

U.S. Department of Labor Employment and Training Administration Bureau of Apprenticeship And Training Washington, D.C. 20210	<u>Distribution:</u> A-542 RD/DRD	<u>Subject:</u> <u>Code:</u> 411 Training Fees (Solicitor's Opinion)
Symbols: TDTD/MMW		

PURPOSE: To advise the field staff of the Solicitor's Opinion concerning a sponsor's proposal for establishing certain training fees.

BACKGROUND: It has been brought to our attention that some apprenticeship sponsors are proposing certain training fees for acquiring pre-apprenticeship experience.

A sponsor's memorandum of February (sic) 1983 states that one of the greatest problems of contractors is that in some apprenticeship programs the entry-level wage is too high. In response to this problem, the sponsor recommended that persons who have no experience in the construction industry enter apprenticeship training at a rate no greater than 40 percent of the journeyman wage scale and that as productivity increased, the percentage rate be increased. The sponsor further recommended that where an entering apprentice has prior construction experience, no credit will be given for this experience until the end of the probationary period in order to permit a better evaluation of its contribution to productivity.

Where an apprenticeship program has an entry-level wage rate which is greater than 40 percent of the journeyman scale, the sponsor suggested that applicants be offered training before entering the program. According to the sponsor this "pre-apprenticeship experience" could be offered in two ways:

- (1) Classroom training at the applicant's expense;
- (2) On the job training at a lesser wage rate than the entry rate for apprentices. (Wage and Hour Division of the Employment Standards Administration would not accept these sub-minimal wages as appropriate on a "Davis-Bacon" project.)

SOLICITOR'S RESPONSE

In responding to this inquiry on "pre-apprenticeship experience," the Solicitor stated "it is questionable whether it is part of the apprenticeship program or rather a pre-apprenticeship training program to provide an opportunity to earn advance credit or meet minimum entry-

level requirements. If this is a pre-apprenticeship program, it is not subject to the apprenticeship regulations of the Bureau of Apprenticeship and Training, Title 29 CFR Part 29.

“If this is an apprenticeship program, and accordingly subject to these regulations, there is nothing in the regulations expressly prohibiting training fees. However, in response to a related inquiry, the Civil Rights Division, in an April 27, 1982 memorandum, opined that charging apprenticeship application fees would violate the BAT nondiscrimination regulations (29 CFR Part 30) and Title VII of the Civil Rights Act if levied with an intent to discriminate or if the fees had a disproportionate impact on a particular ethnic or racial group. We believe that opinion is applicable here.

RECOMMENDED ACTION:

BAT Regional Directors should immediately notify their respective field staff and State apprenticeship sponsors who may be considering or are now charging such a fee.

In like manner, the Division of National Industry Promotion should disseminate the Solicitor’s opinion to their respective program sponsors.