



Operating Engineers Local 150 Apprenticeship Fund

A Joint Effort of Labor and Management to Further the Aim of Industry
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International Union of Operating Engineers' Local 150
Apprenticeship and Skill Improvement Program
Comments to the Treasury Department of the Treasury and the Internal Revenue Service

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

November 4, 2022

The Local 150 Apprenticeship and Skill Improvement Program (ASIP) located in Wilmington, IL is the primary training facility for the International Union of Operating Engineers Local 150 (Local 150) headquartered in Countryside, IL. Local 150 represents 23,000 Heavy Equipment Operators, Owner Operators, Heavy Equipment Repair Technicians, Geothermal/Water Well Drillers, and Construction Material Inspectors that are employed by over 15,000 contractors across its jurisdiction, which includes counties in northern Illinois, northern Indiana and western Iowa. We additionally train Operating Engineers from other Locals across the nation that fall under the IUOE.

ASIP offers training to all Local 150 members at our 320,000 square foot training facility that sits on roughly 300 acres. The building houses a 180'x300' indoor equipment training arena, an 80'x300' indoor asphalt paving bay, over thirty classrooms, a 200-seat auditorium, multiple simulator and computer labs, material testing labs, overhead crane training bay, and full-service cafeteria.

Besides the courses delivered to apprentices, ASIP also runs a full schedule of Journey-Worker classes for Safety (OSHA-10 & 30, 40-Hour Hazmat, Confined Space, Disaster Site Worker, First Aid & CPR), Cranes, Excavation, Road Construction, Pipeline, Forklifts, Diesel Technicians, Construction Building Inspection, and Drilling (both vertical and horizontal).

Beyond the building, the Training Center features over 300 acres of hands-on training areas for cranes, earth moving equipment, road construction, drilling, pipeline, and CDL training to name a few. ASIP also owns nearly two-hundred pieces of heavy equipment for these types of training that are available to the membership six-days a week on a walk-in basis.





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For approximately the past five years, our apprenticeship program has indentured nearly 300 apprentices annually. We currently have over 900 active apprentices with the majority of those being indentured in the Operating Engineer Program. Over the past few years, the apprenticeship program has averaged over 150 graduates helping to fill the shortage of journey workers in the field.

The four apprenticeship programs offered by Local 150 have been approved by the U.S. Department of Labor (DOL) and conform to the following requirements:

- Operating Engineer, Geothermal and Well Drilling Operator, and Construction Building Inspector programs:
 - 6000 Hours of On-the-Job Training
 - A minimum of 144 hours of related instruction annually for the first three years
 - 3 or more equipment proficiencies
 - CDL (operators, driller, and mechanics)
 - Additional training requirements as needed
- Heavy Equipment Technicians program:
 - 8000 Hours of On-the-Job Training
 - A minimum of 216 hours of related instruction annually for the first three years
 - Welding Proficiencies
 - CDL
 - Additional training requirements as needed

When apprentices are indentured into one of the four apprenticeship programs, they are registered through DOL's RAPIDS website where DOL can track their progress. All apprentices are required to log their on-the-job training hours monthly on the ASIP website to track the equipment they are operating or the tasks they are completing for the contractor they are employed with. ASIP can then use this information to upgrade apprentices to the next year of apprenticeship and to align related instruction with the trending work to keep up with contractor and industry needs.

The Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) have asked for comments to help inform the development of guidance implementing various provisions of the Inflation Reduction Act of 2022 (IRA), including those pertaining to apprenticeship requirements. With more than 900 active apprentices in the construction arena, Local 150 ASIP is uniquely positioned to identify and understand the significance of the Treasury Department and IRS' efforts to ensure compliance relating to apprenticeship requirements.





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Apprenticeship is a proven training strategy that improves the skills of our workforce and enhances the efficiency and productivity of our industries. Investment in the registered apprenticeship system is a wise use of dollars and pays for itself many times over. Construction apprenticeships provide \$1.3 billion in long term economic value, an \$11 return per dollar invested ([ILEPI](#)¹). As the nation faces a critical shortage of skilled workers, expanding apprenticeship opportunities offers an effective approach to meet the needs of industry and support workers in search of high-quality training and good jobs.

Apprenticeship prepares skilled workers, helps America compete more effectively in the global economy, and contributes to our economic development, sustained economic growth, and national security. Nationwide, 80,000 industries and companies offer registered apprenticeship training to more than 593,000 apprentices ([DOL](#)²). These training programs serve a diverse population, including minorities, women, youths, and dislocated workers. Recent studies find that joint labor-management apprenticeship programs in the construction industry have rates of racial and ethnic diversity that rival public universities ([Manzo & Thorson](#)³).

Registered apprenticeship programs (RAPs) are operated by private industry – such as employers or labor and management sponsors. RAPs range from one to six or more years in length. For the apprentice, this translates into an "industry scholarship" worth \$40,000 to \$150,000. Since the content of the training program is determined by industry needs, RAPs produce workers with high demand skills.

As a result of the Federal Apprenticeship Act of 1937, the federal government (specifically DOL's Office of Apprenticeship Training) in cooperation with individual state apprenticeship agencies oversee the nation's apprenticeship system. DOL issues Certificates of Completion to apprentices, encourages the development of new programs through marketing and technical assistance, protects the safety and welfare of apprentices, and ensures that all programs provide high-quality training to apprentices. The government's return clearly outperforms other types of government-sponsored job training programs. Apprentices "earn as they learn," and wages paid totally by the private sector begin as soon as the apprentice enters training.

¹ <https://illinoisepi.org/focus-areas/apprenticeship-training/>

² <https://www.dol.gov/agencies/eta/apprenticeship/about/statistics/2021>

³ Frank Manzo IV & Kevin Duncan, *Union Apprenticeships: Choosing The Bachelor's Degrees for the Construction Industry* (2021), <https://illinoisepi.files.wordpress.com/2021/09/ilepi-union-apprentices-equal-college-degrees-final.pdf>





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With this background in mind, ASIP appreciates the Treasury Department and IRS' request for comments in developing guidance as an essential step toward ensuring apprentice participation on clean energy projects under the IRA.

1. Section 45(b)(8)(C) provides that each taxpayer, contractor, or subcontractor who employs four or more individuals to perform construction, alteration, or repair work with respect to a qualified facility must employ one or more qualified apprentices from a registered apprenticeship program to perform that work. What factors should the Treasury Department and the IRS consider regarding the appropriate duration of employment of individuals for construction, alteration, or repair work for purposes of this requirement?

ASIP supports the guidance submitted by North America's Building Trades Unions (NABTU) in that while the construction, alteration, or repair activity is ongoing, the Treasury Department should require the contractor to include, with each payment application to the taxpayer, a report containing the following information:

- i. The names of all qualified apprentices and their apprentice registration or identification number;
- ii. The number of qualified apprentices and labor hours worked by them, categorized by trade or craft;
- iii. The number of journey level workers and labor hours worked by them, categorized by trade or craft; and
- iv. Where applicable, a written declaration justifying an exception to the apprenticeship utilization requirement (*see* question 3 *infra*).

In addition, ASIP supports NABTU's proposal that any and all solicitations, contracts and subcontracts for construction of a Qualified Facility include the following clause: "all contractors and subcontractors engaged in the performance of construction, alteration, or repair work on a Qualified Facility shall ensure that not less than 10, 12.5, or 15 percent (depending on start date) of the total labor hours of such work be performed by qualified apprentices."

Further, ASIP is concerned with ratio standards set forth in Section 45(b)(8)(C) as they may conflict with RAP standards approved by DOL. Such standards are approved on an individual basis with health and safety concerns in mind. Thus, ASIP would encourage the Treasury Department to issue guidance making clear that when RAP standards differ from the ratio set forth in 45(b)(8)(C), RAP standards take precedence. To that end, ASIP encourages the Treasury Department to issue guidance whereby all solicitations, contracts, and subcontracts explicitly state that all RAP apprentice to journey worker ratios approved by DOL or applicable State Apprenticeship Agency supersede Section 45(b)(8)(C).





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2. Section 45(b)(8)(D)(ii) provides for a good faith effort exception to the apprenticeship requirement.
 - a. What, if any, clarification is needed regarding the good faith effort exception?

The Treasury Department should require that a taxpayer can only qualify for a good faith exception where it requests apprentices from a RAP that has graduated at least five (5) apprentices in each of the past five (5) years for each of the construction crafts they will perform on the project. ASIP is of the belief that if a RAP is not graduating their indentured apprentices then they are not contributing to a skilled workforce.

- b. What factors should be considered in administering and promoting compliance with this good faith effort exception?

ASIP also supports the NABTU proposal that the Treasury Department require outreach to all the RAPs that provide training for the applicable labor classification performing work on the project whose jurisdiction covers any area within a 75-mile radius of a Qualified Facility, including joint labor-management apprenticeship programs⁴. The Treasury Department should require the name and address of each RAP contacted, the name and title of the person(s) contacted, the means of contact (e.g., e-mail, letter, fax), and dates of contact. The taxpayer shall submit such declarations to the Treasury Department.

- c. Are there existing methods to facilitate reporting requirements, for example, through current Davis-Bacon reporting forms, current performance reporting requirements for contracts or grants, and/or through DOL's Registered Apprenticeship Partners Information Management Data System (RAPIDS) database or a State Apprenticeship Agency's database?

The existing methods the Treasury Department could use to facilitate reporting requirements include certified payroll reports and attestations submitted on a qualified project and the use of RAPIDS data discussed in more detail below.

3. What documentation or substantiation do taxpayers maintain or could they create to demonstrate compliance with the apprenticeship requirements in § 45(b)(8)(A), (B), and (C), or the good faith effort exception?

⁴ A readily accessible search tool for RAPs by location can be found at:
<https://www.apprenticeship.gov/apprenticeship-job-finder>





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The Treasury Department should use the following to demonstrate compliance or apply the good faith effort exception:

Certified Payroll Reports. The Treasury Department in consultation with DOL, should establish a procedure whereby the taxpayer must submit monthly certified payroll reports described in FAR 52.222-8 to the Treasury Department or DOL during construction, alteration, or repair of each covered project.

RAPIDS. The Treasury Department in consultation with the DOL, should establish a procedure whereby RAPIDS data provides proof an apprentice is indentured with a DOL RAP. Similarly, RAPIDS data is currently available as information contractors may use to prove to contracting agencies to show compliance with Davis-Bacon projects. RAPIDS data should be submitted to the Treasury Department or DOL during construction, alteration, or repair of each covered project.

Work Orders. A work order or other internal document used by a RAP to fulfill apprentice requests by a contractor or subcontractor. The document should contain the apprentice year, wage, and fringe benefits.

Declaration of Taxpayer. NABTU proposals are instructive as to taxpayers seeking covered tax credits or bonuses in that a taxpayer should submit a signed declaration made under the penalties of perjury, with the taxpayer's timely filed return, certifying compliance with the requirements of this notice. Such declaration should also certify that the clauses set forth in Sections 45(b)(8), 30C(g)(3), 45Q(h)(4), 45V(e)(4), 45Y(g)(10), 45Z(f)(7), 48(a)(11), 48C(e)(6), and 48E(d)(4) of this Notice have been included in the contracts and subcontracts for construction of the Qualified Facility.

Written Declaration. ASIP also supports the NABTU proposal that a taxpayer, contractor, or subcontractor seeking an exception to the apprenticeship utilization requirement prepare a specific written declaration, made under the penalties of perjury, detailing its efforts to secure qualified apprentices. Such efforts must include outreach to all the RAPs whose jurisdiction covers any area within a 75-mile radius of a Qualified Facility, including joint labor-management apprenticeship programs. The declaration shall include the name and address of each registered apprenticeship program contacted, the name and title of the person(s) contacted, the means of contact (e.g., e-mail, letter, fax), and dates of contact. The taxpayer shall submit such declarations to the Treasury Department along with the declaration of compliance.

4. Please provide comments on any other topics relating to the apprenticeship requirements in § 45(b)(8)(B) that may require guidance.





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It is the opinion of ASIP that the current scope of construction work performed on a covered project, or any other clean project, is already covered by existing DOL labor classifications. However, if new technology is created requiring a new labor classification, ASIP advocates for the use of the current DOL conformance process.

In sum, in developing guidance implementing the IRA apprenticeship requirements, it is essential that the Treasury Department and IRS consider easily attainable information already maintained and compiled by contractors, and submitted to RAPs and the DOL.

The apprenticeship requirements set forth in the IRA are essential in training skilled workers. With this background in mind, ASIP appreciates the Treasury Department and IRS' request for comments in developing guidance as an essential step toward ensuring qualified apprenticeship requirements on clean energy projects.

