INSIGHTS ON THE HISPANIC LABOR FORCE

A 2023 REPORT

THE LIBRE INSTITUTE

FREEDOM DRIVES PROGRESS

The LIBRE Institute is a 501(c)(3) nonpartisan and nonprofit organization that provides tools and information that empower the Hispanic community to reach its full potential and build meaningful lives through our Four Pillars: ***Economic Prosperity, Education, Faith, and Family****.*
The LIBRE Institute's reports are an educational resource that seek to provide the latest research and information available on important issues that matter to the Hispanic community.

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EXECUTIVE SUMMARY

- If labor force participation were fully back to pre-COVID levels at the end of 2023, there would be over 2.1 million more workers in the labor force. Out of these 2.1 million missing workers, 25 percent, nearly 530,000, are Hispanic. [1]

- Many Hispanics choose to engage in the independent work force. Previous analysis from The LIBRE Initiative estimates that 26 percent of independent workers are Hispanic (Soto 2024).

- Hispanics are a large percentage of the small business and entrepreneurial communities It is therefore unsurprising that Hispanics are heavily involved in the franchise model. Of all Hispanic-owned, employer businesses, 29.3 percent are franchises. [2]

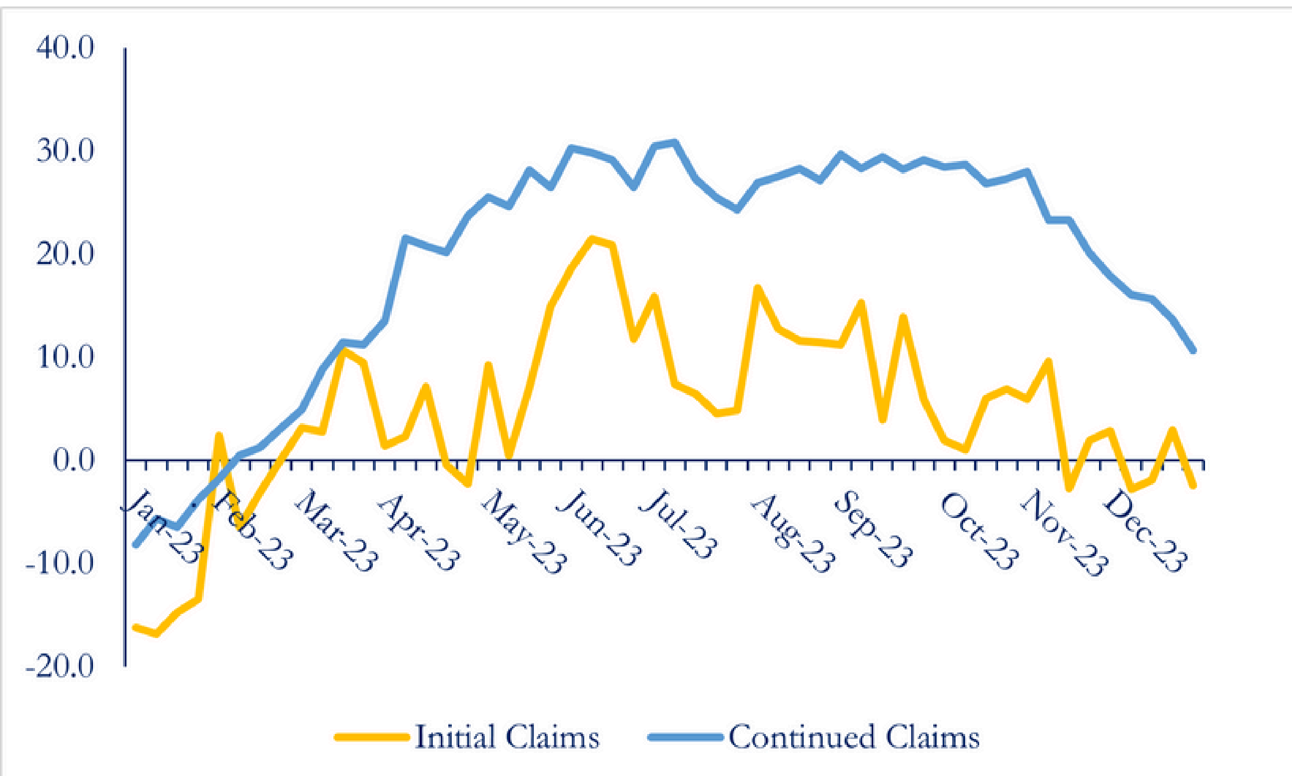
The labor market has seen ups and downs throughout the year with certain signals leading experts to be optimistic about the possibility of a soft landing due to cooling on the labor market while other indicators as well as policy decisions could point to potential trouble ahead in 2024. The strength of the United States' labor market, Hispanic labor force participation, and topline employment are closely linked especially considering that Hispanics are projected to represent 78 percent of net new workers from 2020 to 2030 (Dubina 2021). In 2023, the civilian Hispanic labor force grew by 871,000 people and as a result the share of workers who are Hispanic also grew from 18.8 percent in January 2023 to 19.2 percent in December 2023 (BLS 2024).

UNEMPLOYMENT

Topline

In terms of unemployment in 2023, both initial and continued claims saw an increase compared to 2022. When it comes to average weekly initial unemployment claims, they began the year at 15.6 percent below their January 2022 level, but by June had reached an annual peak of 22.7 percent above 2022 levels. By December, initial claims did drop, hovering around the levels from the year prior (U.S. Employment and Training Administration 2024).

FIGURE 1: Initial and Continued Unemployment Claims (percent change from a year ago)



Data: U.S. Employment and Training Administration, Continued Claims (Insured Unemployment, retrieved from Federal Reserve Bank of St. Louis; U.S. Employment and Training Administration, Initial Claims, retrieved from Federal Reserve Bank of St. Louis

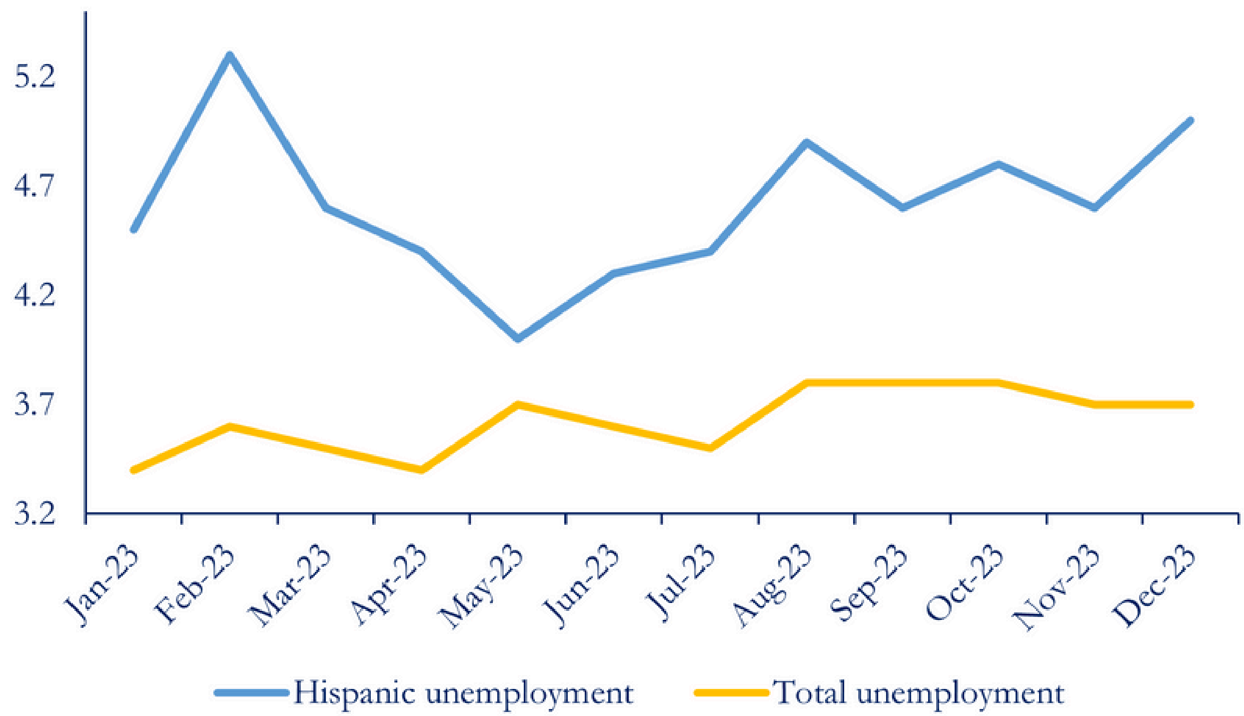
Continuing unemployment claims paint a similarly dreary picture. Average weekly continuing claims began the year 8.8% below their 2022 level, however by April they were around 20% above comparable 2022 levels. Continued claims spiked in July reaching 30.9 percent higher than July 2022 and ended the year 10.5% higher than they had been at the end of 2022 (U.S. Employment and Training Administration 2024).

Given that the claims data, particularly continued claims, are still elevated it is no surprise that overall unemployment has risen over the course of the past year from 3.4 in January to 3.7 in December (U.S. Employment and Training Administration 2024.

Hispanic Unemployment

Since the external shock that occurred due to COVID-19, top line and Hispanic unemployment rates peaked at 14.9 percent and 18.9 percent respectively in April of 2020. Over the past year unemployment has averaged 3.6 percent and 4.6 percent respectively (BLS 2024). While this is an improvement compared to the most severe employment crisis in modern history, Hispanic Americans continue to experience elevated unemployment rates compared to the national average.

FIGURE 2: Hispanic and Total Unemployment in 2023



Data: U.S. Bureau of Labor Statistics, Unemployment Rate - Hispanic or Latino, retrieved from FRED, Federal Reserve Bank of St. Louis; U.S. Bureau of Labor Statistics, Unemployment Rate, retrieved from FRED, Federal Reserve Bank of St. Louis

During the tail end of 2023, Hispanic unemployment rose, reaching 5 percent in December (BLS 2024). Some of the instability in the Hispanic labor market could be explained by the COVID-19 related disruptions to American life. The leisure and hospitality industry has still not fully stabilized as Americans shift their preferences with regards to travel. This is evidenced by the fact that employment in the leisure and hospitality industry has yet to return to pre-pandemic levels. This is especially damaging for the 25 percent of employees in that industry who are Hispanic (Soto 2022). Conversely, the construction and building trades industry continues to experience growth as Americans seek new and different housing options. This industry's employment appears to have mostly returned to its pre-pandemic trend. Compared to February of 2020, that industry added 448,000 jobs, according to the establishment survey. Out of the total construction employment growth total, an estimated 153,216 of newly employed construction workers are Hispanic (BLS 2024).

Labor Force Participation

Total Labor Force Participation

Labor force participation is an important metric to measure the health of the labor market. It measures the individuals in an economy who are working or actively looking for work including those who are unemployed. Those who are not part of the measurement include retirees, individuals with disabilities who cannot work, and people who, for various reasons, may choose not to work. Historically, the U.S. labor force participation rate (LFPR) rose up until the late 90's early 2000s reaching over 67 percent until it declined following the short 2001 recession and saw a more pronounced downward trend after the financial crisis (BLS 2024).

During 2019, LFPR was seeing increases but those gains were lost with the COVID-19 economic shock. After a steep drop to 60.1 percent due to the COVID-19 pandemic, top-line labor force participation has been recovering albeit slowly. To what extent that recovery will flatten out and return to a downward trend, or whether it will be able to reach the level that it was prior to the pandemic is unclear. February 2020, before the decline, labor force participation was at 63.3, Nearly 4 years later in December 2024 labor force participation is still lagging at 62.5 percent.

Hispanic Labor force Participation

Since 1997, the Hispanic labor force participation rate has been the highest of all major racial and ethnic groups and consistently higher than topline labor force participation. Hispanic labor force participation peaked in March 2001 at 70.3 percent. While Hispanic labor force participation, like the topline trend, has also seen a decline over time, it is not nearly as pronounced and a gap between topline and Hispanic LFPR has emerged and remained. Even with COVID-19 disproportionately affecting Hispanics, who saw the largest drop in LFPR (from 67.8 to 63.1), Hispanic LFPR remained and currently is the highest of all major demographic groups (BLS 2024).

Labor force participation is an important metric to measure the health of the labor market. It measures the individuals in an economy who are working or actively looking for work including those who are unemployed. Those who are not part of the measurement include retiDespite the persistence of Hispanic workers and the slow return of important industries with high concentrations of Hispanics such as leisure and hospitality, Hispanic and topline LFPR have not yet been able to return to their pre-COVID levels. If labor force participation were fully back to its pre-COVID level at the end of 2023, there would be over 2.1 million more workers in the labor force. Of these 2.1 million missing workers, 25 percent - nearly 530,000 - are Hispanic.

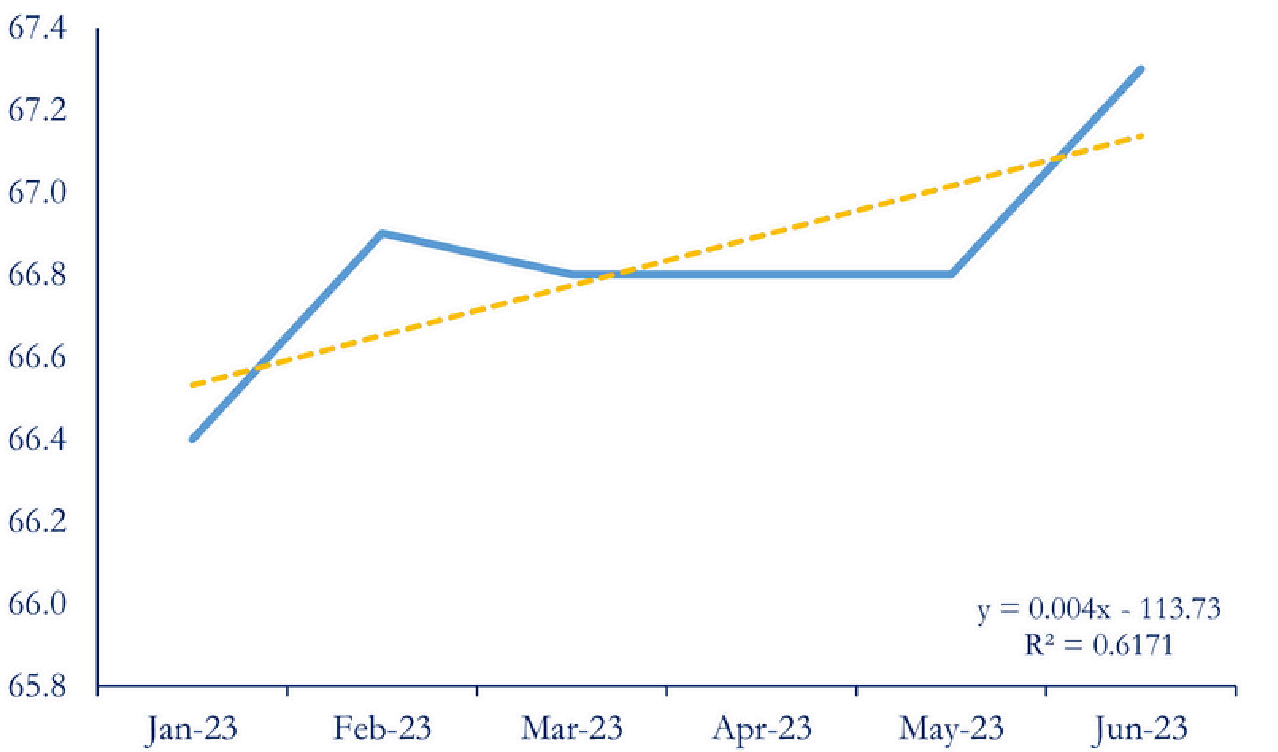
TABLE 1: Labor Force Participation in 2023

	Top-Line LFPR	**Hispanic LFPR**
Pre-COVID LFPR (Feb 2020)	63.3	67.8
Jan 2023	62.4	66.4
Dec 2023	62.5	66.7

Data: U.S. Bureau of Labor Statistics, Labor Force Participation Rate, retrieved from Federal Reserve Bank of St. Louis; U.S. Bureau of Labor Statistics, Hispanic Labor Force Participation Rate, retrieved from Federal Reserve Bank of St. Louis.

Over the last year there has not been much progress in lifting labor force participation. This is true of the topline and of Hispanic LFPR. Hispanic LFPR had somewhat of a parabolic trend over 2023 where it trended upward for the first half before shifting down in the latter half (See figures 3 and 4). The topline LFPR was more stable, it remained at the same level (62.6) for 5 consecutive months out of the year (BLS 2024).

FIGURE 3: First Half of 2023 – Hispanic Labor Force Participation

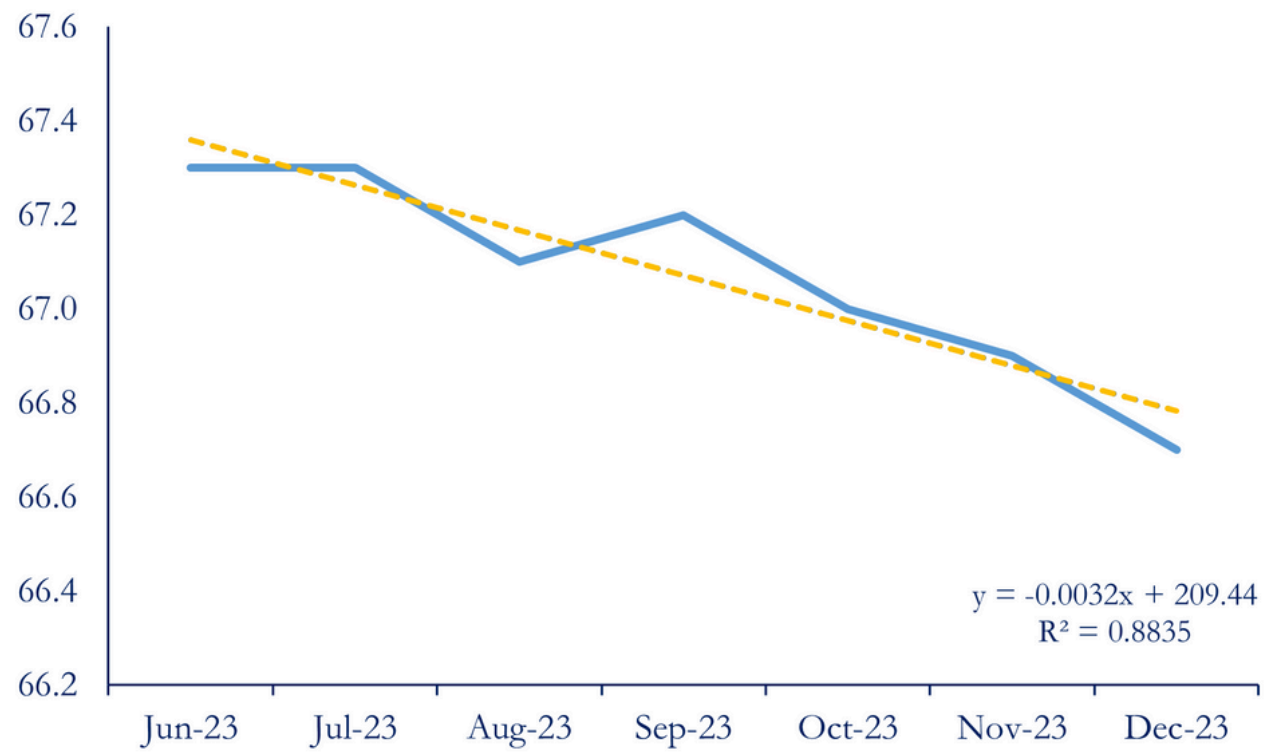


Data: U.S. Bureau of Labor Statistics, Hispanic Labor Force Participation Rate, retrieved from Federal Reserve Bank of St. Louis.

These trendlines (Figures 3 and 4) are a simple look at what occurred in 2023 for Hispanic LFPR. There appears to have been some momentum in the first few months that gradually declined although seemingly at a slightly slower rate than the growth that had occurred previously. It is important not to overstate the data from a single year, but when looking at a longer time horizon with a look to overall long-term labor market strength, 2023 does not appear to have made much of a difference for Hispanics. Minimal progress in returning to pre-COVID labor force participation could spell trouble for the economic capacity of the U.S. especially when the demographic group that typically leads in this metric is lagging.

Ensuring that policies and the economic environment are such that barriers to labor market entry are low, work is easy to access, and flexibility is high is crucial to future growth and stability.

FIGURE 4: Second Half of 2023 – Hispanic Labor Force Participation



Data: U.S. Bureau of Labor Statistics, Hispanic Labor Force Participation Rate, retrieved from Federal Reserve Bank of St. Louis.

Job Openings and Hires

Job openings and hiring data can give a good glimpse of labor market performance and potential gaps in labor supply and demand. Following the pandemic there was a significant increase in the difference between the number of job hires and job openings. Job openings shot up and hires remained flat. This could be signs of potential shortages in industries as the market adjusts following the economic shock. While the gap has closed slightly, it remains and is still nearly two times greater than the largest gap that existed before the pandemic. This apparent gap, could be viewed as a shortage, and with it carries the potential for wage growth as well as high inflationary risk (Duval et al 2022).

FIGURE 5: Job Openings and Hires over the Last 10 Years (Total Private)

Data: U.S. Bureau of Labor Statistics, Hires: Total Private retrieved from Federal Reserve Bank of St. Louis; U.S. Bureau of Labor Statistics, Job Openings: Total Private, retrieved from Federal Reserve Bank of St. Louis

There are several ways to interpret this existing gap between opening and hires. The more optimistic view is that there is persistent demand for workers and therefore shows potential promise for economic growth. It's clear that there are jobs available, but the question is whether or not there are workers that are willing to and can fill those jobs. The fact that there are significantly more job openings than people being hired may, alternatively, point to inefficiency in the market and missed economic growth potential. There may not currently be enough individuals with the requisite skills in the U.S. that are able to meet the needs of the labor market. It is also possible that there are also matching issues where qualified individuals and the respective openings are not connected. There are several ways to address these issues including removing regulatory barriers, upskilling or reskilling, and immigration reform.

Fortunately, the recognition of the importance in upskilling and reskilling has led to engagements on the state and local level in the form of innovative organizations such as, private industry or firm specific programs, and employer-community college partnerships. Further, there has been momentum behind removing barriers to entry especially for entry level jobs. In 2023, 55 percent of companies got rid of degree requirements which opens up the applicant pool for employers and also offers greater opportunities for those who would have otherwise not have been considered for the positions (Crist 2023). Immigration reform also offers an avenue to close the wide gap between job openings and hires that, if need be, can be temporary and work simultaneously with efforts to upskill the native-born workforce. Unfortunately, the policy decisions made by the current Administration over the past year have made it harder for workers to access work, limiting their flexibility and options. Meanwhile, businesses are finding it difficult to hire for open roles and are essentially locked out of alternative options like using the visa system to temporarily fill gaps. Ultimately, this means some small businesses are finding it difficult to stay open without driving up costs and reducing access for consumers.

Policy Developments

Joint Employer

The Joint Employer standard is the definition that is used to determine if there is joint or shared control over the same group of employees. Who is and who is not deemed a joint employer has significant effects on businesses, workers, and industries. An overly broad definition of joint employer would drastically increase liability for small business owners and likely drive-up costs. The franchise system specifically is at risk of being completely upended by a rule change, but this also affects any business providing services to other businesses such as vendors and contractors.

Franchises provide a vehicle for entrepreneurship, business ownership, and employment especially for women and minorities (IFA 2022). The franchise model is one where an independent business owner (the franchisee) is able to use the branding, products, strategy, and intellectual property of an established brand (the franchisor).

The franchises, owned by the franchisees, are independent businesses. The franchisees run the day-to-day and crucial business operations.

Recent data show that 15 percent of all franchise owners are Hispanic (Zippia 2024). Given that information, it is likely that Hispanic business growth and development are likely closely related to involvement in the franchise model. Using franchise demographic data and Small Business Administration Data on Hispanic business ownership it can be estimated that nearly 30 percent of Hispanic-owned, employer businesses are franchises (SBA 2023, LIBRE Institute Analysis).

Prior to the Obama administration, the joint employment standard in the U.S. was defined by a limited scope. Governed by the guidelines of the National Labor Relations Act (NLRA) and the Fair Labor Standards Act (FLSA), this standard stipulated that joint employment status was applicable only under circumstances of direct and substantial control over an employee's work and terms of employment. Under this definition the franchises would most likely be exempt from classification as joint employers. This means that the brand (franchisor) is not held responsible for the actions of employees they do not have direct control over – the franchisee would be held responsible for those individuals they hired. This approach, focusing on tangible, direct managerial activities rather than indirect influence, provided clearer guidelines for businesses.

Under President Obama, the National Labor Relations Board (NLRB) made several attempts to change the rules of joint employment and fortunately did not see lasting success. However, President Biden's NLRB published yet another reinterpretation of the joint employer rule in October of 2023. Under the Biden NLRB joint employer standard, the mere presence of potential control, not solely exercised control, over any of the newly expanded number of essential terms and conditions of employment, as outlined by the NLRB, would trigger the burdens of joint employment (Holtz-Eakin 2024).

Broadening the joint employer standard has been tried before and the effects were devastating. From 2015 to 2017, there was a broad definition of joint employer in place. During that time this rule change cost franchises a total of $33 billion a year, 376,000 missed job opportunities, and a 93 percent increase in lawsuits (U.S. Congressional Record 2024).

The attempt to implement this new rule over the coming year will present a major challenge to existing joint employment law, and those who rely on the franchise model. This rule was set to take effect March 11th, 2024, but, on March 8, 2024 a Texas federal judge struck down the rule halting its enactment through the court system (Iafolla 2024). Regardless, continued push back from business groups is expected as well as efforts to overturn the rule via Congressional Review Act authority. The Texas court vacating the rule is not necessarily the final word. The NLRB could appeal the ruling or even decline to abide by the ruling.

Independent Contractor Rule

Over much of 2023, the Department of Labor has worked toward the implementation of a new rule on independent contracting which went into effect March 11, 2024. In short, the rule would define the term "independent contractor" under the Fair Labor Standards Act (FLSA). Prior to 2021, there was not a set definition, via regulation, for what made an independent contractor, only what made an employee. The new DOL independent contractor rule expands the criteria used to prevent people from being able to work as independent contractors (Soto 2024). Not only would this force undue burden on employers, particularly small business who may not be capable of absorbing the associated costs, but would work contrary to the preferences of independent workers who overwhelmingly prefer their flexible arrangements over traditional employment (BLS 2018). Further, independent workers are more likely to be satisfied or highly satisfied at work than non-independent workers (Braga 2023).

Being classified as an employer triggers coverage by wage-and-hour laws and an individual is then covered by the FLSA. Reclassification from contractor to employee would disrupt millions of lives by limiting how individuals do their work. There are businesses whose models are largely built around the flexibility that is a feature of independent work. As businesses of all sizes mitigate the new costs that were not present prior to the rule, there would likely be layoffs across industries. These layoffs would not be confined to contractors alone. Traditional workers would also feel the effects of higher costs (Soto 2020).

These changes could affect the estimated 70 million workers involved in the independent workforce (MBO Partners 2024). These workers are represented across practically all industries in the economy and choose to utilize independent work in a variety of different ways. For some, being an independent contractor is their main or even sole source of income, for others it can be a hobby, or provide supplemental income on top of what they earn from a traditional job.

The strongest case against this new rule comes from the workers themselves. Independent workers want to be independent – Fewer than 1 in 10 independent workers say they would prefer traditional employment (BLS 2018). Further this rule change is likely to disproportionately harm workers of color. The LIBRE Initiative for example, found that an estimated 26 percent of the independent workforce is Hispanic (Soto 2024). This should come as no surprise given that survey data show 50 percent of Latinos engage in independent work (McKinsey & Company 2022).

An important aspect of independent work to consider is that some individuals cannot be involved in the traditional employment system and so they choose to enter the labor force as independent contractors. Working mothers, caretakers of elderly relatives and individuals with disabilities all significantly benefit from the flexibility that contract work and self-employment provides. Removing that option or making it more difficult to access could mean cutting these workers out of the labor market entirely.

Much like in the case of changes to joint employer, there is significant pushback. There are efforts to overturn the rule via the Congressional Review Act in addition to efforts to halt the rule through litigation (Rainey 2024).

Immigration Rule Changes

The Biden administration has proposed a number of rulemakings in the latter half of 2023 that significantly limit the use of H-2A and H-2B visas. These temporary work visas help address some of the labor market gaps that keep job openings significantly higher than the number of individuals being hired. H-2A visas are for agricultural work.

The H-2B visas, while still temporary, are for the non-ag sectors. Unfortunately, what should be a means of rapid response to labor market demand is bogged down by exorbitantly high costs that are a result of unnecessary regulations and overly complex processes. Before these rules were even enacted, employers were paying over $10,000 dollars for each H-2A and H-2B worker to come abroad (Federal Register 2023). Unsurprisingly, these high costs keep small businesses and local family farms locked out of accessing the temporary visa programs.

The Biden administration through its latest rules will only add to the already high costs for employers who need to use these programs. A finalized DOL rule already in effect has forced H-2A employers to pay unrealistically inflated wage floors, tripled their paperwork, and increased the costs of legal compliance (Garza and Peak 2023). Because of these changes some farmers that use the H-2A visa have reported that they could lose over $100,000 in a single season. Small and medium-sized growers have also reported that the increased difficulty of using the H-2A program is putting them at risk of having to sell their farms to big agribusiness, moving their operations abroad, or shutting down their operations entirely (House Committee on Agriculture 2023).

The Biden Administration's USCIS also finalized a rule that will increase the fees of H-2A and H-2B employers by over 140 percent, which will be especially burdensome to smaller employers. Much of these fees are going to be used to subsidize asylum cases, which is problematic given that the majority of migrants claiming asylum do so for economic opportunity—and H-2 visas are a migrant's main alternative to crossing unlawfully and applying for asylum (Soto et al. 2021). The total annual costs of this fee rule will be over $40 million for America's H-2A and H-2B employers (Bier 2023). Raising the price of these visas means lower demand from employers. And lower demand from employers means fewer legal pathways for economic migrants.

Finally, DOL has a pending rule that will force farmers using the H-2A program to allow any labor organization access to their property for 10 hours each month. Employers must also provide any labor organization with all of their employees' phone numbers, home country addresses, emails, and other contact information without the H-2A workers' consent.

These labor groups have been known to mislead H-2A workers into signing union cards before they even begin their jobs with their employers. Such a rule will likely disrupt farming operations and further discourage employers from utilizing the H-2A program (Risch 2023).

States all over the country are going to feel the effects of Biden's added regulatory burdens through higher costs that will likely be passed onto consumers in addition to potentially reduced supply in goods or services as some business choose to streamline their workforce or close.

CONCLUSION

IThe Hispanic population in the U.S. continues to grow rapidly and become a larger share of the total population. As a result, it is crucial that this segment of the population has the tools it needs in order to succeed especially as more and more Hispanics enter schools and the workforce. Between 2020 and 2030, the Bureau of Labor Statistics predicts that Hispanic will be responsible for 78 percent of net new workers (BLS 2021). It is within the country's best interest that we prepare Hispanics and all Americans, not only for the economy of the future, but to be productive and involved members of civil society. A strong, functioning, and nimble education system can help achieve these goals. There are unique barriers and challenges for the Hispanic community to overcome in order to meet its full potential and be an economically and academically successful force for this country. While Hispanic educational attainment has seen significant improvement across multiple levels, there is still much work to be done. According to the most recent data on high school completion (for those over 25), Hispanics are lagging 16 percentage points behind the national number.

The COVID-19 pandemic further laid bare some of the existing challenges that the community faces in the education system, largely tied to a lack of resources. The cost of textbooks, materials, and at times the transportation to and from school can cause a significant strain especially for lower-income households.Hispanic workers and business owners remain a crucial part of the total United States labor force.

For nearly the last 3 decades, Hispanics have had the highest labor force participation rate of all major racial or ethnic groups and are projected to drive overall labor force growth in the U.S. (BLS 2024) (Dubina 2021). There is enormous economic potential within the Hispanic community that can either be met or squandered depending on crucial policy decision. The current direction that this administration has chosen is one that limits worker freedom and choice, harms small businesses and increases the cost of doing business for key industries.

Under these types of conditions all Americans will find it harder to succeed. While the Hispanic labor market is a resilient one as evidenced by the groups' bounce back post COVID-19 it will be disproportionately harmed by the labor related policy decision that the Biden administration is pursuing. Independent work is a dynamic, innovative, and flexible part of the economy that allows workers access to careers they craft themselves, or as a means of supplemental income. Limiting this kind of work not only ignores worker preferences and locks certain individuals out of the labor market entirely but could also limit the potential recovery from large scale economic shocks.

The changes to joint employer and rules around temporary work visas both limit economic growth potential. Temporary work should be accessible to businesses and farmers who need it. The H2 visa programs exist to supplement and strengthen our economy in the event that there is not enough labor supply. Instead of a functioning legal immigration system that can help America's farmers and small businesses keep growing and create more jobs for Americans the recent policy decisions made around these visas only increases costs and makes it harder for businesses to stay open. While the changes to joint employer have been halted, at least for the time being, that doesn't mean that the NLRB won't continue pursuing changes that make it harder to operate small businesses and franchises.

Inflation, which hit a 40 year high under the current administration has been slowing, which is good news for workers who have seen some of their wages be eaten away by high inflation. Rate cuts from the Federal reserve are expected in June, but that will provide little relief if it becomes progressively harder and harder to access work and employers have difficulty meeting their labor supply needs.

To achieve and maintain a strong labor market, policies should consider worker preferences, flexibility, and the effect that policies will have on cost. The Biden administration's labor engagement seems to only be focused on controlling more and more of the market without regard for the individuals that are in it. Moving forward, the focus should be on creating more, not less, access to work, encouraging innovation by decreasing unnecessary regulations, and allowing small businesses to operate without government encroachment that leads to higher costs.

FOOTNOTES

[1] Calculation done using Bureau of Labor Statistics data via Federal Reserve Bank of St. Louis specifically Hispanic and topline labor force participation and civilian labor force level for total US and Hispanics.

[2] Calculation done with industry data by Zippia and data from the Small Business Administration from 2017. Used percentage of franchisees from SBA and applied it to number of Hispanic owned employer businesses.

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