryCommitteeonApprenticeship@dol.gov)

Dear Chairperson Eddinger:

The diverse group of construction and business associations undersigned write to the members<sup>1</sup> of the U.S. Department of Labor's Advisory Committee on Apprenticeship to raise concerns about troubling recommendations made by ACA subcommittees that will ultimately discourage employer and employee participation in construction industry Registered Apprenticeship Programs (RAPs).

First, the ACA's credibility and commitment to a process ensuring public transparency and soliciting meaningful feedback from stakeholders directly affected by changes to the RAP system are in doubt. Problematic ACA subcommittee policy recommendations are contained in five Final Issue Papers that the full ACA will discuss and approve during a vote at its May 10, 2023, meeting. Regrettably, the Final Issue Papers were not published on the ACA website for public review until late in the evening on May 8, 2023,<sup>2</sup> yet the deadline for the public to request to participate and present at the May 10, 2023, ACA meeting was April 26.<sup>3</sup>

Therefore, it is impossible for public stakeholders to present feedback in person or virtually to ACA members before their final vote, which is likely to shape forthcoming DOL regulations and dramatic changes to the National Apprenticeship System.<sup>4</sup> The ACA should delay a vote on these policy recommendations until the public is given ample time to review, comment and present feedback in person on drafts of the five Final Issue Papers before the ACA votes on them.

Nevertheless, the undersigned organizations, which participate in the construction industry RAP ecosystem, write to share concerns about the ACA's policy recommendations that—while perhaps well-intentioned—are harmful in practice to RAPs. While a key goal of the ACA is to develop policy that will result in the expansion

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<sup>1</sup> <https://www.apprenticeship.gov/advisory-committee-apprenticeship/membership>.

<sup>2</sup> The May 10 meeting materials and agenda were published the evening of May 8, 2023: <https://www.apprenticeship.gov/advisory-committee-apprenticeship/meetings>.

<sup>3</sup> See Federal Register April 14, 2023, notice announcing the ACA meeting on May 10, 2023, <https://www.apprenticeship.gov/sites/default/files/Federal-Register-May-ACA-Meeting-7.pdf>.

<sup>4</sup> See the Fall 2022 regulatory agenda to review the U.S. Department of Labor's notice of its intent to issue a proposed rule, National Apprenticeship System Enhancements (RIN: 1205-AC13): <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202210&RIN=1205-AC13>.

and broader adoption of RAPs among industry stakeholders, some of the ACA's policy recommendations will result in the further decline of the construction industry's RAP system and exacerbate the construction industry's labor shortage in the short and long term.

## I. Background

We appreciate the ACA's acknowledgement of the value of RAPs and the ACA's effort to expand the RAP system, as it "remains largely a niche training model predominantly utilized by the construction sector"<sup>5</sup> since passage of the National Apprenticeship Act in 1937.

Recent analysis of DOL data<sup>6</sup> by Associated Builders and Contractors, which through its network of 68 chapters administers more than 300 federal and state RAPs, found that it would take 12 years for all federal and state construction industry RAPs to educate the more than half a million workers the construction industry needs to hire in 2023.<sup>7</sup> ABC estimates that the construction industry's federal and state RAP system yielded just 45,000 completers of four-to-five-year apprenticeship programs, and just 250,000 apprentices were enrolled in all construction industry RAPs in 2022.

Construction of American infrastructure, clean energy and manufacturing funded in part by recent robust government investments in federal, state, local and private projects will be delayed, subject to added costs and/or not built at all if the RAP system is not modernized and reshaped to be more inclusive of the construction industry's workforce development needs. For example, the 2022 Inflation Reduction Act provides \$270 billion in tax credits to private developers of clean energy construction projects, but in order to unlock the full 30% value of tax credits, they are required to ensure that 15% of all labor hours on an eligible construction project are performed by RAP apprentices.<sup>8</sup>

Clean energy stakeholders are concerned these requirements will be difficult to meet due to government red tape, making it extremely time-consuming or even impossible to get new RAPs approved in certain states to increase the number of apprentices enrolled. A lack of new RAP programs and a failure to recruit a substantial number of new apprentices will ultimately undermine the Biden administration's clean energy and broader infrastructure agenda.

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<sup>5</sup> See ACA Modernization Subcommittee Final Issue Paper, Quality Standards, page 1: <https://www.apprenticeship.gov/sites/default/files/Modernization%20Final%20Issue%20Paper%20-%203%20of%203%20Quality%20Standards.pdf>.

<sup>6</sup> See ABC: Government-Registered Apprenticeship System Alone Won't Solve Construction Labor Shortage, May 3, 2023: <https://www.abc.org/News-Media/News-Releases/entryid/19933/abc-government-registered-apprenticeship-system-alone-wont-solve-construction-labor-shortage>.

<sup>7</sup> See Construction Workforce Shortage Tops Half a Million, Says ABC, <https://www.abc.org/News-Media/News-Releases/entryid/19777/construction-workforce-shortage-tops-half-a-million-in-2023-says-abc>.

<sup>8</sup> See analysis of the Inflation Reduction Act's registered apprenticeship requirements for clean energy tax credits at [www.abc.org/IRA](http://www.abc.org/IRA).

The undersigned organizations are concerned that, if the ACA's recommendations were adopted, it would actually limit broader industry adoption of RAPs and likely provide benefits predominantly to union interests and construction industry RAPs affiliated with union programs.<sup>9</sup> Yet, the government's own data demonstrates that the restrictive RAP system is not meeting the industry's need for skilled labor. Therefore, the ACA should advocate for new and inclusive methods of expanding access to construction careers through RAPs to develop a diverse and skilled workforce to meet the construction industry's market demand. Unfortunately, some of the proposals suggested by the ACA in the Final Policy Papers will do the opposite, as discussed further in this letter.

## **II. Quality Seal of Approval Program**

For example, the ACA's recommendations for the DOL Office of Apprenticeship to issue new regulations/policies creating a recognition program that awards certain RAPs with a "Quality Seal of Approval" for meeting certain undefined criteria<sup>10</sup> is of concern to the undersigned organizations.

Specifically, the ACA's proposed policy gives RAPs that receive the Quality Seal a priority/preference for federal, state and local workforce development grants and funding awards. The ACA recommendation that the DOL OA develops a new policy granting employers that hire apprentices from a Quality Seal RAP additional preference during the bidding for and awarding of federal and federally assisted construction projects is also problematic.

Creating recognition programs tied to future government workforce development funding and public contract awards risks establishing a fractured, two-tiered RAP system and undermines the voluntary nature of RAP participation as prescribed by the National Apprenticeship Act. Instead, the ACA should be doing all it can to make RAPs attractive to employers and employees and other stakeholders by making it more inclusive instead of restricting it to RAPs achieving unclear criteria.

Likewise, the undersigned organizations are also concerned about the ACA's Quality Seal criteria related to RAPs satisfying undefined completion/graduation rates, RAP participation diversity goals, 1-to-1 apprenticeship to journey-level worker ratios in high-hazard industries like construction (which undermines RAPs that have adopted more relaxed ratios in order to build capacity and attract more entrants into the construction industry) and more. These criteria will be difficult for many current and future RAPs to meet. If RAP enrollment and RAP program creation and participation declines due to

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<sup>9</sup> Of note, ACA membership is dominated by individuals affiliated with the union workforce development system. According to DOL data, approximately 65% to 75% of all apprentices enrolled in construction industry RAPs are affiliated with union RAPs, which is remarkable because roughly 88% of the U.S. construction workforce is not unionized. This gives some ACA members an incentive to promote policies limiting the expansion of RAPs via providers not affiliated with unions and prevent employers not affiliated with unions from utilizing modernized RAPs.

<sup>10</sup> See ACA Modernization Subcommittee Final Issue Paper, Quality Standards, page 2: <https://www.apprenticeship.gov/sites/default/files/Modernization%20Final%20Issue%20Paper%20-%203%20of%203%20Quality%20Standards.pdf>.

the failure to receive the proposed Quality Seal designation, providers may be forced to end their programs, and ultimately, fewer workers will be upskilled through the RAP system.

### III. Wage Requirements

The ACA’s recommendations suggest requirements that RAPs result in journey-level worker positions that provide “family-sustaining wages” or “living wages.” The ACA first introduced this concept in the context of the proposed Quality Seal Program, stating that programs should provide wages for one adult apprentice to support two children, according to the Massachusetts Institute of Technology’s living wage calculator.<sup>11</sup> Some members of the committee also recommend that “the DOL only approve registration of apprenticeship programs which, at a minimum, pay its participants a living wage by the last stage of their program participation.”

Construction industry employers are committed to paying their employees competitive, fair wages and benefits in accordance with federal prevailing wage laws, state laws, collective bargaining agreements and area practices. This plays a key role in attracting construction workers who can earn while they learn in an industry facing severe workforce shortages. However, the ACA’s recommendation risks setting requirements for RAP wages unfeasibly high, resulting in the utilization of fewer apprentices, fewer new programs being approved and less employer participation in RAPs, which would further exacerbate the construction industry’s skilled labor shortage and undermine the goals of the ACA.

The table below uses MIT’s wage calculator to compute wages for one adult supporting two children to determine the pay requirements that ACA’s recommendations would enforce for RAP graduates in each metropolitan statistical area. The table provides a comparison to May 2022 median wages for all workers in construction occupations, according to the U.S. Bureau of Labor Statistics:<sup>12</sup>

MSA	ACA Wage	BLS Median Wage
Washington-Arlington-Alexandria, DC	\$56.48	\$27.45
New York-Newark-Jersey City, NY	\$58.19	\$34.25
Los Angeles-Long Beach-Anaheim, CA	\$57.38	\$29.45
Mankato-North Mankato, MN	\$42.10	\$29.01
Pocatello, ID	\$38.08	\$21.18
Lawton, OK	\$41.64	\$18.66

<sup>11</sup> <https://livingwage.mit.edu/>.

<sup>12</sup> See the U.S. Bureau of Labor Statistics’ May 2022 Metropolitan and Nonmetropolitan Area Occupational Employment and Wage Estimates. <https://www.bls.gov/oes/current/oesrcma.htm>.

In short, the ACA's recommendation would require that RAPs guarantee wages for graduates up to 123% higher than median construction industry tradesperson wages in certain areas. While well-intentioned, this wage requirement would be difficult for many RAP providers/participants to fulfill and likely lead to a sharp decrease in the number of RAP programs utilized by the employer community and a decline in the number of participants in RAPs overall. The undersigned organizations urge the ACA to reject recommendations that impose unrealistic and poorly defined wage criteria. Instead, we urge the ACA to adopt policies that will maintain and increase flexibility for employers to pay competitive wages that attract workers while aligning with area standards.

#### **IV. Conclusion**

The undersigned organizations appreciate the ACA's commitment to expanding and modernizing the construction industry's RAP system and efforts to build a more inclusive workforce development system. There are many aspects of the ACA policy recommendations that we support. We look forward to continuing a dialogue on the important issues raised in this letter and hope that we can be invited to present our concerns in greater detail at a future ACA meeting.

Sincerely,

American Fire Sprinkler Association  
American Pipeline Contractors Association  
Associated Builders and Contractors  
Construction Industry Round Table  
Electronic Security Association  
Independent Electrical Contractors  
National Precast Concrete Association  
National Utility Contractors Association  
Power and Communication Contractors Association  
Precast/Prestressed Concrete Institute  
Small Business & Entrepreneurship Council

Cc: Mr. John V. Ladd via email at [AdvisoryCommitteeonApprenticeship@dol.gov](mailto:AdvisoryCommitteeonApprenticeship@dol.gov)