



5301 Wisconsin Avenue, NW
Suite 800
Washington, DC 20015
T: 202-362-0041
F: 202-362-2640
www.odonoghuelaw.com

November 19, 2018

U.S. Department of Labor
Employment and Training Administration
Office of Apprenticeship, Room C-5321
200 Constitution Avenue NW
Washington, DC 20210
SENT VIA EMAIL (IRAP.PRA@dol.gov)

Re: IRC Re: Industry-Recognized Apprenticeship Programs
(Federal Register/ Vol. 83, No. 183)

Dear Sir or Madam:

Please see the attached response to the above-referenced Information Collection Request, filed by the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, AFL-CIO.

Contact this office directly if you have questions or require additional information. Thank you.

Very truly yours,

/s/
Gerard M. Waites



November 19, 2018

U.S. Department of Labor
Employment and Training Administration
Office of Apprenticeship, Room C-5321
200 Constitution Avenue NW
Washington, DC 20210
SENT VIA EMAIL (IRAP.PRA@dol.gov)

Re: IRC Re: Industry-Recognized Apprenticeship Programs
(Federal Register/Vol. 83, No. 183)

Dear Sir or Madam:

The United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, AFL-CIO ("UA" or "United Association") represents 350,000 members who perform plumbing and pipe fitting services throughout the United States and Canada. A globally recognized leader in skill training, the UA maintains 300 state-of-the-art training centers across North America and, together with its signatory contractors, invests over \$250 million per year in registered apprenticeship and journey person training programs.

The UA appreciates the opportunity to respond to the above-referenced Information Collection Request ("ICR") issued by Department of Labor ("Department" or "DOL"). The ICR has been issued in relation to Executive Order 13801, which establishes federal government parameters for new industry-recognized apprenticeship programs (IRAPs). This ICR also relates to the Department's *IRAP Training and Employment Notice* ("TEN No. 3-18").

A. The IRAP Accreditor Form Should Expressly Exclude Construction

The ICR specifically acknowledges that many of the nation's best training programs have been developed in accordance "with DOL-identified *hallmarks of high-quality apprenticeship programs*." (p. 2, emphasis added). As the Department knows from its vast experience in this area, there are few apprenticeship programs that fit this criteria better than those developed in the construction industry.

Construction apprenticeship programs, most of which have been operating successfully for several decades, provide exceptional vehicles for high skill training and have long benefited the employers and workers they serve, as well as construction industry clients. Indeed, the success of apprenticeship training in construction is likely one of the main reasons Executive Order 13801 expressly excludes "any sector in which Department of Labor registered apprenticeship programs are already effective and substantially widespread." Section 4 (a)(v)(A).

Given the long, successful track record of construction apprenticeship programs, this sector falls squarely within this exception. These programs are the lifeblood of education in the construction industry, an industry vital to the national economy, as well key U.S. policy goals, including infrastructure re-building programs and economic development.

For these reasons, the United Association respectfully requests that the form¹ that the Department has prepared for qualifying organizations wishing to become accreditors for new IRAPs expressly state that these procedures shall not apply apprenticeship programs in the construction industry. This provision is consistent with Section 4 (a)(v)(A) of Executive Order 13801 and the fact that programs in the construction sector are among the few in the country that have consistently met the goals and standards embodied in the Department's *hallmarks of high-quality apprenticeship programs*.

B. Key Issues Re DOL Guidance on IRAPs

As the Department prepares to provide guidance for new IRAPs, the UA further submits that *all* instructions for these programs should be provided through formal notice and comment rule making. In fact, industry stakeholders and the public would be best served if the Department *re-issued* its TEN No. 3-18 in the form of a proposed regulation. Likewise, it would be beneficial to include a draft of the Department "form" for IRAP accreditors in such a rulemaking.

The United Association recognizes the need to expand formal apprenticeship programs and other types of quality training programs to meet the workforce development needs of industry. In fact, the crucial nature of this issue underscores the case for developing all key DOL policies and standards in this area through formal rulemaking procedures to ensure that the Department obtains all relevant information. This position is supported by several important legal and policy considerations.

Under Section 4(a) of the Administrative Procedure Act (APA), 5 U.S.C. § 551, federal agencies are required to utilize rulemaking for "anything that purports . . . to create binding standards by which the agency will determine compliance with existing statutory or regulatory requirements." Significantly, the TEN No. 3-18, p. 1, provides as follows:

This information notice sets out, at a high level, the policies and procedures that certifiers will be expected to have in place to establish standards, establish certification intervals determined by those industries, evaluate and certify programs focused on outcomes and process, report results, and maintain records. Organizations will be able to seek a determination from the Department of Labor (DOL or the Department) that their apprenticeship certification practices meet these criteria and in so doing, ensure that programs they certify provide apprentices with a pathway to a family-sustaining career.

(emphasis in original). The "standards" referenced above, as well as various other specific instructions included in this TEN No. 3-18, provide criteria which applicants will have to follow

¹ ICP, p. 2, which state that "the Department proposes the development of a form titled 'Industry-Recognized Apprenticeship Programs Accrediting Entity Information.'"

to become DOL-approved accreditors for IRAPs. Thus, this document contains standards that the Department will use to ensure compliance with the IRAP Executive Order, as well as its underlying statutory authority. Indeed, the TEN explicitly stresses “**high level**” policies and procedures applicants will be required to meet to obtain approval from DOL for acting as IRAP accreditors or certifiers.

In addition, from a policy perspective, the fact that the nation’s need for expanded apprenticeship training is so critical is all the more reason for ensuring that DOL guidance is issued only after a formal rulemaking process is followed that accounts for all key issues, including applicable standards, policies and procedures for IRAP accreditors, so these issues may be properly examined, vetted and addressed. Thus, the content of the TEN No. 3–18, as well the content in the DOL’s accreditor approval form, provide critical information to accreditors and training providers for this whole initiative. All such organizations, as well employers and workers impacted by these programs, should have an opportunity to work with the Department through a formal rulemaking process to ensure the final policy, standards and procedures for proper future development of IRAPs.

We appreciate the Department’s consideration in this matter. If you have any questions or should need further information regarding these comments, please do not hesitate to contact us.

Sincerely,

/s/

Gerard M. Waites