

U.S. DEPARTMENT OF LABOR  
EMPLOYMENT STANDARDS ADMINISTRATION  
WASHINGTON, D.C. 20210



OFFICE OF THE ADMINISTRATOR

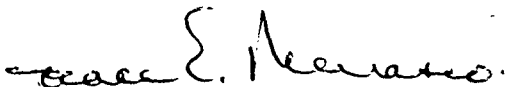
October 8, 1971

MEMORANDUM #101

TO: All Government Contracting Agencies of the Federal Government and the District of Columbia

SUBJECT: AMENDMENTS TO 29 CFR, PART 5, AND NEW 29 CFR, PART 5a: LABOR STANDARDS FOR RATIOS OF APPRENTICES AND TRAINEES TO JOURNEYMEN ON FEDERAL AND FEDERALLY-ASSISTED CONSTRUCTION.

Attached is a copy of new 29 CFR, Part 5a and a copy of certain conforming amendments to 29 CFR, Part 5. The attachments should be given careful study by contracting officers. It should be noted that the apprentice and trainee contract clauses shall be conditions of each Federal and federally-assisted construction contract in excess of \$10,000. Further, that the provisions of Part 5a and the revisions of Part 5 are applicable to every invitation for bids, and to every negotiation, request for proposals, or request for quotations, for a Federal or federally-assisted construction contract, issued after January 30, 1972, and to every such contract entered into on the basis of such invitation or negotiation.

  
Horace E. Menasco  
Administrator

Attachments (2)

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## PART 5a—LABOR STANDARDS FOR RATIOS OF APPRENTICES AND TRAINEES TO JOURNEYMEN ON FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

By notice of proposed rule, making published on December 9, 1970 (35 F.R. 18673), the Secretary of Labor invited the submission of written views, data, and arguments concerning proposed regulations to implement the statement by the President on "Combating Construction Inflation and Meeting Future Construction Needs" (6 Weekly Comp. of Pres. Doc. 376 (1970)), section 1 of the National Apprenticeship Act of 1937 (29 U.S.C. 50), Reorganization Plan No. 14 of 1950 (64 Stat. 1267; 3 CFR 1949-53 Comp., p. 1007), and the Copeland Act (40 U.S.C. 276c), 5 U.S.C. 301.

The response to the notice concerning the desirability and efficacy of the proposed rules has been very broad, representing many letters and comments from all segments of the construction industry.

After careful consideration of all comments received, a new Part 5a of Title 29, Subtitle A, Code of Federal Regulations, is hereby adopted to read as follows:

### Sec.

- 5a.1 Purpose and scope.
- 5a.2 Definitions.
- 5a.3 Apprentice and trainee employment requirements.
- 5a.4 Criteria for measuring diligent effort.
- 5a.5 Determination of ratios of apprentices or trainees to journeymen.
- 5a.6 Variations, tolerances, and exemptions.
- 5a.7 Enforcement.

**AUTHORITY:** The provisions of this Part 5a issued under sec. 1, 50 Stat. 664, as amended; 20 U.S.C. 50; sec. 2, 48 Stat. 848, as amended; 40 U.S.C. 276c; 5 U.S.C. 301. Reorganization Plan No. 14 of 1950, 64 Stat. 1267; 3 CFR 1949-53 Comp., p. 1007.

### § 5a.1 Purpose and scope.

(a) (1) The National Apprenticeship Act of 1937 (29 U.S.C. 50) authorizes and directs the Secretary of Labor "to formulate and promote the furtherance of labor standards necessary to safeguard the welfare of apprentices, to extend the application of such standards by encouraging the inclusion thereof in contracts of apprenticeship, to bring together employers and labor for the formulation of programs of apprenticeship, \* \* \*"

(2) Section B, 4 of Article III of the statement by the President on "Combating Construction Inflation and Meeting Future Construction Needs," dated March 17, 1970 (6 Weekly Comp. of Pres. Doc. 376 (1970)), indicates that training opportunities in construction

crafts presently are provided on most Federal construction projects, and directs "the heads of all Federal Government agencies to include a clause in construction contracts that will require the employment of apprentices or trainees on such projects, and that 25 percent of apprentices or trainees on each project must be in their first year of training. The number of apprentices employed shall be the maximum permitted in accordance with established ratios."

(b) The purpose of this part is to implement the President's statement of March 17, 1970, and to implement further the National Apprenticeship Act of 1937 and 29 CFR, Part 30, entitled "Equal Employment Opportunity in Apprenticeship and Training," issued pursuant to the Act, by formulating and promulgating labor standards necessary to promote the full realization of training opportunities on Federal and federally assisted construction in construction occupations, consistent with the general welfare of the journeymen employed in those occupations in the area in which the construction is being undertaken. The provisions of this part will be administered in a practicable manner, in order to avoid undue hardship or unreasonable results. Training opportunities must be provided in construction occupations including, but not limited to: Asbestos worker, boilermaker, bricklayer, cabinetmaker-millman, carpenter, cement mason, electrician, elevator installer, floor coverer, glazier, iron worker, marble polisher, millwright, operating engineer, painter, plasterer, plumber-pipe fitter, roofer, sheet metal worker, sprinkler-fitter, steamfitter, stonemason, terrazzo worker, and tile setter. The implementation is in conjunction with the duties of the Secretary of Labor under Reorganization Plan No. 14 of 1950 (64 Stat. 1267), providing for coordinating the administration and enforcement of the Davis-Bacon Act (40 U.S.C. 276a-276a-7) and related labor standards legislation applicable to Federal and federally assisted construction, and also the duties of the Secretary of Labor under the Copeland Act (40 U.S.C. 276c) for making reasonable regulations for contractors and subcontractors engaged in the construction, prosecution, completion, or repair of public buildings, public works or buildings or works financed in whole or in part by loans or grants from the United States.

(c) Section 5a.3 shall constitute the conditions of each Federal or federally assisted construction contract in excess of \$10,000, and each Federal agency concerned shall include these conditions or provide for their inclusion, in each such contract. Sections 5a.4, 5a.5, 5a.6, and 5a.7 shall also be included in each such contract for the information of the contractor.

### § 5a.2 Definitions.

As used in this part:

(a) "Federal agency" means the United States, the District of Columbia, and any executive department, independent establishment, administrative agency, or instrumentality of the United

States or of the District of Columbia, including any corporation all or substantially all of the stock of which is beneficially owned by the United States, by the District of Columbia, or by any of the foregoing departments, establishments, agencies, and instrumentalities.

(b) "Federal or federally assisted construction contract" means any contract to be performed within the United States as defined in section 8(d) of Public Law 89-286, 41 U.S.C. 351(d), for construction work of a character subject to the Davis-Bacon Act, or requiring the payment of minimum wages determined in accordance with the Davis-Bacon Act, entered into (1) by a Federal agency, or (2) by any other agency or person receiving for such work assistance in the form of grants, loans, or guarantees from a Federal agency.

(c) "Apprentice" means (1) a person employed and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Bureau of Apprenticeship and Training, or with a State apprenticeship agency recognized by the Bureau; or (2) a person in his first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Council (where appropriate) to be eligible for probationary employment as an apprentice.

(d) "Trainee" means a person receiving on-the-job training in a construction occupation under a program which is approved (but not necessarily sponsored) by the U.S. Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training, and which is reviewed from time to time by the Manpower Administration to insure that the training meets adequate standards.

(e) "Contract" or "contractor" includes any construction contract or construction subcontractor regardless of tier as well as the primary contract or prime contractor unless otherwise specified.

### § 5a.3 Apprentice and trainee employment requirements.

(a) The following contract clauses shall be conditions of each Federal or federally assisted construction contract in excess of \$10,000 and each Federal agency concerned shall include the clauses, or provide for their inclusion, in each such contract.

(1) The contractor agrees:

(i) That he will make a diligent effort to hire for the performance of the contract a number of apprentices or trainees, or both, in each occupation, which bears to the average number of the journeymen in that occupation to be employed in the performance of the contract the applicable ratio as determined by the Secretary of Labor;

(ii) That he will assure that 25 percent of such apprentices or trainees in each occupation are in their first year of training, where feasible. Feasibility here involves a consideration of (a) the availability of training opportunities for first year apprentices, (b) the hazardous