

Comment from Associated Builders and Contractors

Associated Builders and Contractors hereby submits the attached request for an extension of the public comment period by 60 days to the U.S. Department of Treasury and Internal Revenue Service in response to the notice and request for comments published on Oct. 5, 2022.



VIA ELECTRONIC SUBMISSION

October 21, 2022

Holly Porter
Associate Chief Counsel (Passthroughs & Special Industries)
U.S. Internal Revenue Service
1111 Constitution Avenue NW
Washington, DC 20224

Re: Docket No. IRS-2022-0025, Request for Comments on Prevailing Wage, Apprenticeship, Domestic Content, and Energy Communities Requirements Under the Act Commonly Known as the Inflation Reduction Act of 2022 [Notice 2022-51]

Dear Ms. Porter,

Associated Builders and Contractors hereby submits the following request for an extension of the public comment period by 60 days to the U.S. Department of Treasury and Internal Revenue Service in response to the above-referenced notice and request for comments published on Oct. 5, 2022.

About Associated Builders and Contractors

ABC is a national construction industry trade association representing more than 21,000 member companies. ABC and its 68 chapters help members develop people, win work and deliver that work safely, ethically and profitably for the betterment of the communities in which ABC and its members work.

ABC's membership represents all specialties within the U.S. construction industry and is comprised primarily of general contractors and subcontractors that perform work in the industrial and commercial sectors for private and government customers. Moreover, the vast majority of ABC's contractor members are classified as small businesses. This is consistent with the U.S. Census Bureau and U.S. Small Business Administration's Office of Advocacy's findings that the construction industry has one of the highest concentrations of small businesses (82% of all construction firms have fewer than 10 employees)¹ and industry workforce employment (more than 82% of the construction industry is employed by small businesses).² In fact, construction companies that employ

¹ U.S. Census Bureau 2019 County Business Patterns: <https://data.census.gov/cedsci/table?q=CBP2019.CB1900CBP&n=23&tid=CBP2019.CB1900CBP&hidePreview=true> and <https://www.census.gov/programs-surveys/cbp/data/tables.2019.html>.

² 2020 Small Business Profile, U.S. Small Business Administration Office of Advocacy (2020), p. 3, <https://cdn.advocacy.sba.gov/wp-content/uploads/2020/06/04144224/2020-Small-Business-Economic->

fewer than 100 construction professionals compose almost 99% of construction firms in the United States; they build 63% of U.S. construction, by value, and account for 68% of all construction industry employment.³

In addition to small businesses that build private and public works projects, ABC also has large member companies that contract directly with federal, state and local governments to successfully build projects subject to government acquisition regulations and subcontract work to qualified small businesses that meet federal, state and local government small business contracting goals.

For example, ABC members won 57% of the \$128.73 billion in direct prime construction contracts exceeding \$25 million awarded by federal agencies during fiscal years 2009 to 2021.⁴

ABC's diverse membership is bound by a shared commitment to the merit shop philosophy in the construction industry. The philosophy is based on the principles of nondiscrimination due to labor affiliation and the awarding of construction contracts through open, competitive bidding based on safety, quality and value.

Request for Extension of Comment Period

The DOT and IRS have requested comments on a wide range of prevailing wage, apprenticeship, domestic content and energy community requirements that must be fulfilled by taxpayers seeking increased tax credits for the construction of clean energy projects under the Inflation Reduction Act of 2022.

The request for comments includes 22 detailed questions, many with multiple parts. ABC will need to work closely with its chapters, member companies, construction workers and industry stakeholders to fully understand the potential impacts of the IRA's requirements and provide meaningful comments to the agencies.

For ABC to best accommodate the agencies' request for comments, additional time will be needed to review the substantial number of questions, reach out to ABC members and receive feedback, analyze responses and data received from these members and draft comprehensive and well-considered comments. Unfortunately, the current 30-day comment period does not provide sufficient time for ABC to effectively communicate with its members before providing these comments, especially during a very busy construction season. Additionally, the current deadline of Nov. 4 does not provide enough time for ABC members interested in providing their own comments to the DOT

[Profile-US.pdf](#).

³ U.S. Census County Business Patterns by Legal Form of Organization and Employment Size Class for the U.S., States and Selected Geographies: 2019, available at <https://thetruthaboutplas.com/wp-content/uploads/2021/07/Construction-firm-size-by-employment-2019-County-Business-Patterns-Updated-071321.xlsx>.

⁴ Data source: [USASpending.gov](#) filtered data of FY2009 to FY2021 prime NAICS 23 contracts greater than or equal to \$25 million performed in the United States (accessed Feb. 22) and cross-referenced with ABC membership database annual report (accessed Dec. 20, 2021).

and IRS.

For the reasons outlined above, a 60-day extension from the current deadline of the comment period will be vital to ensure that the agencies can receive thorough input from all stakeholders affected by this guidance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ben Brubeck". The signature is written in a cursive, flowing style.

Ben Brubeck
Vice President of Regulatory, Labor and State Affairs