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October 2, 2025

Hon. Lori Chavez-DeRemer  
Secretary of Labor  
c/o Wage & Hour Division, Division of  
Regulations, Legislation, and Interpretation  
Department of Labor  
200 Constitution Avenue NW  
Room S-3502  
Washington, DC 20210

Hon. Russell T. Vought  
Director  
Office of Management and Budget  
Attn: Office of Information and  
Regulatory Affairs  
725 17<sup>th</sup> St. NW  
Washington, DC 20503

Dear Madam Secretary and Mr. Director:

RE: Department of Labor Wage and Hour Division Notice Titled "Agency Information Collection Activities; Comment Request; Paid Sick Leave for Federal Contractors," OMB Control No. 1235-0029, 90 *Fed. Reg.* 38184 (August 7, 2025)

This letter presents comments of the National Federation of Independent Business (NFIB)<sup>1</sup> in response to the Department of Labor Wage and Hour Division (WHD) notice titled "Agency Information Collection Activities; Comment Request; Paid Sick Leave for Federal Contractors" and published in the *Federal Register* of August 7, 2025. NFIB recommends and requests that the Office of Management and Budget (OMB) disapprove the extension requested by the WHD for the information collection titled "Paid Sick Leave for Federal Contractors," OMB Control Number 1235-0029. Disapproval will relieve businesses of an unnecessary reporting burden while President Trump reconsiders the ill-advised Executive Order 13706, "Establishing Paid Sick Leave for Federal Contractors," issued by President Obama.<sup>2</sup>

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<sup>1</sup> NFIB is an incorporated nonprofit association representing small and independent businesses. NFIB protects and advances the ability of Americans to own, operate, and grow their businesses and ensures that the governments of the United States and the fifty States hear the voice of small business as they formulate public policies.

<sup>2</sup> Issued September 7, 2015, and published at 80 *Fed. Reg.* 54697 (September 10, 2015).

With Executive Order 13706, President Obama, purporting to exercise authority under section 121(a) of title 40 of the U.S. Code,<sup>3</sup> required “parties who contract with the Federal Government to provide their employees with up to 7 days of paid sick time annually[.]”<sup>4</sup> The Obama Order places an unwarranted burden on American small businesses, discouraging them from working with the federal government.

Small businesses often face challenges just staying in business and making payroll for a small number of employees. They cannot afford to pay employees not to work, even if the employees have a socially acceptable reason for not working, such as temporary sickness. While larger businesses may have the wherewithal to absorb the costs of the Obama Order’s mandate of a week’s paid sick leave, many of America’s small businesses do not. The Obama Order punishes small businesses for their lack of resources -- if they do not have the money to cover the cost of paid sick leave, they cannot compete for government contracts. That is no way to treat the small businesses that constitute the backbone of the American economy.

President Trump understands the importance of small businesses to the American economy and of allowing them to take advantage of opportunities:

Small businesses are vital to our economy. America has 33 million small businesses that employ 61.7 million Americans — nearly half of the private-sector workforce — and create almost two out of every three new jobs in the country. . . .

My Administration is unleashing a new era of opportunity for small businesses built on common sense and pro-growth policies that put our workers and our job creators first. We are cutting red tape, keeping taxes low, promoting fair and reciprocal trade practices, and fighting for hardworking Americans.<sup>5</sup>

The Obama Order does the opposite of what President Trump wants; it deprives small businesses of opportunities by cutting many of them off from competing for government contracts and puts our small business job creators last.

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<sup>3</sup> The Obama Order may be legally flawed. There is some question whether the authority granted by 40 U.S.C. 121(a) reaches company leave policies of federal contractors. The predominant legal standard is that a “sufficiently close nexus” must exist between the efficiency and economy of federal procurement and the restriction the federal government wants to impose on contractors under 40 U.S.C. 121(a). See *AFL and CIO v. Kahn*, 618 F. 2d 784, 792 (D.C. Cir. 1979) (en banc), *cert. denied*, 443 U.S. 915, *pet. for reh’g denied*, 444 U.S. 888 (1979) and *Liberty Mutual Insurance Co. v. Friedman*, 639 F. 2d 164, 170 (4<sup>th</sup> Cir. 1981).

<sup>4</sup> 90 *Fed. Reg.* 38184, col. 2. Regulations implementing the Obama Order do not require paid sick leave for employees of federal contractors who spend less than 20 percent of their hours in a work week in support of a federal contract, unless they are “directly engaged” in performing the specific work called for by the contract. 29 CFR 13.4(e).

<sup>5</sup> Proclamation 10932, “National Small Business Week, 2025” (May 5, 2025), 90 *Fed. Reg.* 19609 (May 8, 2025).

President Trump also has made clear that “Federal regulations should not predetermine economic winners and losers” and that “[r]egulations that reduce competition, entrepreneurship, and innovation -- as well as the benefits they create for American consumers -- should be eliminated.”<sup>6</sup> The Obama Order does both these things that President Trump does not want done -- it predetermines that many small businesses will be the losers in federal contracting and reduces competition by eliminating many small businesses as competitors in federal contracting.

NFIB requests and recommends that the Secretary of Labor and the Director of OMB (1) draw to the President’s attention the need to revoke President Obama’s Executive Order 13706 “Establishing Paid Sick Leave for Federal Contractors” or, at a minimum, to exempt from that Order businesses with fewer than 50 employees; and (2) disapprove the WHD request for extension of the information collection titled “Paid Sick Leave for Federal Contractors,” OMB Control Number 1235-0029, so as to give the President time to consider such revocation or amendment of the Obama Order without burdening businesses with reporting duties under the Obama Order during its reconsideration.

Thank you in advance for your efforts to help carry out President Trump’s stated pro-small business policies by eliminating the paid sick leave mandate for small business government contractors and thereby making it possible for more small businesses to compete for government contracts.

Sincerely,

A handwritten signature in blue ink that reads "David S. Addington". The signature is fluid and cursive, with the first name "David" being the most prominent.

David S. Addington

Executive Vice President and General Counsel

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<sup>6</sup> Executive Order 14267, “Reducing Anti-Competitive Regulatory Barriers” (April 9, 2025), 90 *Fed. Reg.* 15629 (April 15, 2025), section 1.