



April 17, 2023

The Honorable Bernie Sanders  
Chairman  
U.S. Senate Committee on Health, Education,  
Education, Labor and Pensions  
Washington, DC 20510

The Honorable Bill Cassidy  
Ranking Member  
U.S. Senate Committee on Health,  
Labor and Pensions  
Washington, DC 20510

Dear Chairman Sanders, Ranking Member Cassidy and Members of the U.S. Senate Committee on Health, Education, Labor and Pensions:

On behalf of Associated Builders and Contractors, a national trade association with 68 chapters representing more than 22,000 members, I am writing to express our opposition to the nomination of Acting Secretary of Labor Julie A. Su to serve as the next secretary of the U.S. Department of Labor. ABC members have been negatively affected by many of the anti-competitive and anti-growth policies that Acting Secretary of Labor Su has supported at the DOL as well as during her time as secretary of the California Labor and Workforce Development Agency.

As the secretary of the California Labor and Workforce Development Agency, Ms. Su was a leading architect of the state's controversial Assembly Bill 5 that jeopardized the jobs of self-employed construction workers throughout the state. Ms. Su also oversaw an estimated \$30 billion in fraudulent payments of COVID-19-related unemployment insurance funds from California's Employment Development Department, raising alarms for taxpayers and calling into question her qualifications for the highest labor role in the country.

Also concerning for the construction industry was Ms. Su's promotion of so-called "high road employers" for critical housing, energy, climate and water construction projects during her time in California. While it is commendable to attract high-quality employers for construction jobs in the state, ABC members in California found that the "high road" policy effectively created unnecessary barriers to entry and prohibited nonunionized small businesses in the state from participating in these critical projects, regardless of their pay, benefits and safety records. As the federal government seeks to implement more than \$1 trillion in funding for construction projects to modernize our nation's infrastructure, our leaders must advocate for fair and open competition to ensure the most qualified, effective and efficient contractors are able to bid on these projects.

Finally, while at the DOL, Ms. Su has played a significant role in the proposal of new rules and regulations that will cause significant harm to the construction industry, including a disruptive and complex independent contractor rule, a flawed and inflationary prevailing wage rule that would undermine construction industry productivity and the efficient use of skilled labor, and an anticipated change to overtime regulations that could result in

additional uncertainty and exacerbate current workforce and economic challenges facing the construction industry.

Throughout these rulemakings, Ms. Su has shown an unwillingness or inability to consider thoughtful comments from small businesses about their negative impacts. If confirmed to serve as DOL secretary, ABC believes that Ms. Su will continue to move forward these ill-advised rules, which will place an undue burden on many construction contractors, limit their ability to conduct their businesses as they see fit and threaten the jobs of many in the construction industry.

ABC urges members of the Senate HELP Committee to vote against Ms. Su's confirmation and the Biden administration to select a candidate who will commit to commonsense policies and rulemakings to protect our workforce and support our nation's job creators. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Kristen Swearingen". The signature is written in a cursive, flowing style.

Kristen Swearingen  
Vice President, Legislative & Political Affairs