



VIA ELECTRONIC SUBMISSION: WHDPRACComments@dol.gov

March 11, 2013

Ms. Mary Ziegler
Director, Division of Regulations, Legislation and Interpretations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, NW, Room S-3502
Washington, D.C. 20210

Re: Request for 90-Day Extension of Public Comment Deadline on Information Collection Request for the Worker Classification Survey; 78 Fed. Reg. 2447

Dear Ms. Ziegler:

Associated Builders and Contractors, Inc. (ABC) formally requests a 90-day extension of the public comment period for the above-referenced information collection request (ICR), published in the *Federal Register* on January 11, 2013, at 78 Fed. Reg. 2447.

The U.S. Department of Labor's (DOL) Wage and Hour Division solicited comments from the public on a proposed worker classification survey which will address the complex issue of employee versus independent contractor status. The proposed worker classification survey will greatly impact our members and will likely significantly influence future DOL policy, including the agency's long-planned "Right to Know" proposed regulations.

It is critical that all aspects of the project plan meet accepted survey and statistical standards, including sample selection, question content and survey administration. Inadequate sampling methods, imprecise questions or poorly worded directions would result in unreliable and invalid survey results, which do not meet federal information quality standards. And, of course, if the survey results are unreliable and invalid, the information could not be used by DOL as it proposes new regulations or other policy changes.

Despite the significant influence the survey results will have over future DOL policy, DOL failed to publish in the *Federal Register*, or on any website, its supporting statement justifying the need for the survey, the sampling methodology document and the survey instrument itself—almost 125 pages of materials essential for the public to review before it can provide meaningful comments on the survey. Although publication of the survey instrument and sampling methodology on www.dol.gov, www.reginfo.gov or www.regulations.gov would have been a simple matter, the only means by which the public currently can obtain copies of these documents is by calling a DOL telephone number, which is not toll-free, and leave a voicemail message requesting copies. Of course, obtaining copies also assumes that interested parties have discerned the need to call the DOL telephone number from the oblique reference in the *Federal*

Register notice.¹ Further, it is our understanding that there have been delays in sending out the survey documents even after leaving a voicemail message with DOL.

Because of the difficulty in obtaining copies of the survey and supporting documents, and the time required to provide meaningful, in-depth and expert review of the proposed survey instrument and sampling methodology, the original 60-day comment period is grossly inadequate. Based on the foregoing, we request that DOL extend the comment period for at least an additional 90 days. The comment period extension should be 90 days from the publication date in the *Federal Register* indicating the supporting documents are available online.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Geoffrey Burr', followed by a long horizontal flourish.

Geoffrey Burr
Vice President, Federal Affairs

¹ See: 78 Fed. Reg. at 2447, col. 3 (“A copy of the proposed information request can be obtained by contacting the office listed below”).