



Policy solutions that work for low-income people

November 19, 2018

Deputy Assistant Secretary Rosemary Lahasky
U.S. Department of Labor
200 Constitution Ave., NW
Washington, DC 20210

Re: Docket ID number ETA-2018-0001

Dear Deputy Assistant Secretary Lahasky,

Thank you for the opportunity to comment on the U.S. Department of Labor's (DOL) information collection request (ICR) titled, Industry-Recognized Apprenticeship Program Accrediting Entity Information (OMB Control Number: 1205-0NEW).

The Center for Law and Social Policy (CLASP) is a national, nonpartisan, antipoverty organization advancing policy solutions for low-income people and people of color. We support Registered Apprenticeships as a tool to provide relevant, high-quality job training that increase workers' skills and wages, and promotes economic mobility; as such, CLASP is concerned the proposed Industry-Recognized Apprenticeship Program (IRAP) model will undermine the existing system. Moreover, we are concerned that the system described by DOL in Training and Employment Notice (TEN) No. 3-18, which outlines the framework for IRAP review and recognition, will not possess the appropriate safeguards to ensure equity, quality, and access for low-income people and people of color.

We are uncertain why DOL is implementing a new system that runs parallel to the existing Registered Apprenticeship system, nor why it is conducting an expedited process to do so—against the advice of the task force the administration convened over the last year to help advise on IRAP development and implementation. Furthermore, we are concerned that this proposal may run afoul of congressional intent, that apprenticeship regulations be promulgated to “safeguard the welfare of apprentices.”

We are also concerned that a complicated third-party certification system will make it more difficult for workers and employers to establish and participate in apprenticeship programs, could lead to conflicts of interest, risks weakening key labor protections, and could ultimately lead to a proliferation of low-quality programs.

Information collection request process

In the supporting statement accompanying this ICR, DOL states that an amendment to 29 CFR Part 29 would, among other things, establish more specific guidelines or requirements that qualified

entities must follow to ensure the IRAPs they accredit meet quality standards. Yet DOL has not released a proposed regulation outlining the IRAP system more broadly. We are uncertain why DOL is requesting comments on Accrediting Entity Information prior to issuing proposed regulations amending 29 CFR Part 29. We are concerned that moving forward to finalize the accreditation process before finalizing the details of how the system will function overall will limit the public's ability to weigh in with substantive comments that can help guide DOL's decision-making on this matter.

The substantive case for the IRAP system

DOL has not yet fully explained the functional purpose the IRAP system would serve that the current system cannot. In the TEN, DOL notes that "the goal of the Executive Order and this guidance is to create an additional pathway to encourage expansion of apprenticeships beyond those industries where apprenticeships already are effective and substantially widespread." This statement only explains that IRAPs will be used to expand into new industries, not why that is necessary.

Over the last several years Congress, this administration, and the Obama Administration have made crucial investments to improve access to and equity within Registered Apprenticeship programs. These investments have helped seed new programs and initiatives at the state level, helped expand Registered Apprenticeship to non-traditional industries, and have helped diversify the apprenticeship pipeline. According to the department's own data, the number of apprentices has increased by 42 percent since 2013 and the number of apprentices nationwide is currently 125 percent above the average across the last two decades.

While Registered Apprenticeship remains relatively uncommon in the United States, the data show strategic federal investments are helping expand it. By comparison, there is little, if any evidence that basic labor standards have prevented these programs from flourishing. By acting to weaken or circumvent these standards, the department risks reducing the value of apprenticeships to both workers and employers and undermining the investments it has already made.

Exemptions from key labor protections

The June 2017 executive order establishing IRAPs defines an apprenticeship as an "arrangement that includes a paid-work component and an educational or instructional component, wherein an individual obtains workplace-relevant knowledge and skills." This definition represents a major departure from the existing federal definition, which is much more specific regarding the structure of on-the-job training, wages, and overall program quality.

We are particularly concerned that the description of "paid work component" within the TEN opens the door for apprentices to earn less than the Federal minimum wage or their applicable state or municipal minimum wage, and that apprentices may not see their wages increase over time as they do under the Registered Apprenticeship system.

The TEN also indicates DOL will require IRAP sponsors to ensure their outreach and recruitment extends to all "without regard to race, sex, ethnicity, or disability"—a notable shift from the existing Equal Opportunity Employment regulations at 29 CFR Part 30, which state that individuals may not

be *discriminated* against based on race, sex, or other characteristics. Apprenticeship programs are already highly unequal by gender and race, and we are concerned that this provision would roll back recent efforts to improve equity in apprenticeship programs.

The TEN does notably state that certifiers must “[D]evelop comprehensive outreach strategies to reach diverse populations, thereby enabling widespread access to industry-recognized apprenticeship programs, including providing notices about apprenticeship openings to community- and faith-based organizations, schools, and other groups that represent diverse populations and who can help increase apprenticeship applications from those populations.” This statement, however, is noticeably weaker than the current requirements that apprenticeship sponsors devise affirmative action plans and conduct targeted outreach to underrepresented communities.

Third-party certification system and possible conflicts of interest

We are concerned that the third-party certification system will lead to an overly-complex web of standards, processes, and credentials that will be difficult for apprentices and employers to navigate and could undermine program quality. For example, the framework suggests that certifiers will be permitted to develop their own performance metrics, definitions around what qualifies as “highly structured work experiences” for apprentices, and their own credentials. The TEN also gives third parties broad discretion on how they ensure quality standards, without clear metrics or data collection requirements. By comparison, current regulations define these terms across all programs, require programs to adhere to the same standards, and all apprentices nationwide obtain the same nationally-recognized and-portable credential upon completion.

Additionally, while third parties could have substantial discretion in determining IRAP standards and processes, DOL has offered little information on what oversight authority it will exercise and how it plans to pursue enforcement.

The TEN also highlights that the third-party certification process is prone to potentially serious conflicts of interest. DOL suggests that certifiers may themselves provide the instruction to apprentices, and that they may develop their own online instruction modules for apprenticeship programs. Both provisions raise questions about whether DOL intends to allow certification bodies to be responsible for policing programs they have devised and whether they will be able to market instructional products to programs they oversee.

DOL should conduct a thorough, transparent process to assess whether IRAPs are viable

In its final report, the apprenticeship task force recommended piloting the IRAP model before going to scale, to evaluate how third-party certification might function in practice. DOL chose not to heed that recommendation, citing a “large skills gap” that requires immediate response. However, it is unclear how rapidly expanding an untested model with minimal guardrails will significantly raise workers’ skills.

CLASP is concerned that rushing to implement the IRAP system without explaining its necessity or resolving key questions regarding labor standards, oversight, or program quality will undermine recent efforts to expand Registered Apprenticeship. We are also concerned that the proposal will

have a disproportionately negative impact on low-wage workers and workers of color, who need stronger protections and increased federal investments to help improve their access to high-wage apprenticeships, not fewer.

Thank you for the opportunity to provide comments.