



November 2, 2023

Ms. Julie A. Su  
Acting Secretary  
U.S. Department of Labor  
Division of Regulations, Legislation & Interpretation  
Wage and Hour Division  
200 Constitution Avenue, NW, Room S-3502  
Washington, D.C. 20210

**RE: WHD-2023-0001 – Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees**

Dear Acting Secretary Su:

On behalf of the American Bus Association (ABA), we urge the U.S. Department of Labor's (DOL or Department) Wage and Hour Division to suspend the rulemaking proposing to increase the standard salary level and highly compensated annual compensation threshold, affecting executive, administrative, professional, outside sales, and computer employees, as published in the Federal Register on September 8, 2023 (the Proposal).

The ABA is a non-profit trade association representing the private motorcoach, group tour and travel industry, with nearly 3,000 members, including motorcoach operators, tour operators and travel destinations (including hotels, restaurants, convention centers, visitor bureaus and attractions), and equipment manufacturers. On the motorcoach side, close to 80% of our members are small, mostly family-owned, businesses with limited resources, particularly in the wake of the COVID-19 pandemic which had a devastating economic impact on the private motorcoach industry. Also, our tour and travel members are predominantly composed of small businesses, struggling to recover from the pandemic and facing tremendous resource challenges.

The Proposal put forth by the Administration at this time to adjust overtime thresholds, is incredibly misguided. Our industry, entirely dependent on travel, whether for work or pleasure, was essentially shut down for more than 18 months during the pandemic. For motorcoach companies alone, economic losses were over \$11.3 billion in 2020 and \$8.4 billion in 2021, and this does not even account for bus manufacturer and associated supplier losses.<sup>i</sup> On the travel side, it is also well documented that travel losses were nearly \$500 billion in 2020 alone.<sup>ii</sup> Collectively, our members are only now starting to see signs of recovery - albeit facing strong headwinds from severe staffing shortages, energy cost fluctuations and inflation. Survival for many of these businesses is directly tied to having the flexibility to work through challenges with their employees, tackling difficult topics such as wages, location, benefits, and scheduling.

The Proposal, proffering a nearly 70% increase to the minimum salary threshold in 2024, and an

automatic adjustment every 3 years that will most certainly increase the threshold further, is simply unsustainable for our members and for the economy, in general. The massive spike in labor costs and potential liability will force the reclassification of employers to hourly positions and reduce career advancement opportunities. By limiting employers' flexibility and forcing their hand on these decisions, it will also hurt employee morale and productivity. All of this comes at a time when employers most need flexibility, and when employees are enjoying significant leverage enabling them to coordinate with employers to enhance their working conditions due to the tight labor market. Candidly, the Department's interference in the market at this time, through the Proposal, is unnecessary and it will hamper recovery efforts from the pandemic.

Further, these thresholds were just increased only 4 years ago, again, making an increase at this time and this amount, unnecessary. Over the last several years, as noted, our members were forced to make a number of adjustments to address staffing shortages, including increasing wages, but also providing more flexible work hours and remote work, cutting budgets and reducing services. These changes were undertaken while these companies were also trying to survive the pandemic, on top of adjusting to the threshold increases mandated in 2019. It appears the DOL has not taken any of these facts into account or really assessed the economic conditions currently facing our industry, and industries like ours, to fully understand the true burden of what they are proposing. Not only are there increased labor costs associated with increasing the threshold, but the Department has also failed to account for additional administrative costs that need to be considered each time it is changed. For that matter, the DOL has also relied on outdated and flawed data, with respect to impact calculations for the Proposal. Clearly, the Department's decision to undertake this action at this time, without regard to current economic conditions, is not a well thought out approach.

This point is even more evident with the Department's plan to adopt automatic indexing of the threshold, every 3 years, without providing opportunity for public input. This denies the regulated community an opportunity to engage in a significant rulemaking affecting their viability. We strongly oppose this aspect of the Proposal. It is entirely out of line with actual economic conditions and the promotion of a sound, stable national economy. It is a sweeping overreach, with a myopic view towards attempting to fix a problem that does not exist. It will hurt the economy and aggravate future economic problems.

**ABA urges DOL to abandon the Proposal.** The cost increases it will impose cannot be borne by our members, particularly our many small business members, and it will negatively affect employees at a tenuous time for our industry and the national economy.

Respectfully,



Brandon Buchanan  
Director of Regulatory Affairs

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<sup>i</sup> <https://www.buses.org/news/article/report-covid-pandemic-continues-to-rock-motorcoach-industry-as-recover>  
<sup>ii</sup> ["Weekly Coronavirus Impact on Travel Expenditures in the U.S." U.S. Travel Association, January 22, 2021 update.](#)