

DECLARATION OF ROBERT NICHOLS

I, Robert Nichols, declare as follows:

1. I am the General Counsel at the Small Business Association for International Companies (SBAIC). I submit this declaration in support of Plaintiffs' application for a temporary restraining order. The statements made in this declaration are based on my personal knowledge and my understanding of information made available to me pursuant to my duties at SBAIC.

2. SBAIC is a membership organization established to promote the meaningful utilization of U.S. small businesses at U.S government agencies providing foreign assistance, such as the U.S. Agency for International Development (USAID), Millenium Challenge Corporation (MCC), Overseas Private Investment Corporation (OPIC), and the U.S. Departments of State, Defense, Defense, Health and Human Services and Agriculture.

3. SBAIC has almost 170 members, including small businesses certified under every Small Business Administration category, such as Veteran-Owned (including Service-Disabled), Women-Owned, HUBZone, Disadvantaged, and 8(a) Businesses.

4. Democracy International, Inc., another plaintiff in this case, is a member of SBAIC.

5. SBAIC's members work in all sectors and geographies, including conflict zones. This includes economic growth, agriculture and food security, democracy and governance, water and sanitation, as well as global health and education. Our members also work in humanitarian relief and crisis stabilization. Many also support monitoring and evaluation to ensure that U.S. Government taxpayer funds are evidence-based and achieve the highest return for every dollar expended. SBAIC members work in Africa, Asia, Latin America (including the Caribbean and Central America), Middle East, and Eastern Europe. Typical of American small businesses,

SBAIC members provide innovative solutions to development challenges, leveraging the tradition of American small business values, ingenuity, and flexibility. Our members' size make us especially well suited – or “right-sized”—to quickly and cost effectively work with and strengthen local partners. Like American small businesses generally, which represent the engine of the U.S. economy, SBAIC members are nimble and able to quickly pivot to ensure efficacy and continuing responsiveness to changing circumstances and U.S. Government interests. As an example of our cost effectiveness, most of our project staff and subcontractors are comprised of citizens and organizations of the countries we work in.

6. SBAIC members are able to carry out both small and large contracts, with current U.S. government contracts ranging from \$100,000 to over \$70 million. The administration's actions against foreign assistance are therefore directly germane to SBAIC's purpose.

7. SBAIC provides a variety of services to its members, including advancing meaningful small business participation in foreign aid programs, including new entrants; helping members network with U.S. Government clients and prime partners; carrying out a speaker series with industry leaders, policymakers, and vendors; providing educational resources; holding matchmaking events; and publishing a newsletter featuring member innovations in foreign aid along with SBAIC activity highlights and success stories.

8. SBAIC's members are being irreparably harmed by USAID's funding freeze, quickly receiving stop work orders, suspension orders, and termination orders, from both USAID and prime contractors flowing these down from USAID. USAID's small business partners now have months of unpaid invoices, with no respite in sight. Unable to communicate with USAID, small businesses are incurring incalculable risk under stop work orders by observing usual stop work order practices of keeping their work sufficiently intact to restart the work following the foreign aid review, without the usual agreement with USAID on what will be

considered minimum costs. This risk is especially alarming in light of the apparent dismantling of the agency itself.

9. Our small business members represent companies that have spent years building reputations, capabilities, good will, and trust with USAID and other partners, including international, regional, and local. Loss of this hard-won capability that took years of brick-by-brick effort, would be a grave loss to the businesses, to the US Government, and to the field of foreign aid.

10. As a result of the recent actions by the Administration, the very existence of our members is uncertain and at grave risk. SBAIC's members spent tens of millions of dollars in the period before the stop work orders that went into effect starting on January 24, 2025, and USAID's failure to pay for work done as far back as the fourth quarter of 2024 has disrupted cash flow and caused most of SBAIC's members to furlough most U.S. national staff in home offices and on contracts, and terminate foreign national staff or risk keeping them and being uncertain of payments under stop work orders. Our small business members also risk jeopardizing commercial bank lines of credit that are extremely difficult for small businesses to obtain in the first place. Each day that goes by without payments by USAID causes more companies to get closer to bankruptcy, particularly because the business model in working for the U.S. Government relies on timely payment for funds expended in advance, per the Prompt Payment Act, generally 30 days. Often, small businesses are able to receive payments within 15 days. The uncertainty of when USAID might start paying its past due invoices, much less new obligations under stop work orders, is causing our members to explore bankruptcy and consider closing their businesses. Small firms have less access to finance, and creditors are less inclined to work out debts and provide working capital in a catastrophic situation like the one caused by USAID's failure to pay on any invoices.

11. Many of our members have built businesses up from scratch over many years, have borrowed along the way from family and friends, and have cashed out retirement savings to finance their businesses. Many of these businesses represent our members' primary assets, and therefore our members are facing considerable harm to themselves and their families with bankruptcy and loss of their life savings.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 10, 2025, in Washington, D.C.

Robert Nichols

Robert Nichols
General Counsel

Declaration of Harm - SBAIC - Nichols

Final Audit Report

2025-02-11

Created:	2025-02-11
By:	Allison Gardner (Allison.Gardner@arnoldporter.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAAdSJFRh2WOgxfTiaglGyp7g4kNpb5ldP

"Declaration of Harm - SBAIC - Nichols" History

-  Document created by Allison Gardner (Allison.Gardner@arnoldporter.com)
2025-02-11 - 3:51:43 AM GMT- IP address: 163.116.146.118
-  Document emailed to Robert Nichols (rnichols@nicholsliu.com) for signature
2025-02-11 - 3:53:08 AM GMT
-  Email viewed by Robert Nichols (rnichols@nicholsliu.com)
2025-02-11 - 12:44:44 PM GMT- IP address: 104.47.64.254
-  Document e-signed by Robert Nichols (rnichols@nicholsliu.com)
Signature Date: 2025-02-11 - 12:45:00 PM GMT - Time Source: server- IP address: 50.144.154.34
-  Agreement completed.
2025-02-11 - 12:45:00 PM GMT