



July 10, 2024

The Honorable Roger Williams  
Chair  
House Committee on Small Business  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Nydia Valázquez  
Ranking Member  
House Committee on Small Business  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Williams, Ranking Member Valázquez and Members of the House Committee on Small Business:

On behalf of Associated Builders and Contractors, a national construction industry trade association with 67 chapters representing more than 23,000 members, I appreciate the opportunity to comment on the committee's hearing, "[Main Street Realities: Examining the Current Economic Landscape in America](#)." The majority of ABC's general contractor and subcontractor members qualify as small businesses as defined by the Small Business Administration. The industry consistently has one of the highest concentrations of small business participation and its members play an integral role in building America's infrastructure.

Small business contractors around the country continue to face economic uncertainty. ABC's [Construction Confidence Index](#), based on an ABC member survey conducted between June 20 and July 3, reveals that almost 20% of respondents expect a decrease in sales and profit margins. In addition, the National Federation for Independent Business' [Small Business Optimism Index](#) reached 91.5 in June, which marks the 30th consecutive month below the 50-year average of 98. Despite these statistics, the Biden administration has advanced numerous regulations that generate substantial burdens for America's small businesses by reducing competition and driving up costs. Moreover, federal agencies continue to utilize loopholes in the Regulatory Flexibility Act to implement these regulations at the expense of America's small business community.

In 2023, the NFIB reviewed comment letters from the SBA's Office of Advocacy and found 28 instances where they cited agencies for lack of RFA compliance. The Office of Advocacy found agencies often improperly certify that rules will not have a significant economic impact on a substantial number of small entities, only consider the direct costs on small businesses or misrepresent the costs on small businesses from regulation.

In one instance, the Office of Advocacy found that the U.S. Department of Labor's analysis of the impact of its independent contractor rule, the now effective [final rule on Employee or Independent Contractor Classification Under the Fair Labor Standards Act](#), failed to estimate the costs that would be incurred by small businesses when reclassifying independent contractors as employees. Despite their findings, the Biden administration bypassed small business considerations and moved forward with implementing the harmful rule.

In another example, Phase I of the DOL's [final rule](#) changing overtime regulations under the Fair Labor Standards Act went into effect on July 1 and by Jan. 1, 2025, the minimum annual salary level threshold for overtime exemption will increase 65% to \$58,656. The change represents yet another challenge to small business contractors who are already dealing with inflation, supply chain disruptions, high materials prices and workforce shortages, all of which continue to increase their operational costs.

America's small businesses are the backbone of our economy. ABC appreciates the committee's efforts to examine their state in the face of challenges and uncertainties and our members stand ready to build and maintain America's infrastructure in a regulatory environment crafted with their needs in mind.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kristen Swearingen', written in a cursive style.

Kristen Swearingen  
Vice President, Legislative & Political Affairs