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August 27, 2021

**SUBMITTED VIA REGULATIONS.GOV**

The Honorable Martin J. Walsh  
Secretary of Labor  
U.S. Department of Labor  
200 Constitution Ave, NW  
Washington, DC 20210

**RE: RIN 1235-AA41, E.O. 14026, Increasing the Minimum Wage for Federal Contractors**

Dear Secretary Walsh:

We write regarding the U.S. Department of Labor's (Department or DOL) July 22, 2021, notice of proposed rulemaking (NPRM) titled "E.O. 14026, Increasing the Minimum Wage for Federal Contractors."<sup>1</sup> The proposed rule implements President Biden's April 27, 2021, executive order.<sup>2</sup>

We are concerned that mandating a \$15 minimum wage for federal contractors will destroy jobs and hurt small businesses. The Department's proposed rule misleadingly downplays the harm this move would cause entry-level workers, ignores the negative impacts on small businesses currently contracting with the federal government, and stifles competition for future contracts. For these reasons, and as explained more fully below, we urge the Department to withdraw this misguided proposal.

**The Proposed Rule Relies on a Flawed Economic Analysis**

In January 2021, David Neumark and Peter Shirley published a National Bureau of Economic Research analysis, spanning 30 years of academic literature, on the economic effects of a minimum wage increase. They found that 79 percent of the studies conducted since 1992 showed

<sup>1</sup> 86 Fed. Reg. 38,816 (proposed July 22, 2021).

<sup>2</sup> Exec. Order No. 14026, 86 Fed. Reg. 22,835 (Apr. 30, 2021).

that an increase in the minimum wage leads to a decrease in the level of employment.<sup>3</sup> Similarly, a survey of 197 U.S. economists conducted in February 2019 found that 84 percent believe a \$15 federal minimum wage would have negative effects on youth employment and that 77 percent believe it would have a negative impact on jobs available.<sup>4</sup>

The Department's assertion in the NPRM that minimum wage increases lead to small or non-existent job losses is patently false, and the NPRM analysis wrongly minimizes those job losses. Further, the NPRM mischaracterizes evidence to create an impression of mainstream support for a liberal policy priority.<sup>5</sup> DOL should not move forward with the proposed rule because of the NPRM's flawed assumptions regarding the employment effects of a \$15 minimum wage.

### **The Proposed Rule Would Cause Job Losses**

Mandating a \$15 minimum wage for federal contractors would cause job losses and harm entry-level workers in many regions around the country. In February 2021, the nonpartisan Congressional Budget Office (CBO) issued a report studying the impacts of implementing a \$15 federal minimum wage. CBO estimates that up to 2.7 million jobs would be lost from a federal minimum wage increase to \$15, with a median impact of 1.4 million workers becoming jobless due to the hike.<sup>6</sup> CBO also predicts that half of the individuals losing their jobs would drop out of the labor force completely.<sup>7</sup> Similar results would be expected among federal contractors if this \$15 minimum wage is enacted.

### **The Proposed Rule Harms Small and Local Businesses**

According to the U.S. Small Business Administration, small businesses are key job creators, accounting for 99.9 percent of all U.S. businesses and 47.1 percent of U.S. employees.<sup>8</sup> However, from 2010 to 2019, the number of small businesses providing products and services to the federal government shrank by 38 percent.<sup>9</sup> Additionally, from 2005 to 2019, the number of small businesses newly entering the procurement marketplace dropped by 79 percent.<sup>10</sup> Small businesses already face significant challenges when it comes to participating in the federal procurement process, and we are concerned that the proposed rule would exacerbate these trends.

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<sup>3</sup> David Neumark & Peter Shirley, *Myth or Measurement: What Does the New Minimum Wage Research Say About Minimum Wages and Job Loss in the United States?*, NAT'L BUREAU OF ECON. RESEARCH, WORKING PAPER 28388, at 3 (Jan. 2021), <https://www.nber.org/papers/w28388>.

<sup>4</sup> LLOYD CORDER, EMP. POLICIES INST., SURVEY OF US ECONOMISTS ON A \$15 FEDERAL MINIMUM WAGE 4 (Mar. 2019), [https://www.epionline.org/wp-content/uploads/2019/03/EPI\\_Feb2019\\_MinWageSurvey-FINAL.pdf](https://www.epionline.org/wp-content/uploads/2019/03/EPI_Feb2019_MinWageSurvey-FINAL.pdf).

<sup>5</sup> Increasing the Minimum Wage for Federal Contractors, 86 Fed. Reg. 38,816, 38,872 (proposed July 22, 2021).

<sup>6</sup> CBO, THE BUDGETARY EFFECTS OF THE RAISE THE WAGE ACT OF 2021, at 9 (Feb. 2021), <https://www.cbo.gov/system/files/2021-02/56975-Minimum-Wage.pdf>.

<sup>7</sup> *Id.* at 8.

<sup>8</sup> U.S. SMALL BUS. ADMIN. OFF. OF ADVOCACY, 2020 SMALL BUSINESS ECONOMIC PROFILE (2020), <https://cdn.advocacy.sba.gov/wp-content/uploads/2020/06/04144224/2020-Small-Business-Economic-Profile-US.pdf>.

<sup>9</sup> BIPARTISAN POL'Y CTR., SUPPORTING SMALL BUSINESS AND STRENGTHENING THE ECONOMY THROUGH PROCUREMENT REFORM 2 (July 2021), [https://bipartisanpolicy.org/download/?file=/wp-content/uploads/2021/06/Small-Business-Report\\_RV1-FINAL.pdf](https://bipartisanpolicy.org/download/?file=/wp-content/uploads/2021/06/Small-Business-Report_RV1-FINAL.pdf).

<sup>10</sup> *Id.* at 10.

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Imposing a \$15 minimum wage for federal contractors will further reduce small businesses' competitiveness for future federal contracts or will encourage them to end their contracts with the federal government.

The NPRM acknowledges that of the 507,200 firms affected by the wage increase, 385,100—or almost 76 percent—are small businesses, who are least able to bear the costs of a mandated \$15 minimum wage.<sup>11</sup> In a January 2021 survey conducted by the National Federation of Independent Business, 74 percent of small businesses said a phased-in \$15 minimum wage would negatively impact their business. Fifty-six percent anticipated using less expensive or part-time workers, 67 percent would not fill an open position, 60 percent would reduce employee hours, and 58 percent would reduce the number of employees working for them.<sup>12</sup> While the NPRM acknowledges the total number of impacted small businesses, it fails to address their burdens and job losses.

### **Conclusion**

We are concerned that DOL's proposed rule misleadingly downplays the job losses resulting from this ill-advised proposal, ignores the bias against small businesses implicit in a mandated \$15 minimum wage, and unfairly limits competition for lucrative federal contracts. The proposed rule is nothing more than a ploy to achieve left-wing political objectives without Congressional approval. We therefore urge the Department to withdraw the imprudent proposed rule.

Thank you for your consideration of our views.

Respectfully submitted,



Rep. Virginia Foxx  
Ranking Member



Rep. Fred Keller  
Ranking Member  
Subcommittee on Workforce Protections

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<sup>11</sup> Increasing the Minimum Wage for Federal Contractors, 86 Fed. Reg. at 38,877.

<sup>12</sup> NFIB COVID-19 SMALL BUSINESS SURVEY (2021), [https://assets.nfib.com/nfibcom/Covid-19-15-Questionnaire\\_.pdf](https://assets.nfib.com/nfibcom/Covid-19-15-Questionnaire_.pdf).