



September 18, 2024

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

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

Dear Chairman Williams, Ranking Member Velázquez 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, "[Holding the SBA Accountable: Testimony from Small Business Administrator Guzman](#)." 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.

Earlier this year, this committee released an RFA [report](#) detailing a concerning lack of compliance in the federal rulemaking process. The report reveals that, in less than four years, 891 final rules have been issued, crushing small businesses with \$1.47 trillion in costs and over 232 million hours in paperwork. Moreover, federal agencies' continued usage of loopholes in the RFA allow them to circumvent the proper analysis needed to accurately consider the costs and number of affected small businesses.

Small business contractors around the country continue to face economic uncertainty. ABC's [Construction Confidence Index](#), based on an ABC member survey conducted between Aug. 20 and Sept. 5, reveals that 30% of respondents expect a decrease in sales and profit margins. In addition, the National Federation for Independent Business' [Small Business Optimism Index](#) decreased to 91.2 in August, which marks the 32nd consecutive month below the 50-year average of 98. Moreover, the NFIB's uncertainty index rose to 92, its highest level since October 2020. Yet, despite these statistics, the Biden administration has advanced numerous regulations that generate substantial burdens for America's small businesses. What's worse, 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. SBA's 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.

ABC recently estimated that the construction industry will need to attract 501,000 additional workers on top of the normal pace of hiring in 2024 to meet the demand for labor. Discouraging America's small businesses from competing will only further exacerbate the construction industry's skilled workforce shortage. ABC appreciates the committee's efforts to examine SBA programs and encourages the SBA to thoroughly consider their Office of Advocacy as the administration continues to implement rules.

Sincerely,

Kristen Swearingen  
Vice President, Legislative & Political Affairs

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