



**PLUMBING-HEATING-COOLING
CONTRACTORS ASSOCIATION®**

Best People. Best Practices.®

August 26, 2019

Adele Gagliardi, Administrator
Office of Policy Development and Research
U.S. Department of Labor
200 Constitution Avenue, NW, Room N-5641
Washington, DC 20210

Re: Docket Name: ETA-2019-0005
Docket RIN: 1205—AB85

Dear Ms. Gagliardi:

The Plumbing-Heating-Cooling Contractors - National Association (PHCC) has, for over 135 years, represented both union and open shop service and install contractors in the plumbing and HVAC industry. These contractor members believe in providing the best products and services for their consumer clients through a professional workforce and have for many years relied upon developing workers through apprenticeship. From the associations early beginning in the 19th century with indentured apprentices through its modern registered apprentice program, PHCC has a firm commitment to workforce development.

PHCC is supportive of any efforts to increase exposure of the apprentice model for employment, in fact the success of contractors depends on it. PHCC does have concern that there is some blurring in the distinction between apprenticeship and job training. By definition, an apprentice is a person bound to an employer or master craftsman to learn a trade. Through on the job training, the apprentice gains skill, becomes a productive worker, and is compensated for those efforts. Apprenticeship has long been a way to pass the crafts down from one generation to the next.

Job training is a valuable endeavor as well but is not the same as apprenticeship. In other industries, employees are needed for certain job tasks, training for those competencies can increase an organizations productivity. Task oriented training does not have the goal of learning the craft, it aims to fill certain needs of an employer. Perhaps some workers will expand their skill set but the goal does not seem to be handing down the craft.

PHCC has many members who started their career path as a 1st year apprentice. Through the dedication of their mentors and adherence to the registered apprentice program, these members became skilled tradesmen. Their competency in the craft is demonstrated, in most cases, by achieving licensure in their respective state or jurisdiction. Ultimately, these members have gone on to become successful business owners, the fulfillment of the American dream.



As an organization of Plumbing and HVAC contractors, PHCC particularly values protecting the health and safety of the nation through the provision of safe drinking water, proper sanitation systems, and maintaining indoor air quality. Maintenance work should also be included in the definition of construction as these activities could reduce the safety of the built environment by the use of non-compliant products or the elimination of certain required elements. Many of the products that are installed by professional contractors are readily available through a variety of retail and wholesale suppliers. The knowledge needed to properly install and maintain safe systems cannot be bought at the big box store. The success of the current registered apprentice model is evidenced by the lack of rampant unhealthy, insanitary, and unsafe system installations. What appears to be a simple job is in reality numerous inter-related interactions of which competent tradespeople need be aware.

PHCC understands the proposed rulemaking excludes construction trades in the Industry Recognized Apprentice Programs (IRAP's) and supports this position. It is unclear that this exclusion would be permanent. The construction trades have long relied upon Registered Apprentices to provide the quality workers needed for successful projects. In return, the apprentices earn decent wages and benefits on an established scale, are educated in the trade, and improve their position in life. PHCC has relied upon its own Registered Apprentice Programs to help grow the industry, contractor members and apprentices have embraced these programs. PHCC has committed to training a minimum of 75,000 workers through the Pledge to American Workers Program utilizing their established Registered Apprentice programs.

PHCC requests the Department to clearly state that successful traditional Registered Apprentice programs will remain viable. The Department should additionally clarify the definition of construction to also include maintaining buildings. Further, PHCC requests the Department to make permanent the exclusion of the construction industry from IRAP's.

The Department seeks comment on how establishment of IRAP's can support opportunities in sectors that lack successful apprentice programs. PHCC has trouble understanding the various listed industries needs in comparison to PHCC's long history with the construction industry. The Department should clarify how IRAP's will be more than job training programs which, as noted several times in the proposed rule, industry would do anyway. If one of the listed industries believes an apprenticeship model would be beneficial, PHCC supports that concept but believes an IRAP should be holistic and not simply task oriented training.

The Department has outlined a plan to create Standards Recognition Entities (SRE's) that would supervise Industry Programs (IP's). The Department would initially approve the SRE's and require review on a proposed 5 year schedule. The SRE would review and approve or deny IP's with a requirement to notify the Department of the IP's status. Programs must be high-quality as defined by the SRE and provide an Industry Recognized Credential.

Under the above scenario, SRE's although initially reviewed by the Department would have 5 years to operate relatively unchecked. The SRE validates an autonomous IP or could have in-house IP's provided sufficient separation precautions are in place. While this is an accelerated



method to bring programs to market, it is also an opportunity to create programs that may not produce desired results. It would not be the first time independent programs took advantage of aspiring workers providing them questionable benefit. The Department should initially review programs more frequently until programs are up and running and have demonstrated success. Requiring programs to deliver credentials is a positive step, the credentials should be from the industry and not just program specific. The department notes that in some cases the credentials may not be transferrable, without overall industry buy in, that may happen more often than intended and be contrary to the program's intent.

The Department should further define high quality programs with specific milestones such as successful completion, employability, and wage rates. PHCC supports the requiring of a mentor work relationship connected with classroom instruction, it is very effective to earn while you learn. The Proposed Rule requires programs to adhere to applicable Federal, state or local minimum wages, reinforcing the law but offering no additional incentive to a candidate. The Department should consider modeling work agreements similar to registered apprentice programs which delineate many work relationship requirements.

The Department suggests that credit may be given for prior knowledge. That is an admirable idea provide that knowledge is verifiable. The suggestion in the Proposed Rule that bypassing minimum required seat time is valuable if the candidate has achieved levels of knowledge that would have been gained in that time. Referring to this as a pre-requisite is a poor choice of words. There is a progression in learning which certain subjects are a pre-requisite to advancement, those are not needless. Minimum time requirements should be determined by the IP and validated by the SRE, the industry should know what the best practices are for time needed.

The Department requests comment on application and enforcement of Equal Employment Opportunity (EEO) laws. It is suggested that the ultimate responsibility lies with the SRE's. Industry Programs may be created by entities lacking familiarity with training programs, as the recognizing entity, the SRE should help IP's come into compliance. The Department has provided significant guidance on regulations pertaining to this topic, it is difficult to grasp how an organization involved in industry would be ignorant of these subjects. The Department seems to suggest that the Registered Apprentice programs require excessive or difficult forms of compliance. The Department should be consistent in EEO policies, IRAP's should model their policies based on the methods used in the Registered Apprentice model and be applied across the board to all involved entities.

Mentioned earlier, PHCC supports making permanent the exclusion of construction from IRAP's. The Department seeks further comment on deconfliction between apprenticeship programs under Part A and Part B. The Presidents Task Force intended promoting programs "especially in sectors where apprenticeship programs are insufficient." The Department has chosen metrics to determine the applicable sectors. The two metrics would be sectors that had over 25% of federal apprentices or programs or had more than 100,000 apprentices on average over the prior 5-year period, or both.



Considering these metrics, if over 25% of federal apprentices is applied, no more than 3 sectors could qualify; three 25+% programs leaves less than 25% remaining, this is a very limiting number. Only the U.S. Military exceeded that threshold percentage, likely those apprenticeships were not all in a single trade.

Additionally, 100,000 apprentices on average over 5 years has only been achieved by the construction sector. As PHCC is in this sector, it is supportive of the construction exclusion but in that sector, the trades and programs are diverse among the construction occupations. Again, this seems to be an overly limiting requirement. The Department has records for all federal Registered Apprentice programs, program longevity, number of participants, success rates, job placement rates, wage rates, and hours of work would all be statistics that could indicate successful programs. Organizations have considerable investments of time and money in developing and maintaining programs utilizing industry subject matter experts to determine curriculum content, selecting sectors as having insufficient programs based on aggregate numbers does a disservice to those successful small sector programs.

As a further indicator, the Department projects through the IRAP program, approximately 203 SRE's will be created in the first year with an approximate 2,030 IP's across 17 industries (excluding construction). Following the Department's lead of equal apportioning, that is about 119 programs per industry. Each of those programs would need about 840 apprentices to reach 100,000 or otherwise be considered a success. Across the spectrum, there would need to be over 1,700,000 apprentices enrolled on average per year over 5 years. The Department needs to reconsider the metrics used to evaluate successful programs.

The Department has conducted an economic analysis for this Proposed Rule and has requested comments on this analysis. PHCC would note that it understands the Department is constrained by OMB Circular A-4 in its selection of 3% and 7% discount rates but it also appears that the Department leans towards the use of 7% for its justifications. Given the current U.S. Treasury rates, the use of 7% seems advantageous to the Department when in reality, the 3% rate would be more appropriate given the constraints of OMC Circular A-4.

The Department has developed its analysis based on historical projections from the American Apprenticeship Initiative (AAI) Grant Program. Consideration was taken for a simplified process which resulted in an increased number of SRE providers. As this is a new initiative, it is difficult to extrapolate the number of participants, but if 191 applicants applied for and received AAI grants, where will the new IRAP's come from? Are there significant numbers of potential SRE's above those that have already received federal grants? If indeed there are, will there be a sustainable 5% growth over 10 years as suggested in the Proposed Rule?

The Department proposes that each SRE will develop 32 IP's over time. Given some attrition the rule postulates that there will be over 9,000 IP's in 10 years. Given the previous discussion of 840 apprentices per program, there would be over 7.5 million apprentices enrolled at that time.



The Department should provide some expectation of enrollment per program to judge the effectiveness of IRAP's and provide a rationale for the projection.

On the economic side, the Department has gone to great lengths to identify all tasks related to creating SRE's and IP's and assigning labor values to these tasks. The table below is an abbreviated summary of those discounted 10 year projected costs. Interestingly, the first, third, and fourth items are all 2 hour times for the same staff yet have different discounted values. Generally, the time allowed for tasks seems optimistic in that the values are for a single worker with no administrative help nor are there references to the unavoidable committee meetings that produce decisions related to creation of a project of this magnitude. Comments are included in the rows below each line item.

Task	Time (Hrs)		3%	7%
Rule Familiarization SRE	2		\$94,109.00	\$84,698.00
Two hours to understand the rule is low and lacks the executive decision time to undertake this project.				
Rule Familiarization IRAP	1		\$970,559.00	\$835,928.00
The IP would not do this in less time than the SRE, likely more. Also neglects the executive decision time.				
SRE ID Information	2		\$135,288.00	\$116,981.00
This amount of time would have to assume an existing program with Federal ID in place and an in-place website, as a new program much of this would need to be developed to complete this section of the form.				
Capability & Experience SRE	2		\$135,288.00	\$116,981.00
There at least seven tasks in this section, some of which will need to be developed for a new program prior to completing this section, that time must be recognized. Interaction with other departments such as finance is not accounted for.				
Evaluation & Monitoring	16		\$1,082,306.00	\$935,845.00
There are twenty or more tasks in this section covering newly created programs and tasks, where is the time accounted for to create many of the things that are being reported. Does not account for administrative support or executive meetings.				
Policies & Procedures	13		\$879,374.00	\$760,374.00
There are twenty-two or more tasks in this section covering newly created programs and tasks, where is the time accounted for to create many of the things that are being reported. Does not account for administrative support or executive meetings.				



Additional Representation of Quality Programs	0.083		\$5,412.00	\$4,679.00
This line item is five minutes, that is time for a rubber stamp. It should be assumed that the person completing this would actually have to check some of the 6 items required and take more than five minutes.				
Attestation	0.083		\$5,412.00	\$4,679.00
This is also five minutes, if the attestation is by one person who completed the entire form, that is possible. If it is signed by an executive, there would be more review time by that individual.				
Resubmitting (1/2 of 30%)	16		\$162,346.00	\$140,377.00
The Department assumes 30% of initial applicants will be rejected and that half of those will reapply. As a new program that will solve workforce issues, 70% success seems high and as an in-demand program, only half (15%) re-applying seems low.				
Administrative Review (1% annually)	60		\$30,649.00	\$27,357.00
If 30% of applicants are rejected and 15% reapply, there remains 15% that either gave up or are disgruntled, estimating 1% asking for review seems very low.				
Notification of Substantive Changes (50%)	10		\$1,218,091.00	\$987,737.00
Half of the programs may elect to make changes which would take ten hours per program, this is as good a guess as any.				
Recognition or Rejection	12		\$11,646,711.00	\$10,031,136.00
Twelve hours per program seems reasonable.				
Inform IRAP of Recognition or Termination	0.5		\$121,809.00	\$98,774.00
This may be an email notification in which case a half hour is reasonable, if the notification is by certified mail, this would add time.				
Provision of Additional Data to Administrator (10%)	2		\$48,724.00	\$39,509.00
Ten percent of SRE's are estimated to need to supply more data, as a new program this seems low and the two hours likely does not include time on behalf of the Administrator to determine this and notify the SRE.				
Disclose Credential to Candidates	0.5		\$121,809.00	\$98,774.00
This seems reasonable as it could be done electronically in marketing materials.				



SRE Quality Control	80		\$19,489,464.00	\$15,803,800.00
<p>This value is based on the estimated number of SRE's maintaining the quality control but in reality, it should be based on the number of IP's that those SRE's supervise. The IP programs could be different from each other and have different metrics of quality. This value is very low. Time would need to be allocated from the IP provider as well.</p>				
Provision of Performance Data	30		\$7,308,549.00	\$5,926,425.00
Collect Data (above) IP	3		\$17,404,884.00	\$13,806,381.00
<p>The preceding two items are connected in that The IP must collect and report information to the SRE for public reporting. Initially, the SRE's are projected to have fewer IP's but as time goes on, that number will increase dramatically. It is unclear if the 30 hours is an accurate average of the project growth over time. In year 1, an SRE would have 10 reports to analyze and report out, three hours each is likely generous but there will also be some initial development time to account for. Generally suspect that the 30 hours per year is a low number.</p>				
Disclose Wages to Apprentice	0.083		\$46,413.00	\$36,817.00
<p>This item is five minutes to disclose the wages to an apprentice. While a program may establish a starting pay structure, time will need to be allocated to do that and to periodically review and update the wage scale, five minutes is inadequate for this. Additionally, only ten percent of programs are expected to incur this cost as ninety percent would do it anyway. As this is a new program, no one is already doing this unless they already have training programs in which case this program is not necessary for them. This cost should be apportioned to all programs, at a minimum to ensure compliance.</p>				
Disclose Ancillary Costs (10%)	0.083		\$46,413.00	\$36,817.00
<p>The comments on ancillary costs mirror the comments above on wages, all programs should be expected to do this. Additionally, the programs would have to determine those costs, that will not happen in the five minutes and time should be allocated for this.</p>				
DOL Online Application & Review			\$590,777.00	\$568,692.00
Maintenance (above)			\$1,066,275.00	\$877,948.00
No comment				
DOL Online Resources			\$89,320.00	\$85,981.00
Maintenance (above)			\$153,544.00	\$126,424.00
No comment				
DOL Review SRE Application	1		\$70,230.00	\$60,703.00
<p>The Department will receive and review each SRE application and check for completeness, as a new program, some training and procedures will need be established. One hour per application seems low.</p>				



Panel Review (90%) Analyst	8		\$505,459.00	\$437,059.00
Training & Development Managers (2)	8		\$974,075.00	\$842,261.00
The two items above together account for the time to analyze and review each SRE application. Only ninety percent of the applications passed the initial DOL review. The eight hours seems but will there be additional supervision of these panelists by Administration.				
Panel Meeting Analyst	1		\$63,182.00	\$54,632.00
Training & Development Managers (2)	1		\$121,759.00	\$105,283.00
These two items above are the time for the panel to meet and discuss each application which may be adequate if there are no conflicting opinions, any negotiations over applications will take additional time. Also there may be additional supervisory time by the Administration to account for.				
Review by Administrator (70%)	0.25		\$18,416.00	\$15,924.00
The Administrator intends to review the approved applications in fifteen minutes each. This seems like a fast review of the document and is inadequate.				
Notification Recognition/ Denial	1		\$70,243.00	\$60,703.00
This seems reasonable.				
Steps to Review Resubmitted Applications (1/2 of 30%) are shown in the items below				
The Department believes that of the 30% of programs that are rejected, 15% will re-apply and go through a review process that would mirror the initial review process. Comments to the steps below would be similar to the comments made for the initial review process above. As stated above, the Department assumes 30% of initial applicants will be rejected and that half of those will reapply. As a new program that will solve workforce issues, 70% success seems high and as an in-demand program, only half (15%) re-applying seems low.				
DOL Review SRE Application	1		\$10,530.00	\$9,105.00
See above.				
Panel Review (90%) Analyst	8		\$84,243.00	\$72,843.00
Training & Development Managers (2)	8		\$162,346.00	\$140,377.00
See above.				
Panel Meeting Analyst	1		\$10,530.00	\$9,105.00



Training & Development Managers (2)	1		\$20,293.00	\$17,547.00
See above.				
Review by Administrator	0.25		\$1,315.00	\$1,137.00
See above.				
Notification Recognition or Denial	1		\$10,530.00	\$9,105.00
See above.				
DOL Preparation of Record when Denied Entity Requests Review (1%)	6		\$3,181.00	\$2,839.00
As stated above, if 30% of applicants are rejected and 15% reapply, there remains 15% that either gave up or are disgruntled, estimating 1% asking for review seems very low. As a new program, more appeals should be expected.				
Admin Law Judge Review	8		\$6,756.00	\$6,030.00
Law Clerk (above)	2		\$744.00	\$664.00
Paralegal (above)	2		\$503.00	\$449.00
These values would increase as the number of appeals increase. Also, Administration time to facilitate this should be included.				
Review of Denial Admin Rev Board	2		\$5,067.00	\$4,523.00
Staff Attorney	6		\$4,752.00	\$4,242.00
Legal Assistant	2		\$744.00	\$664.00
These values would increase as the number of appeals increase. Also, Administration time to facilitate this should be included.				
Total Quantifiable			\$64,998,424.00	\$53,408,309.00

The comments listed in the table above call into question the projected economic costs of IRAP's. Those costs are the basis of the economic analysis and impact on small businesses. PHCC asks that the Department reconsider the assumed values used to develop this projection in order to recalculate the impact on small businesses.

To summarize, the Department should:

- Recognize that apprenticeship is a mentored career path not just job training
- Make permanent the exclusion of the construction industry from IRAP's
- Clarify construction is both installation and maintenance of structures



- Conduct a review of new SRE's at intervals less than 5 years until programs show stability
- Require Credentials to be developed with industry consensus and to be truly portable and transferrable
- Require wage notifications and structures to match the Registered Apprentices Program
- Require Equal Employment Opportunity (EEO) provisions to match the Registered Apprentices Program
- Redefine sectors with sufficient apprentice programs with metrics other than unattainable percentages of federal apprentices or raw number of apprentices exceeding 100,000 on average over 5 years to use completion rates, placement rates, wage rates, sector size or need, or other appropriate measure
- Review and adjust the economic analysis used to determine impact and rely on the more realistic discount rate of 3% in lieu of the alternate approved 7%

In conclusion, PHCC supports registered apprenticeship programs for both open shop and union contractor members and has a long history of bringing quality plumbing and HVAC technicians to the industry. PHCC expects to continue its Registered Apprentices Programs and appreciates the efforts of the Department to bring awareness to this pathway to successful careers. PHCC believes that apprenticeship is a holistic method to transfer the craft from generation to generation and is the best way to maintain safe plumbing and HVAC products in America.

Respectfully Submitted,

Charles R. White
VP Regulatory Affairs
PHCC—National Association