



September 13, 2023

The Honorable Lisa McClain
Chairwoman
U.S. House Oversight and Accountability
Subcommittee on Health Care
and Financial Services
2154 Rayburn House Office Building
Washington, DC 20515

The Honorable Katie Porter
Ranking Member
U.S. House Oversight and Accountability
Subcommittee on Health Care
and Financial Services
2154 Rayburn House Office Building
Washington, DC 20515

Chairwoman McClain, Ranking Member Porter and Members of the Health Care and Financial Services Subcommittee:

On behalf of Associated Builders and Contractors, a national construction industry trade association with 68 chapters representing more than 22,000 member companies, I appreciate the opportunity to comment on the committee's Sept. 14, hearing, "The Inflation Reduction Act: A Year in Review." ABC remains concerned about anti-competitive and inflationary policy in the IRA that grants developers of clean energy construction projects a bonus tax credit 500% greater than a baseline tax credit of 6% conditioned on satisfying controversial prevailing wage and government-registered apprenticeship requirements.

Developers of solar, wind, hydrogen, carbon sequestration, electric vehicle charging stations and other clean energy projects seeking enhanced tax credits must ensure that contractors pay all construction workers government-determined prevailing wages and benefits set by the U.S. Department of Labor. Developers must also ensure that contractors utilize apprentices enrolled in government-registered apprenticeship programs for certain percentages of all construction hours worked on a qualifying project (12.5% of all construction work hours in 2023 and 15% of all construction work hours in 2024 and thereafter).¹

The unprecedented expansion of Davis-Bacon and government-registered apprenticeship requirements on private construction projects via the IRA will limit opportunities for many qualified contractors—including small businesses—and deny workforce development pathways for apprentices enrolled in nonregistered programs.

Critically for ABC and the construction industry, these requirements place a strain on developers and contractors grappling with a construction industry workforce shortage of more than 500,000 people in 2023 alone, which will result in needless delays and increased construction costs on clean energy projects.

Further, the government-registered apprenticeship system is woefully inadequate to meet the increased demand for construction workers generated by these tax incentives. According to ABC's analysis of recently released U.S. Department of Labor data, it would take 12 years for all government-registered apprenticeship programs to educate the more than half a million workers the construction industry needs to hire this year.

¹ In addition, all contractors with four or

ABC estimates that the construction industry's federal and state registered system yielded just 45,000 completers of four-to-five-year apprenticeship programs in 2022, and just 250,000 apprentices were enrolled in all construction industry-registered apprenticeship programs.²

In addition, the lack of clear guidance³ and timely regulations from the U.S. Department of Treasury's Internal Revenue Service related to these new requirements has significantly delayed ground-breaking of clean energy projects. ABC members and clean energy developers have reported they are unlikely to move forward with financing and building clean energy projects eligible for enhanced tax credits until final rules are crystal clear because of significant penalties related to noncompliance with prevailing wage and apprenticeship requirements.

On Aug. 30, the IRS finally released a proposed rule⁴ and FAQs⁵ on these tax incentives. While ABC plans to comment on the proposal by its Oct. 30 deadline and welcomes efforts by the IRS to provide regulatory clarity about how these new provisions will be implemented, a final rule is months away and the proposed regulation fails to answer key questions and raises additional concerns.⁶

For example, in 2024, the IRA requires that 15% of all construction labor hours on a qualifying project must be performed by apprentices enrolled in government-registered apprenticeship programs. ABC expects that, in some markets, many apprenticeship programs in certain trades cannot meet industry demand. Developers seeking regulatory clarity concerning the proposal's apprenticeship Good-Faith Exception policy—in order

Also concerning to ABC and construction industry stakeholders is the DOL's Aug. 23 final rule
m0.283 0 Td[f]-63 J5.152 0 Td043 0 Td3.52 (t)-6.6 (ak)wJ0.002ep J5.152 2 (t)4hang (s).002(ug.)-6 J-0.00 (s)

