



Associated Builders and Contractors  
**Talking Points**

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# Associated Builders and Contractors Talking Points

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## **The ABC Story**

Associated Builders and Contractors (ABC) is a national association with 77 chapters representing 25,000 merit shop construction and construction-related firms with two million employees. ABC's membership represents all specialties within the U.S. construction industry and is comprised primarily of firms that perform work in the industry's commercial and industrial sectors.

Through its national office and chapters, ABC's objective is to provide its members with products, programs and services that help make their businesses successful. ABC's activities include congressional and federal government relations, political and legal advocacy, media relations, construction economic analysis, management and employee education and development, extensive online resources, established construction safety program evaluation and recognition, valuable employee benefit services and exclusive business discounts.

ABC serves as the merit shop construction industry's voice with the legislative, executive and judicial branches of the federal government, as well as with state and local governments and the news media. ABC is devoted exclusively to the advancement of the merit shop construction philosophy, which encourages open competition and a free-enterprise approach that awards contracts based solely on merit, regardless of labor affiliation.

The dramatic rise of ABC began in 1950 when seven contractors gathered in Baltimore to create an association based on the shared belief that construction projects should be awarded on merit to the most qualified and responsible low bidders. Their courage and dedication to the merit shop philosophy spread rapidly, and within time, ABC became the fastest growing association in the United States. Today, ABC is recognized as one of the leading organizations representing America's business community and the merit shop construction industry.

# The U.S. Construction Industry: A National Profile

## Construction and the U.S. Economy

- ABC's Construction Backlog Indicator (CBI), a measurement of the nation's nonresidential construction industry, was 5.8 months in November 2009, up from 5.6 months in October 2009, but still down from 7.1 months in November 2008. CBI is a forward-looking measurement reflecting the amount of work to be performed by contractors in the months ahead. For more information on the Construction Backlog Indicator, click [here](#). (Associated Builders and Contractors)
- The U.S. construction industry's value to the nation's gross domestic product (GDP) increased 2.9 percent from the third quarter to the fourth quarter of 2009, and now stands at \$585.1 billion. GDP is a measure of the market value of all goods and services produced in the U.S. during a given period of time. (Bureau of Economic Affairs, Department of Commerce)
- As of January 2010, total U.S. nonresidential construction spending – which includes both public and private construction – was \$615 billion. That is down 10.6 percent from January 2009. Overall, total construction spending – which includes both residential and nonresidential – was down 0.6 percent from December 2009 to January 2010, and is down 9.3 percent from January 2009. (Census Bureau, Department of Commerce)
- As of February 2010, nonresidential building construction employment stood at 661,600, a decrease of 101,700 jobs from February 2009. The construction industry unemployment rate is now 27.1 percent. In comparison, the nation's overall unemployment rate is 9.7 percent. (Bureau of Labor Statistics, Department of Labor).
- As of January 2010, prices for construction materials rose 1.3 percent from December 2009, and are up 1.6 percent from January 2009. Overall, the nation's wholesale prices increased 1.4 percent in January, and are up 4.6 percent from the same time one year ago. (Bureau of Labor Statistics, Department of Labor)

## The Construction Workforce

- Union membership in the U.S. private construction workforce was 14.5 percent in 2009, down from 15.6 percent in 2008 and 18.6 percent in 1998. The nonunion workforce is 85.5 percent. (Bureau of Labor Statistics, Department of Labor)
- In August 2009, the average hourly earnings of a construction worker were \$22.75, up from \$22.65 in July 2009 and \$22.16, or 2.7 percent, from August 2008. (Bureau of Labor Statistics, Department of Labor)
- The composition of the U.S. construction industry workforce has changed dramatically during the past five years, with significant increases in the number of female, African American, Hispanic and immigrant workers.

- The number of women in construction increased from 12.1 percent of the total construction workforce in July 2004 to 13.4 percent in July 2009. At the end of 2008, African American workers made up approximately 5.6 percent of the entire construction workforce. (Bureau of Labor Statistics, Department of Labor)
- Hispanic workers made up 24.6 percent of the U.S. construction industry workforce in 2008, compared to 14 percent of the overall U.S. workforce. (Bureau of Labor Statistics, Department of Labor)

### **Construction Industry Safety Record**

- Despite media and public perception, working in the construction industry is not the most dangerous profession. According to the federal government, the most dangerous occupations in terms of on-the-job fatalities in 2008 are as follows:

<b><u>Occupation</u></b>	<b><u>Fatalities</u></b>
- Fishers and related fishing workers –	128.9 per 100,000 workers
- Logging workers –	115.7 per 100,000 workers
- Aircraft pilots and flight engineers –	72.4 per 100,000 workers
- Farmers and ranchers –	39.5 per 100,000 workers
- Drivers/sales workers and truck drivers –	22.8 per 100,000 workers
- Construction workers –	9.6 per 100,000 workers
- National average of all professions –	3.6 per 100,000 workers

(Bureau of Labor Statistics, Department of Labor)

- Federal government statistics show that construction companies are providing employees with a safer workplace. As a result of industry initiatives, the injury/illness rate has steadily declined in recent years. Statistics on nonfatal injuries/illnesses per 100 workers are as follows:

1998—8.8 per 100 workers  
 1999—8.6 per 100 workers  
 2000—8.3 per 100 workers  
 2001—7.9 per 100 workers  
 2002—7.1 per 100 workers  
 2003—6.8 per 100 workers  
 2004—6.4 per 100 workers  
 2005—6.3 per 100 workers  
 2006—5.9 per 100 workers  
 2007—5.4 per 100 workers  
 2008—4.7 per 100 workers

(Bureau of Labor Statistics, Department of Labor)

### **ABC Construction Safety Initiatives**

- **ABC Safety, Training and Evaluation Process (STEP)** – a program that allows ABC member companies to evaluate and strengthen their policies and procedures for a safer workplace. The Occupational Safety and Health Administration (OSHA) has recognized STEP’s proactive commitment to safety and health, using the program as the cornerstone of many local and regional partnerships.

- In 2009, STEP contractors had 70 percent fewer OSHA citations per inspection than non-STEP participants.
  - In 2009, the incidence rate for STEP contractors was 41 percent below the Bureau of Labor Statistics (BLS) national average.
  - In 2009, STEP contractors had a 16 percent lower experience modification rate (EMR) than the BLS national average.
  - In 2009, the days away, restrictions and transfers (DART) rate for STEP contractors was 39 percent lower than the BLS national average.
- Click [here](#) for a STEP application and click [here](#) for STEP marketing resources.
  - **OSHA-VPP Challenge** – ABC is one of four national construction associations invited by OSHA to participate in the Voluntary Protection Program (VPP) Challenge, which recognizes construction companies with safety management systems that exceed OSHA standards. Companies must submit to voluntary, random inspections by OSHA and are subject to fines for any violations. For more information, click [here](#).
  - **Department of Labor’s Advancing Registered Apprenticeship into the 21st Century grant program** – awarded to ABC’s Trimmer Education Foundation for chapters and partnerships to use for apprenticeship training. Each selected ABC chapter and partnership is required to use a three-tiered learning structure that includes an online training curriculum.
  - **OSHA Susan Harwood Training Grant Program** – awarded to ABC’s Trimmer Education Foundation to fund a series of two- or four-hour training classes on “Focus Four” hazards in the construction industry – caught in-between, electrocution, falls from height and struck-by – that are presented through various ABC chapters across the country.
  - **ABC National Safety Excellence Awards** – held in conjunction with ABC’s Excellence in Construction Awards gala to recognize companies whose safety performance and programs are judged to be exemplary and exhibit a lasting commitment to jobsite safety.
  - **ABC National Environment, Health and Safety Committee** – provides leadership and direction to ABC chapters and members on safety, environmental and health issues. The goal is to assist small and medium-sized contractors in developing effective, onsite safety training programs.
  - **Industry leadership on safety** – ABC members and staff participate in industry and safety committees and forums, including the American National Standards Institute (ANSI) A10 Accredited Standards Committee (ASC), National Center for Construction Education and Research (NCCER) Safety Committee and numerous local safety councils. In addition, ABC members regularly receive the national Construction Users Roundtable’s (CURT) Construction Industry Safety Excellence (CISE) award. ABC members also participate in and are asked to testify in OSHA’s rulemaking process.

- **Safety classes** – ABC offers classes through its chapters and annual Construction Education Conference for construction craft professionals and managers, all with the purpose of providing a safe workplace. Topics include: fall protection safety, steel erection safety, electrical safety, scaffolding safety, trenching and excavation safety, OSHA's 10-hour and 30-hour construction outreach and a 100-hour Construction Site Safety Technician program.
- **Construction safety manuals** – a collection of safety programs, policies and procedures in both English and Spanish that provide member companies with a template on which to base their safety programs.
- **Safety Toolbox Talks** – a collection of 89 Safety Toolbox Talks in English and Spanish that are designed to educate employees on the construction jobsite.

## Legislative and Regulatory Issues

### **Card Check - Employee Free Choice Act of 2009**

The Employee Free Choice Act of 2009 (S. 560/H.R. 1409), or “card check” legislation, was introduced March 10, 2009, by Sen. Ted Kennedy (D-Mass.) [deceased] and Rep. George Miller (D-Calif.).

- ABC strongly opposes federal legislation that would effectively eliminate a worker’s fundamental American right to a federally supervised secret-ballot election when deciding whether to join a union. The bill would replace the secret ballot with a biased and inferior “card check” process that allows a union to organize if a majority of workers simply sign a card. Under this system, workers’ votes are made public to the employer, the union organizers and coworkers.
- ABC strongly opposes federal legislation that eliminates a worker’s right to vote on a labor contract. Under the Employee Free Choice Act, if an agreement between the union and management is not reached within 120 days, a federal government arbitrator would decide the terms of the contract for the first two years, including wages, benefits and working conditions. Workers would not be able to vote to either accept or reject a contract.
- In the end, workers could end up in a union they didn’t vote for, and forced to abide by a contract on which they didn’t vote. No secret-ballot election. No vote on a contract. Where is the free choice?

The Secret Ballot Protection Act of 2009 (S. 478/H.R. 1176) was introduced Feb. 25, 2009, by Sen. Jim DeMint (R-S.C.) and Rep. John Kline (R-Minn.).

- ABC supports this federal legislation that would guarantee workers the right to a secret-ballot election when deciding whether to unionize, and would prohibit unions from being recognized based solely on a card check system.
- All workers, in every industry, deserve the fundamental American right to a federally supervised secret-ballot election without fear of coercion or intimidation.

- For more information on Card Check, click [here](#). Click [here](#) to visit The Truth about EFCA website.

### **Davis-Bacon Act**

The Davis-Bacon Act is a 1931 federal law that establishes wage rates and other conditions on construction projects involving more than \$2,000 in federal funds. The law is named after its co-authors Sen. James Davis (R-Pa.) and Rep. Robert Bacon (R-N.Y.). Since 2007, some members of Congress have been working to add Davis-Bacon provisions to legislation that would either expand the act into private construction projects or into other areas of federal public construction not previously covered.

- The Davis-Bacon Act discourages many qualified small and minority-owned contractors from bidding on public projects because the complex and inefficient wage and work restrictions make it nearly impossible for them to compete with better capitalized corporations.
- Studies have shown that prevailing wage laws like the Davis-Bacon Act can inflate construction costs up to 38 percent. Eliminating the Davis-Bacon Act's requirements would reduce unnecessary federal spending and guarantee more construction per dollar spent on important public projects such as schools, roads, bridges, low-income housing, hospitals and prisons.
- The Davis-Bacon Act is anti-states' rights: 19 states have chosen not to have a state prevailing wage law (and six more have some exemptions for schools) because the wage mandates drastically inflate construction costs.
- The Davis-Bacon Act is purely a wage mandate with outdated job restrictions that do not match the needs of today's competitive business environment.
- The Davis-Bacon Act does not improve safety, quality or training. Ensuring jobsite safety is the purview of OSHA. The Davis-Bacon Act was not written to address project quality, which is governed by procurement laws, project specifications and bonding requirements. It is not a job training law and does nothing to ensure workers are better trained on public projects.
- Several studies have called into question the credibility of Davis-Bacon Act wage determinations. A series of audits by outside agencies, as well as 2004 audit by the Department of Labor's Office of Inspector General, revealed substantial inaccuracies in Davis-Bacon Act wage determinations and suggested that they are vulnerable to fraud.
- For more information on Davis-Bacon, click [here](#)

### **Energy – ABC Position**

The call for a comprehensive national energy policy has grown steadily as gas prices wildly fluctuate and the U.S. remains heavily dependent on foreign sources for oil. During the next 20 years, U.S. oil consumption will increase by 33 percent and demand for electricity will rise by 45 percent. Future energy demand is going to surpass supply if no action is taken.

- The nation’s energy infrastructure is insufficient and crumbling; new construction and upgrades to plants and transmission infrastructure are desperately needed. Each new power plant would create 1,000 construction jobs and 200 permanent jobs, and every 1,000 miles of pipeline built would create 5,000 new jobs.
- ABC is committed to ensuring these new projects are built with open competition and without government-mandated project labor agreements.
- ABC supports a comprehensive energy plan that will benefit all Americans through less expensive, more stable energy supplies. From families and small businesses to large corporations, a reliable energy supply will help alleviate price instability and prevent increased pricing of goods and services.

**Energy - *American Clean Energy and Security Act of 2009 (Cap and Trade)***

Introduced May 15, 2009, by Rep. Henry Waxman (D-Calif.) and Rep. Ed Markey (D-Mass.,) the legislation is known also as the Waxman-Markey bill or Cap and Trade.

- ABC opposes this legislation due to the additional tax and financial burden it places on the American people and their businesses.
- The cap and trade provision will increase the cost of energy – including gasoline, diesel fuel and electricity – for every person and business. The Congressional Budget Office estimates the bill will add as much as 77 cents to the price of a gallon of gas.
- The Waxman-Markey bill includes a massive expansion of the Davis-Bacon Act by subjecting any project funded directly, or in part, by the legislation to prevailing wage requirements.

**Green Jobs**

As part of the Energy Independence and Security Act of 2007 (H.R. 6), the Green Jobs Security Act was signed into law by President Bush Dec. 18, 2007 (P.L. 110-140). It established a new program that provided \$125 million in grants for programs that train skilled workers for energy efficiency and renewable energy projects.

However, the act stipulates that in order to receive the grants, nonprofit entities must include the “equal participation” of labor organizations, effectively excluding more than 84 percent of the private sector construction workforce that chooses to work open shop.

In response, Sen. Johnny Isakson (R-Ga.), on June 11, 2009, and Rep. John Kline (R-Minn.), on April 22, 2009, introduced The Green Jobs Improvement Act of 2009 (S. 1238/H.R. 2026), which would expand the Green Jobs Act and allow merit shop programs to receive federal funding for green jobs training.

- ABC strongly advocates the merit shop construction philosophy, which encourages open competition and a free-market approach to awarding construction contracts. ABC believes all contractors should have the opportunity to compete openly and fairly for green projects.

- Requirements that restrict the ability of merit shop contractors to bid on green projects unnecessarily limit competition and do not offer any benefit to the end users – the general public. Construction contracts should be based on merit and awarded to the most qualified and responsible low bidders, regardless of labor affiliation.
- For more information on green jobs, click [here](#)

### **Health Care Reform**

The Patient Protection and Affordable Care Act of 2009 (H.R. 3590), introduced September 17, 2009, by Rep. Charles Rangel (D-N.Y.), was passed by the House of Representatives on March 21, 2010. The Senate passed the same bill on December 24, 2009. It was signed into law by President Obama on March 23, 2010.

- ABC believes the health care system works best when administered on free market principles, and that it must provide greater choice, affordability and allow private insurers to compete for business.
- The unique nature of construction demands health care insurance benefits to be portable – so that the health care insurance policy remains with the worker, not the employer, while he or she moves from job to job.
- ABC advocates allowing markets to operate unencumbered by state and federal government mandates. ABC strongly supports extending the Employee Retirement Income Security Act (ERISA) preemption currently available for larger, self-insured corporate plans and Taft-Hartley union plans, to bona fide trade and professional associations for all business through Association Health Plans (AHPs). Insurance carriers selling to small groups have marketing, administration and profit targets totaling up to 35 percent of the premium charged to small employers. AHPs, on the other hand, have expense factors that usually total 15 percent or less.
- ABC supports efforts to raise the self-employed health care deduction to 100 percent and supports maintaining the tax deductibility of health insurance premiums for all employers.
- ABC supports Health Savings Accounts (HSAs), which are tax-free savings accounts for medical expenses that will allow more small business owners to obtain affordable health coverage for themselves and their employees. ABC also supports expanding access to high-deductible health plans and HSAs, and increasing the HSA contribution limits.
- ABC opposes the creation of a “public option” or government-run insurance plan. This taxpayer-funded public health insurance option would result in a significant increase in taxes, as well as increase the federal deficit. In addition, a government-run plan would not operate as a fair competitor in the marketplace and would result in the elimination of currently existing private plans.

- ABC opposes a “pay or play” mandate that requires employers to provide health care insurance to their employees or pay a tax (8 percent of payroll). This would have a negative impact on small businesses and stifle the creation of jobs.
- ABC opposes the creation of a Health Benefits Advisory Council that would have significant power in determining levels of coverage and treatment. Doctors, patients, insurers and plan sponsors should make these decisions, not federal government bureaucrats.
- For more information on health care, click [here](#).

### **Immigration – ABC Position**

In 2005, the ABC National Board of Directors adopted a policy stating that any successful immigration reform measure must be comprehensive in nature and provide for the enforcement of our laws, the security of our borders and the prosperity of our economy. Immigration reform will fail without a legal channel allowing willing, essential foreign workers the opportunity to work legally in this country.

- ABC supports comprehensively reforming the nation’s immigration policy to facilitate a sustainable workforce for the American economy while ensuring national security.
- ABC continues to actively monitor Congress for the introduction of any legislation that would run counter to ABC’s position on comprehensive immigration reform.
- For more information on immigration, click [here](#)

### **Immigration – E-Verify**

E-Verify is a system that electronically verifies the employment eligibility of newly hired employees and existing workers. E-Verify allows participating employers to electronically compare employee information taken from the Form I-9 (the paper-based employee eligibility verification form used for all new hires) against more than 425 million records in the Social Security Administration’s database and more than 60 million records in the Department of Homeland Security’s immigration databases.

- As of Sept. 8, 2009, the federal government requires the use of E-Verify on all federal solicitations and contract awards. However, Congress has yet to mandate the use of E-Verify for all employers.
- ABC and its members are strongly opposed to the hiring of illegal immigrants, or undocumented workers, and together have been a vocal advocate for comprehensive immigration reform.
- ABC supports the E-Verify program as a voluntary program expressly limited to the verification of Social Security numbers of new employees.
- There are a number of problems with the E-Verify system’s current functionality and accuracy that could unnecessarily expose employers – that are acting in good faith – to legal liability.

- For more information on E-Verify, click [here](#)

### **Independent Contractor Reform – ABC Position**

An independent contractor is a person, business or corporation that provides goods or services to another entity under terms specified in a contract or within a verbal agreement. Unlike an employee, an independent contractor does not work regularly for an employer but rather on an as-needed basis. This arrangement allows independent contractors to choose their own schedule, affords business owners the flexibility to adjust staff demands with seasonal construction volume, and provides reasonably priced, quality products and services to the consumer.

- Many businesses in the construction industry cannot afford to maintain specialized trade craftsmen as employees. These specialists may be needed several times throughout the year, but not frequently enough for full-time or even part-time employment. Independent contractors are often the perfect solution to a pressing demand for the unique skills often required for specialized, short-term projects.
- ABC supports aggressive enforcement against employers that intentionally classify employees as independent contractors to avoid tax and other consequences. These techniques are employed by dishonest contractors to win jobs against reputable contractors that offer benefits to their workers.
- ABC supports safe harbors that protect well-intentioned employers that unintentionally misclassified employees; however, various federal and state agencies' tests to determine if a worker is an independent contractor are vague and contradictory. In many cases, three or four different tests can apply to determine the status of a worker. When an employer incorrectly classifies an employee as an independent contractor, the employer can be liable for thousands of dollars in fines, back taxes and benefits.
- For more information on independent contracting reform, click [here](#)

### **Independent Contractor – *Taxpayer Responsibility, Accountability, and Consistency (TRAC) Act***

On July 30, 2009, Rep. Jim McDermott (D-Wash.) introduced the Taxpayer Responsibility, Accountability, and Consistency (TRAC) Act of 2009 (H.R. 3408), that would significantly modify the rules for when employers are allowed to classify workers as independent contractors.

The bill would amend the Internal Revenue Code of 1986 to include a provision that would only allow employers to avoid employment tax liability if they are able to show a “reasonable basis” for applying the independent contractor status. In addition, the measure would repeal the “safe harbor” provision in Section 530 of the Revenue Act of 1978.

The legislation also would significantly increase the penalties for employers that misclassify employees as independent contractors, including raising the minimum penalty for each incorrect tax return filed from \$50 to \$250, not to exceed \$3 million a year, and

raising the fine for each employer that intentionally disregards the filing requirement from \$100 to \$500 per tax return.

- ABC opposes H.R. 3408 and any other proposals that would limit the flexibility of employers to use independent contractors.

ABC will continue to advocate for a clear, concise and reasonable definition of independent contractors, as well as preservation and clarification of section 530 of the Revenue Act of 1978, which provides good faith businesses with a safe harbor.

### **Job Creation Proposal – ABC Initiative**

On March 2, 2010, ABC released its construction Job Creation Proposal. With the construction industry unemployment rate at 27 percent – nearly three times the national average – creating jobs and invigorating the economy is a priority for ABC members. The Job Creation Proposal includes the following recommendations:

- Eliminating uncertainty in the business environment by calling on Congress and the administration to focus on free-enterprise initiatives and open competition instead of anti-business legislative and regulatory proposals.
- Increasing access to capital for new construction projects and viable, low-risk projects that simply need funding in order for work to commence.
- Providing meaningful tax relief and reducing the tax burden on hardworking Americans and small businesses.
- Enacting a national comprehensive energy plan that includes new construction and upgrades to the nation’s insufficient and crumbling infrastructure.
- Allowing the entire construction industry workforce to participate on federally funded or federally assisted projects.
- Supporting construction training programs that will attract new skilled workers.
- To read the entire ABC Job Creation Proposal, click [here](#).

### **Job Targeting**

Job targeting, or market recovery programs, collect fees from union members for the purpose of providing wage subsidies to enable union contractors, and in some case nonunion contractors, to compete for projects on which they otherwise would be non-competitive. A 2008 research study conducted by George Mason University’s John M. Olin Institute for Employment Practice and Policy found that from 2000 to 2007, unions in the construction industry spent more than \$1 billion to engage in and support job targeting.

- ABC opposes the illegal collection of job targeting funds on public works projects, and supports full financial disclosure of the collection and disbursement of these funds.

- Job targeting programs increase public construction costs by artificially inflating wages. As a result, the public is unknowingly paying a much higher cost to build fire and police stations, hospitals, schools, roads, libraries and numerous other publicly funded construction projects.
- Job targeting programs are unknowingly funded by taxpayers. The dollars that union members contribute to fund job targeting programs are not considered “dues” and, therefore, may not be deducted on their tax returns. However, the Olin Report suggests that the money union members pay into job targeting funds is being deducted as dues on tax returns.
- Job targeting programs give unions an unfair advantage. The law currently allows a union to pay money to a company for the purpose of putting another company out of business and taking jobs away from the other company’s workers. If a nonunion construction company engaged in the same conduct as a labor union, it would be prosecuted for violating antitrust laws.
- For more information on job targeting, click [here](#).

### **Labor Reform - *RESPECT Act***

The Re-Empowerment of Skilled and Professional Employees and Construction Trades workers (RESPECT) Act has yet to be reintroduced in Congress, but the legislation is high on organized labor's agenda.

The legislation, as previously introduced, would radically change the National Labor Relations Act (NLRA) definition of a "supervisor." Under current law, a supervisor is considered an agent of management and has a duty of undivided loyalty to the employer in labor-management relations, such as during union organizing campaigns, grievances, picketing and strikes. That duty would be compromised by the RESPECT Act.

Under the RESPECT Act, supervisors would be covered by the NLRA and could then form, join or assist labor organizations; be eligible to vote in National Labor Relations Board-supervised elections; solicit signatures for union authorization cards from coworkers; or picket, go on strike or engage in other work stoppages that would be inconsistent with a supervisor's duty.

- This legislation is not about respect or workers’ rights; it’s about depriving employers of their key supervisors and denying supervisors the job status they have earned.
- The so-called RESPECT Act is part of organized labor’s legislative strategy to radically overhaul the nation’s labor laws to increase membership and economic clout.
- For more information on the RESPECT Act, click [here](#)

### **OSHA – Occupational Safety and Health Administration**

ABC shares a partnership and a commitment to safety with OSHA. Many ABC member companies have safety programs that exceed OSHA requirements and are among the best safety programs in the industry.

- ABC encourages "partnership" relationships between OSHA and the construction industry, involving greater consultation, training, technical assistance, employer/employee cooperation, and a variety of incentives to improve workplace safety and health.
- ABC will continue working with Congress and the Department of Labor to enact legislation that seeks to protect its members' most important assets - their employees.

### **Project Labor Agreements (PLAs)**

Publicly funded PLAs are contracts that effectively restrict open shop contractors and their employees – which comprise more than 84 percent of the construction workforce – from bidding and working on construction projects.

On Feb. 6, 2009, President Obama signed Executive Order 13502 repealing Executive Order 13202, which prohibited federal agencies and recipients of federal funding from requiring contractors to sign union-only PLAs as a condition of performing work on federal and federally funded construction projects.

President Obama's Executive Order 13502 applies to "large-scale construction projects" having a total cost to the federal government of \$25 million or more. However, it does not mandate the use of a PLA; it only encourages executive agencies to consider requiring its use.

- A union-only PLA is a contract that requires a federal construction project to be awarded only to contractors and subcontractors that agree to recognize unions as the representatives of their employees on that job; use the union hiring hall to obtain workers; obey the union's restrictive apprenticeship and work rules; and contribute to union pension plans from which their employees will never benefit unless they join a union.
- It is wrong for federal, state or local governments to impose discriminatory PLAs that deny the vast majority of construction workers access to publicly funded projects. These are workers who choose not to join a union. Such discrimination denies taxpayers the ability to work on projects being paid for by their own tax dollars.
- Unions use the threat of labor unrest to coerce construction owners into signing union-only agreements. This is a particularly disingenuous argument because labor unions cause such project delays through strikes, work stoppages, jurisdictional disputes and illegal organizing.
- For more information on project labor agreements, click [here](#)

### ***Stimulus - American Recovery and Reinvestment Act***

The American Recovery and Reinvestment Act of 2009 (S. 1/ H.R. 1) was introduced Jan. 6, 2009, by Sen. Harry Reid (D-Nev.) and Jan. 26, 2009, by Rep. David Obey (D-Wis.). The legislation was signed into law by President Obama Feb. 17, 2009 (PL 111-5).

- The \$787 billion stimulus bill increases funding by \$140 billion for federal, state and local projects, including the construction of buildings, schools, highways and bridges, as well as workforce development and additional programs.
- ABC supports provisions that stimulate the economy during a recession and get people back to work.
- ABC opposes provisions that require federally funded construction contracts to include costly and discriminatory union-only project labor agreements and expand Davis-Bacon Act requirements.

### **Tax Reform – ABC Position**

One of the greatest obstacles to increased economic growth and higher standards of living is the nation's complex and ever-changing tax code. Not only does this system impose excessive levels of taxation on income from work, savings and investment, but compliance with its rules and regulations can be extremely time consuming and costly.

- ABC supports minimizing the tax burden on U.S. citizens – and the construction industry in particular – to help increase the rate of capital formation, economic growth and job creation.
- Tax cuts for businesses should be maintained as an integral part of the balanced budget, as tax relief for businesses boosts the economy and makes it easier to achieve a balanced budget.
- ABC specifically advocates capital gains tax cuts, repeal of the estate tax, Alternative Minimum Tax relief, independent contractor clarification, cash accounting clarification and repeal of look-back accounting requirements for construction firms.

### **Tax – 3 Percent Withholding**

Under the Tax Increase Prevention and Reconciliation Act of 2005 (P.L. 109-222), federal, state and local governments are required to withhold 3 percent from all payments on goods and services with total expenditures of \$100 million or more. The 3 percent withholding is scheduled to go into effect in 2011.

ABC filed comments May 14, 2008, with the U.S. Department of Treasury and the Internal Revenue Service (IRS) recommending how Section 511 of the Tax Increase Prevention and Reconciliation Act of 2005 should be implemented. ABC argued that “Congress did not intend to put the burden of financing public construction projects on the backs of small businesses when it enacted Section 511.”

- ABC opposes the implementation of the 3 percent withholding tax and supports full repeal of the provision.
- The 3 percent withholding tax significantly affects company cash flow, especially in construction where the pre-tax profit margins rarely meet or exceed 3 percent. This new withholding requirement is based on revenues from government payments, not on a company's taxable income.
- For more information on 3 percent withholding, click [here](#)

### **Union Salting - *Truth in Employment Act of 2009***

The Truth in Employment Act of 2009 (S. 1227/H.R. 2808), was introduced June 10, 2009, by Sen. Jim DeMint (R-S.C.) and Rep. Steve King (R-Iowa). The bill would amend the National Labor Relations Act to make clear that an employer is not required to hire any person who is not a “bona fide applicant” because the applicant is simply seeking a job to promote interests unrelated to those of the employer.

"Salting" abuse is the intentional placing of trained union professional organizers and agents in an open shop facility to harass or disrupt company operations, apply economic pressure, increase operating and legal costs, and ultimately drive the company out of business.

- Salting is an instrument of economic destruction aimed at nonunion companies that has nothing to do with union organizing.
- Union salts try to destroy their employers or deliberately increase costs through various actions, including workplace sabotage, frivolous discrimination complaints and lawsuits against various agencies.
- Ultimately, it is the taxpayers that foot the bill to fund the investigation and prosecution of these frivolous complaints filed by the union salts.
- For more information on union salting, click [here](#)

## **Political Action**

### **Associated Builders and Contractors' Political Action Committee (ABC PAC)**

Founded in 1978, ABC PAC's sole mission is to collect voluntary contributions from the executive and management personnel of ABC member firms for the purpose of electing champions of the merit shop legislative agenda to the White House, U.S. Senate and U.S. House of Representatives.

- When ABC members give to ABC PAC, they become part of a powerful collective voice of Americans running small businesses. During the 2007–2008 election cycle, ABC PAC contributed almost \$2 million to nearly 200 candidates running for the U.S. House of Representatives and the U.S. Senate, 54 leadership PACs, four national party committees, 16 state party committees and the presidential campaign of Sen. John McCain (R-Ariz.). Of the candidates ABC PAC supported, 73 percent were successfully elected to Congress.
- In the 2008 election cycle, ABC PAC was once again the second largest construction- related PAC to donate funds to federal candidates. Only the National Association of Home Builders' PAC was larger.
- Fifteen ABC contractor members make up a board of trustees that oversees ABC PAC. The board makes policy and operating decisions, and approves all disbursements.

- Candidates seeking ABC PAC’s support must agree with ABC’s position on key issues such as the Employee Free Choice Act, or “card check” legislation, union-only project labor agreements (PLAs), taxes and health care, to name a few. If the candidate is a sitting member of Congress, he or she must meet minimum voting criteria favorable to ABC’s key issues.
- ABC PAC is bipartisan; however, the importance of having House and Senate leadership that shares ABC’s philosophy is also emphasized.

### **Free Enterprise Alliance (FEA)**

FEA is the issue advocacy arm of ABC National (not an independent organization). Its mission is to educate ABC members, their employees, elected officials and the general public on issues important to merit shop construction contractors. All contributions to FEA are voluntary and not tax deductible for federal income tax purposes.

- As permitted by law, FEA helps advance a free-enterprise agenda by working with state, local and federal officials on business legislation, initiatives and referendums.
- FEA sponsors an employee education campaign, which is a nonpartisan and legally approved plan for reaching out to all ABC members, and most importantly, to ABC member company employees and craft professionals. The program helps educate ABC member company employees about the merit shop construction issues affecting the industry, and the role they play as merit shop employees.

## **Workforce Development**

ABC offers management education programs to elevate the skills and professionalism of managers – from field staff to senior executives – and supports merit shop workforce development through scholarships, grants and other special programs. ABC also seeks to improve the industry with innovative national recognition programs such as Craft Professional of the Year, Craft Instructor of the Year, National Craft Championships, the Trimmer Excellence in Teaching Award and Trimmer Education Foundation scholarships.

For more information on education and training, click [here](#).

### **Contractor Councils**

Currently, ABC has national councils for industrial contractors, electrical contractors, elevator contractors, mechanical contractors and metal building assemblers/erectors.

- The purpose of the national councils is to serve the needs of specific trade groups within ABC. The councils are charged with identifying and then providing ABC with initiatives and services specifically tailored to members of their trades. In addition, the councils serve as a sounding board for ABC regarding trade-specific legislative, regulatory and other industry issues.

- Council activities include workforce development initiatives, assisting with the National Craft Championships, developing relationships and partnering with other industry trade associations, facilitating peer group formation, providing trade-specific management education programs, and assisting chapters in communicating trade-specific membership benefits to current and potential members.

### **Craft Training and Apprenticeship**

Every year, ABC trains thousands of craft workers nationwide through both apprenticeship and craft skills upgrade programs. Training programs are offered in conjunction with local ABC chapters.

- ABC provides craft, apprenticeship, safety and management training through its network of 77 chapters nationwide. A number of chapters provide craft training in multiple locations throughout the region they serve. Chapters also provide continuing education to meet requirements to maintain journeyman licenses in various construction crafts.
- ABC provides apprenticeship training programs in nearly 30 crafts registered with the U.S. Department of Labor, with the majority of chapters offering training in carpentry, electrical, plumbing, HVAC and sheet metal. Chapters also serve industrial contractors by providing training in crafts such as pipefitting, millwright, industrial painting, industrial maintenance and instrumentation.
- One of the keys to ABC's success is that while ABC training is industry-driven to meet local needs, it is supported by nationally recognized programs such as the National Center for Construction Education and Research's Contren® Learning Series curricula.
- ABC chapters partner with educational institutions, such as community colleges and vocational/technical centers, to utilize facilities for craft training, with at least 20 ABC chapters or their cooperative organizations owning and operating craft training facilities. Eleven ABC chapters belong to merit shop training consortiums, pooling resources with other trade associations to advance local construction industry training.

### **Diversity**

ABC is committed to helping members employ a culturally diverse workforce, and believes that a diverse and inclusive workforce provides ABC members with a strategic business advantage.

- In June 2007, ABC signed a joint resolution renewing its partnership with the National Association of Women in Construction. In June 2006, ABC signed two national-level agreements with the National Association of Minority Contractors and Women Construction Owners and Executives, USA to promote free enterprise, open competition and opportunities for all construction firms.
- The agreements outline the shared understanding that the U.S. construction industry must continue to diversify in order to remain globally competitive. This involves attracting significantly more women and more members of the minority community.

- The agreements encourage construction industry leaders to develop national initiatives designed to improve the business climate for all contractors, as well as provide minority- and women-owned firms access to service, training, networking and other support programs.
- ABC chapters are eligible for diversity grants by satisfying six critical elements in the application process: partnering with local organizations representing minorities or women, maintaining a commitment from leadership, using effective practices, securing additional resources from strategic partners, developing models on effective approaches and measuring results.
- ABC is committed to supporting industry efforts to overcome the challenges and maximize the opportunities associated with an increasingly diverse workforce and subcontractor/supplier base. The *ABC Employer Guide for Diversity and Inclusion* provides guidance, direction, information, and reference materials for ABC member companies that are initiating or further developing an existing diversity program.
- For more information on diversity, click [here](#).

### **Green Building**

The mission of ABC's National Green Building Committee, a panel consisting of a cross-section of ABC member contractors, is to advance ABC members' ability to support their customers and thrive in the green building industry by providing education and resources; advocating for smart energy policy and legislation; establishing partnerships and working with construction owners; and developing and communicating best practices to demonstrate a commitment to sustainability and promote an eco-friendly culture throughout the association.

- ABC has been at the forefront of the green building movement since its inception. ABC members were involved in the founding of the U.S. Green Building Council (USGBC) and in the drafting of the Leadership in Energy and Environmental Design (LEED) rating system.
- ABC members lead the construction industry by utilizing sustainable construction methods and practices. In *Engineering News-Record's* 2008 listing of the Top 200 Green Contractors, seven of the top 10 are ABC members with nearly \$18 billion in green building revenue.
- To access ABC's Green Construction at Work website, click [here](#).

### **Green Contractor Certification**

ABC's national program is designed to document the efforts of merit shop construction firms that are developing a sustainable workplace environment and to recognize those ABC members that are leaders in the green industry.

- ABC's Certified Green Contractor program focuses on the green initiatives ABC member firms undertake in the workplace (not on construction projects) and it certifies companies, not individuals.

- Each ABC member company must submit an application detailing its green efforts and undergo a third-party onsite assessment.
- Each ABC member company must complete 12 prerequisites ranging from the electronic distribution of documents to establishing an aggressive recycling program.
- Each ABC member company is required to fulfill at least 12 out of 36 elective items that include conducting a professional energy audit, engaging in water conservation efforts, and providing incentives for carpooling or using public transportation.
- Each ABC member company must achieve four education and training benchmarks, such as instructing employees on sustainability issues, and must require at least 25 percent of eligible managers to receive green building awareness education.
- For more information on ABC's Certified Green Contractor program, click [here](#).

### **Peer Groups**

Peer groups, or business exchange forums, are comprised of similar companies that meet regularly to discuss matters of business and personal interest.

- Groups consist of six to 10 non-competing members. Peer group members must not be in competition with one another to avoid antitrust problems from the sharing of competitively sensitive information, for example job selection criteria, estimating techniques and overhead/markup determination. Having non-competing members also means that participants freely share information without fear that they will give an advantage to a direct competitor.
- The concept is based on “win-win” sharing. Each member learns something from the other members of the group while contributing their own ideas and experiences.
- ABC National facilitates the formation of peer groups, of which there are more than 30. Group members take turns hosting or chairing a meeting in their hometown and typically meet twice a year.
- For more information on peer groups, click [here](#)

### **Project Management Institute**

ABC National partners with Purdue University to offer project management training specifically for electrical and mechanical contractors. ABC's Electrical and Mechanical Contractor councils participated in the development of the curriculum, which consists of 80-hour programs broken into two 40-hour sessions. All classes are conducted on Purdue University's campus in West Lafayette, Ind.

For more information on the project management institutes, click [here](#).

## **Student Chapters**

Located at colleges and universities with construction management programs, ABC student chapters develop future construction industry leaders. ABC has added 28 new student chapters in the past five years, with a total of 60 student chapters nationwide, and several more in development.

- Student chapter members benefit from the opportunity to network with local ABC chapter members, which can result in summer internships and post-graduate job placements.
- Student chapters also can participate in several annual ABC events: a member-sponsored construction management competition; career/leadership conference; scholarships; fellowships to attend the annual ABC Legislative Conference; an essay/presentation competition; excellence awards; student exhibit booth opportunities at the ABC National Convention; and the development of leadership and teamwork skills.
- The student chapter program is designed to allow ABC to share the merit shop philosophy with tomorrow's industry leaders. It also provides ABC member firms with an opportunity to recruit talented professionals.
- ABC is an active member of the American Council of Construction Education, the accrediting agency for construction higher education programs, as well as Associated Schools of Construction and the Constructor Certification Commission of the American Institute of Constructors. ABC annually serves on accreditation visits to two-year and four-year construction degree-granting programs and reviews papers for academic conferences.
- For more information on student chapters, click [here](#).

## **Trimmer Education Foundation**

The Trimmer Education Foundation is ABC's 501(c)(3) educational affiliate, with the mission to raise funds to support merit shop education and training efforts through ABC, its chapters and other entities. The foundation supports ABC's strategic educational goals through charitable giving.

- Approximately 45 percent of the funds raised by the Trimmer Education Foundation's annual auction go toward providing scholarships for students who are enrolled in two- or four-year construction-degree programs and are ABC student chapter members. Employees of ABC member firms and members of their families also are eligible for these scholarships.
- In August 2009, the Trimmer Education Foundation received a \$624,300 grant from the U.S. Labor Department's Advancing Registered Apprenticeship into the 21st Century grant program. The money is being used by six ABC chapters and partnerships for apprenticeship training.
- In an ongoing program, the Trimmer Education Foundation receives money from OSHA's Susan Harwood Training Grant Program to fund a series of two- or four-hour training classes on "Focus Four" hazards in the construction industry –

caught in-between, electrocution, falls from height and struck-by – that are presented through various ABC chapters across the country.

- Trimmer funds also have been used in times of crisis to assist ABC chapters and chapter staff members in their recovery from natural disasters.
- Funds from the Trimmer Education Foundation support the National Craft Championships competition and the Student Chapters Construction Management Competition.
- For more information about the Trimmer Education Foundation, click [here](#).

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