

DEFENDING MAIN STREET: COMBATING CCP THREATS TO AMERICA'S SMALL BUSINESSES

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DEFENDING MAIN STREET: COMBATING CCP THREATS TO AMERICA'S SMALL BUSINESSES

WEDNESDAY, MARCH 25, 2026

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,
Washington, DC.

The Committee met, pursuant to call, at 10:03 a.m., in Room 2360, Rayburn House Office Building, Hon. Roger Williams [chairman of the Committee] presiding.

Present: Representatives Williams, Stauber, Meuser, Alford, Wied, Bresnahan, King-Hinds, Velázquez, McGarvey, Scholten, Cisneros, Tran, Simon, and Goodlander.

Chairman WILLIAMS. Okay. May I have your attention. Before we get started, I want to recognize Representative Scholten from the great State of Michigan to lead us in the pledge and the prayer. Would you stand?

Ms. SCHOLTEN. Dear God, thank you for the opportunity that we have to serve this country, and to come together not as Republicans or Democrats, but as servants of the people for the United States of America. And help us to use the time today to uplift the voices of small business owners, main street across this country. May we listen with our ears and hearts wide open, come up with solutions to better serve the small businesses across this country. In the name we pray, Amen.

I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

Chairman WILLIAMS. Good morning to everyone, and I now call the Committee on Small Business to order.

Without objection, the Chair is authorized to declare a recess of the Committee at any time.

I now recognize myself for my opening statement. And I want to welcome everyone to today's hearing entitled "Defending Main Street: Combating the CCP Threats to America's Small Businesses."

First, I want to thank our witnesses for being here today, and for sharing their expertise on the important issue. I also thank my colleagues for joining us as we examine the challenges facing America's businesses in an increasingly competitive and complex global environment.

Small businesses are essential to the American economy. They drive innovation, create jobs, and strengthen our communities. From cutting-edge technologies, start-ups, to family-owned manu-

facturers, small businesses play a vital role in driving America's economy and reinforcing our national security.

However, this vital engine of our economy is under threat. The Chinese Communist Party has made it a priority to challenge the United States economically and strategically. In doing so, the CCP is exploiting every opportunity to target American innovation.

American entrepreneurs invest significant time, capital, and ingenuity into developing new products and technologies. Yet, far too often, these innovations are stolen, replicated overseas, and sold at a lower cost, undermining the very business that created them.

CCP-linked investments in small businesses also raise serious concerns. Many small businesses, particularly start-ups, rely on outside capital to grow in scale. But, when the capital comes from entities tied directly or indirectly to foreign adversaries, sensitive technologies and proprietary information risk being exposed and exploited. In some cases, these investments are structured in ways that obscure their true origin, making it difficult for entrepreneurs to identify their potential risk.

Additionally, supply chain dependence on China continues to pose a serious threat, and for decades American businesses outsource production to China due to low labor costs. But this is efficient in the short term. It also creates significant risk, especially for small businesses that lack the resources and shift production or diversify suppliers. These challenges are not economic; they are matters of national security.

Today's hearing is an opportunity to better understand how these threats impact small businesses and identify practical solutions. We must ensure that American entrepreneurs have the tools they need to protect their innovation, secure a trusted source of capital, and build resilient supply chains. If we fail to act, we risk losing not only our competitive edge but also the ingenuity and entrepreneurial spirit that define our nation.

I look forward to hearing from our witnesses about their experiences and recommendations for how Congress can support and protect America's small businesses.

With that, I now yield to my friend and our distinguished Ranking Member from New York, Ms. Velázquez, for her opening remarks.

Ms. VELÁZQUEZ. Thank you, Mr. Chairman.

Thank you to all the witnesses for being here with us this morning.

In March of 1942, just after our entry into the Second World War, the U.S. Army, citing an executive order signed by President Roosevelt and backed by a law passed by Congress, forced over 100,000 ethnically Japanese people on the West Coast, including U.S. citizens, into what even President Roosevelt himself called concentration camps. The Army was never required to prove that the Americans in the camps posed any threat to national security. In fact, no Japanese American was ever convicted of any act of sabotage during the war.

Their mere ethnicity was enough in the eyes of the federal government and the media to imply disloyalty to the country they were born in, lived in, and worked in. Each family was given a week to register with the government, liquidate their homes and

businesses, gather what they could carry, and report to assembly centers, often converted from outdoor racetracks and fairgrounds, to wait to be sent to their assigned camp.

Once shipped to their camps, prisoners were made to sleep in barracks and confined spaces with little privacy and quality of life under the constant watch of snipers and armed guards.

By the end of the war, 125,000 people, half of whom were children, had to stay in the camps. Eighty-four years have passed since this deep injustice began.

In 1988, President Reagan signed the Civil Liberties Act of 1988 apologizing for it and providing reparations to the victims of the camps. I see alarming echoes of this injustice in our discourse surrounding China, echoes that are manifesting in this hearing.

Let me be clear: The People's Republic of China is America's far most strategic competitor. The practices it has employed to bolster its state-controlled firms, corner markets, and undermine free competition around the world are hurting America's technological leadership and small businesses.

The federal government must do what it can to address these issues. That is why I proudly voted for the CHIPS and Science Act, and Inflation Reduction Act, to set industrial policies strengthening the entire ecosystem of resources, tax incentives, ancillary businesses, and workforce development surrounding the domestic manufacturing of strategic technologies and critical components.

Furthermore, multiple programs exist at the SBA and elsewhere in the federal government to bolster small businesses through capital access and technical assistance, which I have been pleased to support and strengthen throughout my tenure in Congress.

That is also why I vehemently oppose the Trump administration's action to undermine these far-sighted investments and substitute them with broad untargeted tariffs, mass deportation, DOGE cuts, and racism against immigrants and minorities.

Not only are these actions morally bankrupt, but they are unnecessary and undermine our national security and economy. It is entirely possible for the federal government to protect our national security without stepping into a slippery slope that is ethnic profiling. That means tackling complicated problems with new solutions and examining policies based on their merits, not engaging in inflammatory messaging and fear mongering against Americans and other people of Chinese ancestry.

I sincerely hope that today's conversation stays within those bounds. With that, I thank the witnesses for being here, and I yield back.

Chairman WILLIAMS. The gentlelady yields back.

And I will now introduce our witnesses. The first witness today is Mr. Pahutski. Mr. Pahutski is the vice president and fellow of Economic Security and Systems Planning and Analysis Inc. He is a former Senior Executive Member of the U.S. Department of Defense, with nearly three decades of experience in policy, acquisition, intelligence, and operations.

Throughout his career, Mr. Pahutski has led major defense modernization initiatives and advised senior leaders on strengthening supply chains and emerging technologies. Mr. Pahutski holds a

bachelor's degree in international economics from Salisbury University, home of the fighting Sea Gulls. Right?

Mr. PAHUTSKI. Right.

Chairman WILLIAMS. And has completed advanced technologies at Defense Acquisition University, the Naval Postgraduate School, and the U.S. Army War College. I appreciate having you here today.

Our next witness is Mr. Sean Murphy. Mr. Murphy was founder of the Bison Blockchain, a long-scale bitcoin mining company in Cheyenne, Wyoming. Bison Blockchain faced a takeover attempt by the CCP and ultimately secured a CFIUS divestment order. He is also the founder of Kompassion.

Earlier in his career, he was a researcher and a speaker on hemp, finance and healthcare policy, making appearances at the White House, Congress, and major media outlets.

Mr. Murphy volunteers in the VA hospice care, is a palliative care father to a child with a rare terminal disease, and is a U.S. State Department professional fellow, and we will pray for your family.

He earned a bachelor's degree from the University of Notre Dame. I don't know what their mascot is.

Mr. MURPHY. Fighting Irish.

Chairman WILLIAMS. Oh, is it? Okay. I knew you'd know that.

Our next witness, Mr. Tom Lyons. Mr. Lyons is the co-founder of 2430 Group, a nonpartisan, nonprofit organization focused on helping the U.S. private sector defend against foreign espionage. He works with business leaders to protect intellectual property and address threats from foreign adversaries. Previously he served for 15 years as national security executive in the U.S. federal government, advancing U.S. interests in complex global environments.

Mr. Lyons holds a juris doctor from the Catholic University of America, and a degree in international finance and German from Auburn University, home of the Tigers.

And I now recognize the Ranking Member from New York, Ms. Velázquez, to briefly introduce our last witness.

Ms. VELAZQUEZ. Thank you, Mr. Chairman. I would like to welcome Dr. Rush Doshi, who is an assistant professor at the Georgetown University Walsh School of Foreign Service and the C.V. Starr Senior Fellow for Asia and the Director of the China Strategy Initiative at the Council on Foreign Relations.

Previously, Dr. Doshi served as the Deputy Senior Director for China and Taiwan on the last administration's National Security Council. In that role, Dr. Doshi helped manage the NSC's first China directory, coordinated China and Taiwan policy, drafted President Biden's China strategy, and served as a top negotiator in matters regarding the PRC, Taiwan, and the AUKUS Alliance.

Dr. Doshi holds a bachelor's degree from Princeton and a Ph.D. from Harvard. Welcome. Thank you for being here. Thank you.

Chairman WILLIAMS. Thank you. We appreciate, again, all of you being here today.

So, before recognizing the witnesses, I would like to remind them that their oral testimony is restricted to 5 minutes in length. You all have done that. We stick with that.

If you see the light turn red in front of you, it means your 5 minutes have concluded, and you should wrap up your testimony. If you're still out there talking after 5 minutes, you're going to hear this; that means "shut it down." Okay. All right.

So, with that in mind, I now recognize Mr. Pahutski for his 5-minute opening remarks.

STATEMENTS OF ANDREW PAHUTSKI, VICE PRESIDENT & FELLOW, ECONOMIC SECURITY, SYSTEMS PLANNING AND ANALYSIS INC.; SEAN MURPHY, FOUNDER, KOMPASSION, AND FORMER FOUNDER, BISON BLOCKCHAIN; TOM LYONS, CO-FOUNDER, 2430 GROUP; AND RUSH DOSHI, ASSISTANT PROFESSOR, GEORGETOWN UNIVERSITY, AND C.V. STARR SENIOR FELLOW FOR ASIA AND DIRECTOR, CHINA STRATEGY INITIATIVE, COUNCIL ON FOREIGN RELATIONS.

STATEMENT OF ANDREW PAHUTSKI

Mr. PAHUTSKI. Thank you, sir. The views expressed in this testimony are my own and do not necessarily reflect those of my employer.

Chairman, Ranking Member, and Members of the Committee, thank you for the opportunity to testify today on the sophisticated and evolving actions of the Chinese Communist Party, and the cascading impact those actions are having on America's small businesses, the industrial base, and the broader United States economy.

This hearing reflects an important recognition: Small businesses are essential to the United States' industrial capacity, innovation base, and long-term strategic advantage. The bottom line is clear: Protecting America's small business is not simply an economic issue; it is a national security imperative.

Every large business started small. Many firms that will shape America's future manufacturing base, technological advantages and small businesses today often operate within fewer resources and fewer protections. Protecting them means protecting America's long-term competitive advantage.

In today's environment, economic security is national security. The United States' ability to innovate, produce, secure supply chains, and scale trusted capacity is directly tied to our ability to project power globally.

The defense industrial base is a useful point of reference, but the line between it and the broader American industrial base continues to shrink. Technologies converge through use applications often manifest over time, and software and other less tangible technologies operate across multiple domains and environments simultaneously.

What appears purely commercial today may become critical to national security tomorrow. For that reason, these should be understood as codependent parts of the same national industrial ecosystem. The challenge is that the Communist Party of China-linked threats to small businesses rarely appear in only one form. They can emerge through investments, supply chain exposures, intellectual property theft, or commercial relationships that appear beneficial at first but create long-term strategic vulnerabilities.

For many businesses, the threat does not present itself as coercion. It presents itself as an opportunity. Small businesses are often among the most innovative actors in our economy. The examples are endless. But they are also among the least equipped to detect, deter, and counter national State threats. Many operate with limited capital, limited legal support, and little margin for error when promising opportunities carry hidden risk.

When small businesses are compromised, the loss is not confined to a single firm. The spillover effects can be seen in reduced innovation, weakened resilience, and less trusted capacity for the whole of the economy. The greater concern is not simply the loss of any one single contract, company, or technology. It is the cumulative effect of allowing promising American firms to be weakened before they can fully scale, compete, and contribute to the nation's long-term economic and national security growth. That is how strategic erosion happens. That is how the CCP is doing it: quietly, incrementally, and often before national security implications are fully understood.

The policy goal in my view should be straightforward: trusted growth, American advantage. That means helping small businesses recognize risk earlier and making it easier for them to choose trusted capital, trusted supply chains, and trusted partners.

The central question is not whether we will respond after an American company has been compromised. It is whether we will act early enough to help the next generation of American innovators, manufacturers, and strategic suppliers grow on a trusted, secure, and competitive path from the start.

I thank you for your time, and I look forward to your questions. Chairman WILLIAMS. The gentleman yields back.

I now want to recognize Mr. Murphy for his 5-minute opening remarks.

STATEMENT OF SEAN MURPHY

Mr. MURPHY. Chairman Williams, Ranking Member, and distinguished Members of the House Small Business Committee. I am a former executive at Bison Blockchain. I am here today as an entrepreneur and small business owner who survived a Chinese takeover that literally wiped out everything we had built.

In 2022 and 2023, Bison Blockchain poured sweat and every last dollar into building the largest bitcoin mine in Wyoming, near Cheyenne, and just one mile from the Warren Air Force Base, and our nation's Minutemen III missiles. When our domestic capital fell through, we took a last-minute lead investor who claimed to be from Singapore, an international businessman.

After breaking ground, it became clear they were from Beijing and Hong Kong, majority Chinese nationals backed by CCP-linked capital, who also ran IP transfer companies. Just before bitcoin mining began, they brought in personnel from China to replace us as operators. We sued for breach of contract and interference, and then they countersued us, a small local business, for \$110 million. It was unfair. It was hugely inflated, and it was lawfare. And effectively they were mocking us and our judicial system.

They hired six law firms, two in New York, one in Los Angeles, and three locally in Cheyenne, and they exploited relationships between their Wyoming lawyers and Wyoming State legislators.

Then came the Presidential CFIUS divestment order, but they saw it coming, and they sold the site to CleanSpark, a large U.S. public company with hundreds of millions of dollars in contracts with Bitmain, one of the Chinese defendants. Bitmain is now under investigation in Operation Red Sunset by the Department of Homeland Security.

This wasn't competition. This was the Chinese mocking us and working with CleanSpark to try to wipe out the small guys. The local guys. The main street guys.

Their plan would have succeeded, but for the extraordinary work of my father, Patrick Murphy, Bison's attorney; my brother Michael, Bison's co-founders; and two men who are here today, Andrew Astuno, our CFIUS expert, and Cyrus Miryekta, a national security consultant who helped us. I would also like to acknowledge Beth Clay, who is not here. But all of these individuals really helped me in this process with the Chinese.

They were going to run off with the money. Everyone. The sales money. That was their plan, but we were able to secure landmark writs of prejudgment attachment and garnishment where the Wyoming Federal District Court took control of the sales money. And, once they took control of the sales money, we were then able to negotiate a settlement. So effectively we got money out and beat the Chinese.

Who am I in all of this? I am a palliative father. My son battles a terminal illness, and I fight for his life every day.

For 16 years, I have been a VA hospice volunteer, sitting at the bedside of dying warriors who have served this country, honoring the premise that no veteran dies alone.

My advocacy for my son and veterans centers on palliative care and access to cannabinoids, rescheduling marijuana from schedule I to schedule III to unlock research and healing, especially for rare diseases.

I am also an advocate against child trafficking, and I employ you to stand against it at home and abroad.

These realities made me something the Chinese did not anticipate in the lawfare, a father who had faced bigger, scarier dragons than them and their 16 lawyers. Being with my son and veterans, I realized we are not chemical beings to be pumped full of pharmaceuticals. We are electrical beings that need to be filled with light.

Our bodies run on bioelectric fields, energy pathways, and natural frequencies. This is biology, that every cell has an electrical charge; every muscle movement, every heartbeat is a result of an electrical charge or discharge. The EKG and EEG medical tests are measuring electrical impulses in the heart and brain.

As a palliative father, I tried everything else to help my son. Only energetic medicine, including sound and light therapies brought him relief when nothing else did. And this is the next wave of healthcare, and the intellectual property behind it is pure gold.

As a Hospice volunteer, I have seen how rampant fraud and abuse in healthcare devastate patients in small businesses, from massive durable medical equipment overbilling in Florida, to ghost

hospice facilities in California syphoning hundreds of millions, literally, from Medicare and Medicaid. These scams inflate taxes for every family, erode trust in legitimate services, and risk bankrupting these programs. And our adversaries, like the CCP, can and do exploit to weaken us economically from within.

Lawfare and IP theft are a direct threat to main street, and we cannot allow any foreign country, especially the CCP, to do these things against American entrepreneurs, parents and veterans.

I have included four recommendations in my written testimony, and I urge your good consideration and action. Thank you for this opportunity to testify and tell my story.

Chairman WILLIAMS. The gentleman yields back.

I now recognize Mr. Lyons for his 5-minute opening remarks.

STATEMENT OF TOM LYONS

Mr. LYONS. Chairman Williams, Ranking Member Velázquez, Members of the Committee, thank you for this hearing. My name is Tom Lyons. I am a former CIA officer, and a co-founder of 2430 Group, a nonprofit, nonpartisan organization that educates and defends U.S. innovation from nation-state economic espionage. I am here because America's small businesses are under attack, and most of them do not know this.

We have long characterized the CCP as a strategic competitor, but we need to ask ourselves whether their behavior is that of a competitor or that of a nation at war. These are two different things, and they prompt two different policy responses.

I would offer this, in the book "Unrestricted Warfare" from 1999, two PLAs colonels wrote that the future of conflict would be waged through economic subversion, technology theft, and the destruction of a rival's competitive advantage. The CCP recognizes that this kind of nonkinetic gray zone warfare against our companies, our research institutes, and our small businesses can be more effective than a kinetic war. In their own words, this is war, and we should take them at their word.

When it comes to measuring the damage from this war, the numbers we hear about are dangerously incomplete. It is often cited from the IP commission that we lose between 225 and \$600 billion annually to economic espionage. Those numbers do not capture incidents like Apple abandoning the autonomous vehicle industry, in part, because of PRC espionage, or one Google engineer walking out with the chip designs powering our AI systems.

It doesn't capture the metrics of the hundreds of companies that were never born because we lost the entire industry.

America pioneered the solar energy, lithium batteries, drone, and wind turbine industries. China dominates all of these today.

We invented the World's pharmaceutical innovations, but China today controls the key starter materials in most of our drugs. Production grinds to a halt if China restricts our supply chain.

The real costs are the entire sectors of the U.S. economy that no longer exist. Stand back and look at the industries that China has targeted and currently dominates: energy, communication, logistics, medicine, advanced computing, steel. These are all foundational for winning any conflict.

And it is not limited to critical technology. The same pattern plays out in agricultural, manufacturing, and consumer goods. If Apple, a \$3 trillion company, could not protect its AV program, what chance does a small start-up have?

A third of our small businesses rely on free antivirus software. Sixty percent shut down within months of a major cyber attack. We have caught the big cases because those companies had cyber or counterintelligence measures in place, but most companies, most small companies do not. Small businesses make up 99 percent of the U.S. firms, and they employ nearly half of the workforce. They are the hub of American innovation, the engine of our economy, and the foundation of our ability to project force in any conflict.

In China's unified economy, one company steals technology; a second will manufacture it; and a third will export it. Our legal system treats each as acting alone, however. So we miss the opportunity to hold the system accountable.

As you know, American taxpayers have funded part of this effort through small business innovation grants, or PPP loans, going to PRC state-owned entities. We have subsidized our own long-term decline because we haven't had basic checks in place. American executives go to federal prison for price-fixing, insider trading, and other anti-competitive behavior. Yet the PRC does this at a nation-state scale.

What the PRC is doing goes beyond trade, diplomatic, or regulatory issues. They are exploiting our system, which was designed for good-faith commercial actors. The playing field is simply unequal.

I want to be clear: This fight is against the Chinese Communist Party; it is not against the Chinese people. Many Chinese nationals come here to escape the system. They are victims of CCP coercion themselves. Our response must be precise, targeting conduct, not targeting ethnicity.

In my written testimony, we prepared specific legislative initiatives, the centerpiece being the Foreign Espionage Designation Act. In this case, the President would designate specific entities as foreign economic espionage organizations. It would then be a federal crime to knowingly accept compensation or material benefit from such a designated organization. This targets the so-called talent programs or the expert networks that incentivize theft across our industry.

We also prepared the Malign Foreign Interest Disclosure Act, requiring that any entity receiving material-state support from a country of concern disclose that relationship publicly. American businesses deserve transparency in whom they are doing business with.

We do not ask American citizens to wage war against foreign nation states. That is the government's job. But that is exactly what we are asking 33 million small businesses to do. If this is war, and it seems like the PLA has said as much, then the government must subsidize counterintelligence the same way we fund national defense.

American industries face an existential threat from the CCP, and our small businesses are on the front lines with limited defenses, intelligence, and government support. The essential point is this:

Main street should not have to fight this alone. It is not an equal playing field. Thank you for the opportunity.

Chairman WILLIAMS. The gentleman yields back.

I now recognize Dr. Doshi for his 5-minute opening remarks.

STATEMENT OF RUSH DOSHI

Mr. DOSHI. Thank you. Chairman Williams, Ranking Member Velázquez, and distinguish Members of the community, I appreciate the opportunity to testify today.

My argument is simple: Our small businesses are critical to America's future in manufacturing and technology, but, today, China is mounting the most comprehensive industrial strategy any power has ever attempted and is putting our small businesses at existential risk. The urgent task for this Committee is to consider how to help our small businesses meet this unprecedented challenge.

I want to divide my testimony into four questions. First, what are China's objectives? The Chinese Communist Party aims to catch up and surpass the West. It believes there have been four industrial revolutions that determined the fate of nations. The first was steam power, which brought British dominance. The second was electrification, and the third was mass manufacturing, which brought American dominance. And now we are in the fourth, quantum, biotech, AI, and robotics, which China is determined to win, not just for prosperity but for relative power. And Beijing sees manufacturing as the key to winning this revolution.

That brings me to a second question: How is China doing in manufacturing? China overtook the United States to become the world's dominate manufacturer in less than 25 years. Over that period, our share of manufacturing fell by half, from 30 to 15 percent, while China's share quintupled, from 6 percent to 30 percent. It now exceeds that of the next nine countries combined, and it isn't standing still.

China is spending roughly \$400 billion a year on industrial policy. By contrast, the U.S. CHIPS and Science Act is \$50 billion over multiple years.

That leads to a third question: What is the role of small business in this story? Large firms have dominated American manufacturing for decades, but their supply chains are made up of smaller firms. Today small business is the path to American reindustrialization. Smaller businesses are the keepers of specialized manufacturing knowledge; they are the producers of precision components, tooling, and specialty materials.

Take aerospace and defense. Roughly 70 percent of Boeing's Dreamliner comes from its smaller suppliers. Roughly 60 percent of all employment in that sector is small and mid-sized businesses. And the story is similar in other sectors, too, like automobiles.

Now, China sees the value of small and medium enterprises. Ten years ago, when it launched its Made in China 2025 program to catch up and surpass the West in key sectors, it saw small business as part of the plan. So it launched the so-called Little Giants Program to boost innovation, eliminate foreign suppliers, and create global competitors in high technology.

That program is a competitive program, but once firms get in, once they get that Little Giants designation, they get access to an incredible package of loans, subsidies, state equity investments, expedited patent processing, university research support, streamlined stock market listings, and even offtake from SOEs and the government.

To date, more than 17,000 Chinese firms have been designated Little Giants. Ninety percent are in high-tech manufacturing, and some have grown into global titans, like Unitree Robotics.

That is what our system is up against, which leads to a fourth and final question: What do we do? The SBA has some powerful tools. In fiscal year 2025, it guaranteed \$45 billion in loans to more than 85,000 small businesses, the most in its history. But the truth is this is simply not enough to keep up with Beijing. I would like to offer a few proposals.

First, China is going all-in on research support, but we have let the programs that we use to support early stage research lapse. Congress should immediately reauthorize the Small Business Innovation Research, and the Small Business Technology Transfer programs.

Second, China packages its benefits together and ties them to a certification program whereas we launch often uncoordinated individual initiatives. We can change that. Congress can launch a certification program that provides a coordinated package, demand side, supply side, and regulatory support for our high-tech small company.

Third, China's Little Giants raised about \$125 billion in the last few years from private sources, often with state support. Meanwhile, the first cohort of our SBIC critical tech program might raise \$4 billion. Congress should scale up that kind of program.

Fourth, Chinese manufacturers are able to access low-cost capital, including loans. To keep up, Congress should raise the number of loans, the loan cap, and the total appropriation for U.S. SBA's new, manufacturing—Access to Revolving Credit Program.

And, fifth, China's Little Giants can draw on universities, state institutes, and SOEs for technical assistance. Our equivalent program has lapsed. Congress should restore the Manufacturing Extension Partnership promptly.

These are just a few recommendations, but the common thread through all of them is integration. The SBA has loans, equity vehicles, R&D programs, and technical assistance programs. What it lacks is a mechanism to deploy them together in a coordinated way.

China has built that kind of program, and it is working. This Committee has the tools and jurisdiction to build the American equivalent. Thank you for your time, and I look forward to your questions.

Chairman WILLIAMS. The gentleman yields back.

And we will now move to the Member questions under the 5-minute rule. I recognize myself for 5 minutes.

Mr. Murphy, as a small business owner, you were directly involved in a dispute with a Chinese-controlled entity that ultimately forced your company out of its own project. You mentioned that. Can you walk us through how that situation unfolded, and what warning signs, if any, you now recognize maybe in hindsight?

Mr. MURPHY. Yes. Thank you, Mr. Chairman, Members of the Committee. There were warning signs, but all of this was under a prevailing need for expediency. We had secured through an RFP process contracts to electrical power, and that is what you need to mine bitcoin, is a lot of electrical power. And our lead investors fell through. We had raised \$3 million, but we needed a lot more to build out the project. So we had this quick need to secure the capital to execute the project, and we ultimately, for lack of a better term, got in bed financially with these Chinese partners.

So the first one was the diligence. We did not have time. And the nature of the capital need was expedient, like we had to execute on this or we would have lost the power contract. So there is the due diligence piece that could have, should have been better, but it wasn't because things had to move quickly.

And then, second, as things devolved and that played itself out, was the nature of the lawfare. And they were mobilized; they were strategic; and they knew what they were doing in hiring all of these lawyers and law firms at national and local levels to crush us on the legal fees.

So it was really those two: It was the upfront things that could have, should have been different, but it was so quick we couldn't do it differently. And then, as things played out, there was nowhere to go as a small business when the lawfare was happening. There wasn't a congressional—there was no federal mechanism, or we weren't aware of it. We were just the small business left to duke it out. And I don't know how that would be solved. There is some possibilities, but that was the difficult spot once it came to that, Mr. Chairman.

Chairman WILLIAMS. Thank you.

Mr. Pahutski, capital is the life blood of small business. We all know that. And many rely on alternative investments to scale but may not have the resources to fully vet investors. So my question to you would be, how can we help small businesses identify and avoid the investments from entities with ties to foreign adversaries, particularly those connected to the CCP?

Mr. PAHUTSKI. Thank you, Chairman, for the question. And your question is spot on to a plan that I have devised with the acronym TRUST, meaning Trusted Resilient U.S. Tracks, and it is underpinned by 10 different items that are very simple and effective and in place today: Launch small business-led trusted capital programs at each department and agency, embedded already in that fabric that exists. Streamline due diligence support with grants and affordable tools for small businesses. Incentivize supply chain diversification through tax credits and subsidies. Establish vetted suppliers that highlight secure-approved partners. Foster public-private partnerships to mentor small businesses into contracting vehicles. Align with Section 1260H that Congress passed years ago that provides clear supply chain risk guidance. Empower small businesses with advocacy and pathways for market access. Build trusted and transparency tools to map supply chains and risk identifications early. Coordinate with small business administration offices to ensure national security while fostering innovation. And launch educational initiatives for small businesses so they know how to navigate these programs.

It is not complicated. Everything that I have identified there, as kind of mentioned in others' comments, are pieces across this chessboard that we haven't tied together. Implementing them are easy. We have to move from policy to action, and that is what is slowing us down.

United States is known for innovating, and China is known for duplicating. We have to cease that. We have to get ahead of their actions.

Chairman WILLIAMS. Thank you. Mr. Lyons, in closing here, as you know, main street is increasingly vulnerable to Chinese Communist Party efforts to target America's small businesses and steal intellectual property. So my question would be, based on your experience, what was the most common method used to obtain intellectual property from America's small businesses?

Mr. LYONS. Mr. Chairman, thank you for the question. It is a great question that should be studied further. In my experience, the cyber attacks are the most prevalent. The second I would say is insider threats. And it is leveraging programs, such as Thousand Talents, and following that, it is engagement through venture firms. And even the process of doing due diligence from a venture firm when they are learning about a start-up is a syphon of intellectual property theft. So small businesses today are—it is multi-vector. It comes through coercion at times on insiders as well. Under the 2017 Chinese Intelligence Law, PRC nationals have to cooperate when they are asked to. So that threatens American workers who happen to be PRC nationals.

Chairman WILLIAMS. Okay. Thank you very much. And I now recognize, my time is up. I now recognize the Ranking Member for 5 minutes of questions.

Ms. VELAZQUEZ. Thank you, Mr. Chairman. Dr. Doshi, how do differences in the U.S. and PRC's political economies affect our bilateral tech competition?

Mr. DOSHI. Thank you very much for the question. China is a nonmarket economy. It has enormous amounts of state support and coordination to support small companies and big companies alike. And that means that oftentimes their companies can stay solvent longer. They are not targeting profit. They are targeting market share. There are companies which either need to get loans or are disciplined by our capital markets. So they can just stay in the game longer and throw more money at the problem than we can, and they have the government as their ally and the competition without companies.

Ms. VELAZQUEZ. It is no secret that the PRC dominates the supply chain for important items like pharmaceutical precursors, which we saw on full display during the COVID pandemic. Why is it in our national interest to ensure manufacturing for strategic tech and their parts?

Mr. DOSHI. Thank you for the question. We did see that China weaponized its unique role over the rare minerals and magnets supply chain. The total amount in value of the rare minerals we import is less than the price of an F-35, and yet it supports more than 20 percent of American economic activity.

If you take pharmaceuticals, 90 percent are fermentation-based API; that is, antibiotics are made in China. If we don't bring some

of that back or have it come from our allies and partners, China has a chokehold over our healthcare system.

Ms. VELAZQUEZ. How does President Trump's tariff wars affect small business' ability to ensure and compete with the PRC competitors?

Mr. DOSHI. On the one hand, the tariffs can create some protection from the PRC. But, on the other hand, they also raise the import costs for many companies that require importation of all kinds of imports for manufacturing. And, as a direct result, they may be less competitive globally, and we are seeing a lot of strain amongst small and medium manufacturers as a direct result of higher costs.

Ms. VELAZQUEZ. Our biggest strength is our ability to draw and keep the best minds in the world. This helps us drain the PRC's expertise and use it for our interests.

Last year Committee staff released a report finding that President Trump's mass deportation campaign is hurting this strength. Mr. Chairman, I ask unanimous consent to put the report in the record.

Chairman WILLIAMS. So moved.

Ms. VELAZQUEZ. How does the Trump crackdown harm our tech leadership?

Mr. DOSHI. I think there is a risk that some of the immigration crackdown will reduce the flow of high-scaled entrepreneurs from abroad into the United States. And a lot of our most innovative companies are a mixture of American homegrown talent and also foreign talent. We are only 300 million people. China is 1.4 billion. Our superpower is the ability to attract the very best from around the world and have them enhance our tech ecosystem.

Ms. VELAZQUEZ. Thank you. The SBA, Dr. Doshi, just made sweeping lending policy changes barring small businesses from SBA loans if they have any foreign industry stakes. The notice names PRC nationals without justification, bringing constitutional concerns under the 14th Amendment.

Mr. Chairman, I ask unanimous consent to put in the record my letter to the SBA detailing these concerns.

Chairman WILLIAMS. So moved.

Ms. VELAZQUEZ. Do these unnecessary restrictions constrain capital access for American entrepreneurs?

Mr. DOSHI. I think a lot of foreign nationals from a variety of countries can do a lot of good in the United States. Ph.D. students from abroad, from India or China or Japan, when they are here, they can launch innovative companies. We shouldn't deny them capital just because they are foreign citizens.

And, as for the China question, there are real concerns about security and espionage. We also have to implement this policy in a way that doesn't undercut our innovation advantages.

Ms. VELAZQUEZ. Does it hurt small manufacturers' ability to onshore?

Mr. DOSHI. I think it does because that foreign talent will often, especially Trump himself said, actually help us reindustrialize the country, for example, in areas like batteries.

Ms. VELAZQUEZ. Does it incentivize them to seek more risky foreign capital?

Mr. DOSHI. I think that is an important point. If you can't access capital from the SBA, you may end up trying to get capital from less trustworthy foreign sources, including China.

Ms. VELAZQUEZ. Mr. Lyons, the prime way to monitor fraud and address suspicious and fraudulent activity in our federal research programs is through their built-in watchdogs, the offices of inspector general. Should they be fully funded so that they can be at their greatest strength? In some cases, some of the agencies do not have yet an OIG.

Mr. LYONS. Ranking Member, thank you for the question. I see I am out of time. However, I think that any initiative that provides more of a capability to allow us to do research and background on individuals, programs, companies to determine and detect their connectivity to the PRC is a program I would support.

Ms. VELAZQUEZ. Thank you.

Chairman WILLIAMS. The gentlelady yields back.

I now recognize Mr. Meuser from the great State of Pennsylvania for 5 minutes.

Mr. MEUSER. Thank you, Chairman.

Thank you all. Very compelling testimony. Just to start out, let's face it, the advantage that was provided over a 20-year period to China's products being shipped into the U.S. versus where we are today, very much thanks to the courage of President Trump to rethink tariffs and focus on fair trade—not just free trade—has more advantages and benefits than negatives.

That being said, there is some real serious conversation taking place here. I am not new to it. I have got a relatively extensive business background on the international front as well. But what I am interested in hearing from you all is, what can Congress do? Many of you have outlined this in your testimony, I mean, in real terms, advice on recognizing the risk beforehand so we can hopefully share that with—in our promotion, communications. And, once you are under attack or being injured or harmed, who are you going to? Who in our federal government, state government? Is it FinCEN? Who is helping you? The DOJ, the SBA, the FBI? I mean, you know, you are really under significant assault, Mr. Murphy, with your business, and others.

So, Mr. Pahutski, let me just start with you, and you were outlining, and we really want to get those 10 items that you had, as well as the 4 that you included in your testimony, but what can Congress do, and perhaps advice on recognizing, if you would?

Mr. PAHUTSKI. So I think it starts with accountability. Right. The executive branch has the authorities to execute the intent and everything that has been discussed here. But shifting away from offices that concentrate on small businesses, policymakers and shifting that to action doers. Right. When instances occur like Mr. Murphy's, they need advocacy at the point of the problem. And that is a long problem expanse. Right. Far left is, "Hey, where can I find trusted capital?" Right. If you are working with the DOD, or the DOE, potentially, in his instance, that would have an advocacy role; they should have a list of trusted providers, of capital providers that he could have access to so he doesn't have to guess and blindly navigate that course.

That was a policy and an instrument that had started in the DOD that I was familiar with about 8 years ago and has slowed. Right. That is something that needs to pick up pace. And it is not so during the current administration. It slowed over time because of you all's priority and focus to other things. But having trusted capital programs do an amazing job to avoid what he did.

The other part I would advocate for is understanding the supply chains. Right. If you are not being bartered and traded through trusted capital to undermine your company, it is through the supply chains that make you less attractive to the DOD or other institutions that you work with. Right. So eliminating those supply chains—not just identifying the bad ones but providing a list of trusts vendors and sources is also a critical step in this.

Mr. MEUSER. That is great. I have limited time. Mr. Murphy, what would say, what sort of help would you like to have had from the federal government, and what else could Congress do.

Mr. MURPHY. Yes. Thank you, Mr. Chairman, and to you Representative. The big thing from the onset was we didn't know—we didn't even think about the SBA as an option for capital. Never—why would we get a loan? So having hybrid and equity options that are meaningful. So, for a business like ours, we needed 10- to \$15 million to secure the project. We had already raised millions, but we needed more. So it is that hybrid and equity option at larger amounts, and that was what really led to my recommendation thinking we are doing this in critical technology really primarily defense right now—I think it is the SBIC critical technology initiative. There is a good amount of capital there, but there is nothing in healthcare. Right. There is nothing in these parallel industries that helps us access that.

And, then, the other piece with the lawfare, I have a few notes here, things like debarment or sanctions, but tricky in the middle of the litigation, or fast tracking relief in some way to DOJ or Commerce Or the Trade Representative. But, once it got to the point of the lawfare, it was hard for Congress, or this body, to really help us. We were in the judiciary.

Mr. MEUSER. Thank you. Mr. Lyons, somewhat of the same question, if you could respond relatively quickly. And, by the way, Mr. Doshi, your testimony was outstanding. All your testimonies, I want to make sure I get it to the right people at the SBA; your information is really critical to our economy. But, go ahead, Mr. Lyons. Five seconds.

Mr. LYONS. I would commend Congress for recently passing SBIR reauthorization, which includes due diligence standards in there. That is an immediate thing. SBA should have funding to provide threat briefings to small businesses. The biggest problem today is that most companies are simply unaware of this issue.

Also, states like California prevent due diligence from occurring without providing that diligence to the subjects of the diligence.

Mr. MEUSER. My time has run out. I yield back. Thank you, Mr. Chairman.

Chairman WILLIAMS. The gentleman yields back.

I now recognize Mr. McGarvey from the great State of Kentucky for 5 minutes.

Mr. MCGARVEY. Thank you, Mr. Chairman. And thank you for having this really important hearing today and to our witnesses for joining us.

I am going to start with you, Mr. Pahutski. Your business has been active in SBIR, STTR since 1988. And not just active, but, I mean, received tons of awards. I think something like 30 awards or more through the program. And just how have you seen this vital program support small businesses and promote American innovation?

Mr. PAHUTSKI. I want to be careful on my testimony because I am not representing my company, nor the awards that they have received through fair competition. But Systems Planning Analysis broadly is considered an expert in the industry understanding exactly where threat vectors are coming from, and how to provide that strategic counsel and advice back to the government to avoid things—left of launch, if you would, that Mr. Murphy and other Americans have experienced.

Mr. MCGARVEY. No. I appreciate that. And this is an example, sometimes, you know, if you are watching this place from afar, you think the fights are between Democrats and Republicans oftentimes, and sometimes, in this place, fights come between the House and the Senate. And this is an example of where the House, all of our colleagues here, took this incredibly program, SBIR, STTR, passed it, and then it was, not just the Senate Republicans—really, it was one Republican Senator with a bone to pick that held this entire process up. And now it has effectively been shuddered for 6 months.

So they finally came to their senses over there on the other side of the Capitol and reopened the program, but, of course, now that we passed the bill out of both Chambers, the President has said he is not going to sign any more legislation until the SAVE Act is passed. So this important work remains on hold.

And I just—this is important work because, as we have this conversation, this really, really important conversation—Mr. Lyons, I appreciate a lot of what you had to say about the threat that the PRC and the CCP is posing to Americans, to America, and, in particular, American business interests—we need to have programs like this funded that are helping our own small businesses continue to have an advantage, continue to grow, continue to invest in products and people across the United States. So we need the President to sign this. We need our small businesses to get help. We all need to work on this.

And I just want to end on a little point, Dr. Doshi, is it easier to address how China is harming our small businesses from IP theft, from coercion, from manipulation, if we go it alone, or if we go at it with our allies?

Mr. DOSHI. Well, thank you, sir. It is a great question. And what I want to say is that, right now, China outpaces us in many dimensions. They are twice our manufacturing capacity, 3 times our power generation, 11 times our steel production, 20 times our cement production, but if we take the U.S. and put our allies and partners together, we outpace China. Any time we want to make progress, we are stronger if we do it with our friends, and the Chinese simply cannot match the scale that we have together.

Mr. MCGARVEY. And that is why I think this hearing is so important. That is why it is so important in this Committee where we still do come together and do good work. We have some real threats we have to deal with. We are not going to be as successful if we continue to fight ourselves and fight our allies when we should be taking on a common enemy. So I appreciate you guys bringing that point up.

And, Mr. Chairman, I yield back.

Chairman WILLIAMS. The gentleman yields back.

I recognize Mr. Wied from the great State of Wisconsin for 5 minutes.

Mr. WIED. Thank you, Mr. Chairman.

Thank you to the witnesses for being here today.

The Chinese Communist Party is no longer an emerging threat to our national security. They have a calculated and well-developed plan to infiltrate our educational institutions, internet data, military installations, and our nation's economy. Many of these threats are more overt than others, but the CCP infiltration of American small business is a problem that is not always discussed.

The threat from the CCP to small businesses ranges from intellectual property theft to CCP-linked investments. However, small businesses often lack the resources to protect their company and the products they have poured their time into. I look forward to discussing these issues with all of you here today.

Mr. Pahutski, what are the current gaps that small businesses face when seeking capital that allows CCP-linked investors to access this sensitive information?

Mr. PAHUTSKI. I don't know if it is a lack of access to capital, but it is a lack of awareness once they have access to it, and that really means the speed of relevance.

In Mr. Murphy's case, I would dare say that he was under a time pressure to make something happen because the deal would close in a certain period of time. Not having the ability to do due diligence, one, because of the cost, the other because of the education, "do I really need to do that," and those two worlds intersect at the point of decisionmaking. And that is not months and weeks. That is hours and days at the most. Right. And so we are left to cross the spectrum of seeing these types of instances because we don't have the advocacy within the government that is a clear path to solutions for these small businesses. We need to do better.

Mr. WIED. Well, this would be for, Mr. Murphy, how about, what are some ways that small businesses in your—from your experience, having gone through this, that can protect themselves from CCP-linked investors.

Mr. MURPHY. Mr. Chairman, and to you, Representative, we talked about expediency. Right. So access to capital. These are—we have talked about these, but access to capital; and then the nature of that capital—equity, hybrid versus just debt only; and then the amount of that; and the ability to have due diligence as a part of that. But working with funds and particularly funds that are leveraged with the SBA program that are trusted, that are safe. Many of these venture capital funds in Silicon Valley, they are not; they are not. They are gathering IP. They have relationships with attorneys and many of the law firms. I am using Silicon Valley as an

example because that is one that everybody is aware of. But that is the nature of it. So it is having what I would call safe, protected, trusted funds, and resources that are part of the diligence and to also have leverage to help entrepreneurs and businesses move quickly.

Mr. WIED. So how do we do that? How do we help you? And I am going to just basically open this up to anybody: How can we help you in that regard here in Congress.

Mr. MURPHY. I would say briefly improving, updating, upgrading the SBA program. I learned here from Mr. Pahutski that there are actual offices—like there is a Department of Energy SBA office. I didn't know that. That would have helped to know. But working and moving capital and options to apply for that into the agencies to help it move quicker.

Mr. WIED. Mr. Lyons.

Mr. LYONS. Thank you, sir. I do think awareness is a big part of this. I also think that State laws create a discrepancy in being able to actually conduct things like due diligence. And I brought up briefly the California statute, not to pick on California. It is just that we come across a lot of companies based in California, and the statutes are currently favored towards privacy versus background research on people. And, when you are running a critical technology like AI or quantum, where it makes a—it is a zero-sum game—we need to be able to facilitate those checks. So I think federal preemption on that issue, but also federal tax credits to allow companies and small businesses to do this would be important.

Mr. WIED. Mr. Doshi?

Mr. DOSHI. Thank you, Congressman. I will just offer two quick points.

First, we have to protect ourselves, which means that I think we need to strengthen due diligence. That, in turn, means that we basically should think about Corporate Transparency Act, beneficial ownership, because knowing who ultimately owns some of these companies that are investing in the U.S. is critical, and that is the hard part of due diligence. We can fix that. And it also, by the way, will help combat fentanyl and money laundering.

The second thing we should do is promote, and that is access to more capital from the SBA for our high-tech companies.

Promote and protect, together, are the way we do this.

Thank you, sir.

Mr. WIED. All right.

Thank you, witnesses, for being here today.

I yield back.

Chairman WILLIAMS. The gentleman yields back.

I now recognize Ms. Simon from the great State of California for 5 minutes.

Ms. SIMON. Thank you.

And thank you all. Today has actually been extremely informative.

I have a question for Dr. Doshi.

So, last week, the House sent the bipartisan Small Business Innovation and Economic Security Act—and the act, as you know, it reauthorizes the Small Business Innovation Research and Small

Business Technology Transfer programs—to the President’s desk for signature.

I am curious, what is the significance of these programs on tech leadership—our tech leadership?

Mr. DOSHI. Thank you, Congresswoman.

The SBIR program, as I recall, has done over \$70 billion in loans over the last 40 years almost, including many iconic American companies that have benefited.

Right now, the Chinese are putting billions and billions and billions into their small companies. The fact that we have had a 6-month lag—and hopefully that will be cleared up very soon—puts us at a significant competitive disadvantage when it comes to small business relative to China.

Ms. SIMON. Puts us at a disadvantage?

Mr. DOSHI. Yes, ma’am, a competitive disadvantage.

Ms. SIMON. Can you say more?

Mr. DOSHI. Absolutely. I mean, right now, the Chinese small companies, the so-called “Little Giants” companies, are able to being access tens, if not more, billions, of dollars in low-cost capital. The fact that our program is paused means that every small company in China that wants to win in manufacturing has yet another advantage now over us, which is access to cheaper funding.

Ms. SIMON. And just so the public understands, they are—these small Chinese companies are able to access this capital from the Party, from the—

Mr. DOSHI. So they are able to get it from—

Ms. SIMON. Where are they getting it from?

Mr. DOSHI. Yes, ma’am. From the state and, as well, from the private sector, with the state backing it.

And so, right now, we are pushing “pause” and the Chinese are pushing “go” through multiple funding channels.

Ms. SIMON. So, should this act be signed by the President, we have no idea what that implementation would look like. So what are tech companies and leaders and innovators doing in the whim while they wait?

Mr. DOSHI. Well, for small companies, access to capital is a challenge, especially now with so much capital going to the data-center build-out. That is crowding out capital for smaller companies.

Ms. SIMON. Right.

Mr. DOSHI. So, as we hear, they have to take capital from less trustworthy sources; they have to take it on less preferential terms. They may have to give up more equity, take more dilution. That is not great.

And one of the great things about the SBA program is, it doesn’t do any of that. It is not diluted, for example.

So we should get that program restored. Otherwise, companies may make poor choices with the long-term competitiveness.

Ms. SIMON. Now, in lieu of—who knows what that calendar will be and when the act will be signed by the President. We hope it will be. Any advice to this Committee on how to push the conversation forward?

Mr. DOSHI. Well, I think hearings like this one are useful, because I do hear some bipartisan support for the idea that our small

companies need low-cost, non-dilutive capital to lead in high tech. That is a view I think most Americans would support.

And I think, at the same time, when you understand the full scope of what China is up—what they are up to—and that is why I focused on that in my testimony—

Ms. SIMON. Right.

Mr. DOSHI.—what they are doing—it makes all this look a lot more urgent. It is a lot harder to say let's push “pause” when you see tens of billions of dollars flowing to small companies in China.

They are very serious about promoting these small companies. And let me be very clear: Their goal is to ultimately knock our companies out of business. They don't want them to be selling into China or selling around the world. They would like their companies to win.

And so it really is an existential question. We have got a lot of small companies in manufacturing. We are the backbone of American manufacturing. A lot of them are run by people who are about to retire. If those companies go out, we lose not just the companies but the knowledge that those companies held onto for decades. It will be much harder for America to reindustrialize, which is the President's priority, if we lose those companies.

Ms. SIMON. So it never happens to me, but I have a whole 1 minute and 39 seconds left. And I know a lot of my colleagues are in other hearings. This hearing, as our Chair mentioned, is literally on top of a number of other hearings on the floor today.

So, if you could, Dr. Doshi, for the next, you know, 35 seconds—and then I will yield my time back to the Ranking Member—I would love—you know, I know other Members had other questions for you. So, sir, are there other thoughts that you would like to extend to the Committee?

Mr. DOSHI. Yes, ma'am. I think the last thing I will say is that one of the things that China has done very well is, it has packaged a lot of these benefits together—supply-side benefits, demand-side benefits, regulatory benefits.

Ms. SIMON. Uh-huh.

Mr. DOSHI. It makes it much easier for companies to have a one-stop shop.

The Taiwan Economic Ministry does the same thing, by the way.

So a lot of our competitors, a lot of our allies, have programs that are very integrated. Presenting a package of goods, a package of benefits, to these companies—it is not all about spending money—can make their lives easier and can make it so that they are more competitive. That is how the Chinese do it. It is, again, how our allies do it. It is how we can do it too.

And I think we should think about the SBA having a credentialing program for high-technology companies so we can better incentivize the flow of capital. And think about this: A company that gets that designation, as in China, will be a much safer bet for the private capital markets too. I think we can do that.

Ms. SIMON. Thank you, sir.

I appreciate all of you.

I will yield my time, my whole 30 seconds, back to the Ranking Member.

Mr. DOSHI. Thank you, ma'am.

Chairman WILLIAMS. The gentlewoman yields back.

The Ranking Member has nothing.

I now recognize Ms. King-Hinds from the Northern Mariana Islands for 5 minutes.

Ms. KING-HINDS. Thank you, Mr. Chairman.

And thank you to all of the witnesses for your testimony today.

So, as the Chairman has stated, I represent the CNMI, which literally sits on the front line of a lot of these strategic geopolitical conversations. And, you know, for those who are not familiar with where the CNMI is, we are closer to China than we are the United States.

And so, you know, my community is struggling economically. I am concerned about any type of foreign investment coming into the CNMI. As a matter of fact, we have been having conversations with the legislature as to how do we provide the necessary support to the local government and connect them with an entity like CFIUS, for example, right? Because, you know, we ardently object to malign CCP influence, right?

And I am really glad, Mr. Lyons, that you distinguished between, you know, regular folks and the regime, right? So I appreciated that comment.

And I kind of—in reading your testimony, Mr. Murphy, you know, I was sad for you. And I don't want something that has happened to you to happen to any small businesses, especially folks out in a remote region where, you know, the government doesn't have the resources and just folks don't have the resources, right?

And I kept hearing a common theme amongst all of you, and that is due diligence.

And as I was preparing for this hearing, I saw that there is no connection between the SBA, who, you know, is in charge of lending capital, with CFIUS under the Department of Treasury. And so I kind of wanted to further flesh out, you know, that piece that you focused on with regards to due diligence so that we prevent what happened to Mr. Murphy.

And I will just open it up.

Mr. PAHUTSKI. Maybe I could take that. I used to be the DOD's lead representative for CFIUS, so I am very familiar with the authorities that are granted to that.

That is not, I would say, the appropriate tool. At that part of spectrum, CFIUS is typically reactionary, to some degree, because those transactions are being bought. The problem is well left of that. It is when we talked about when small businesses are faced with capital decisions, partner relationships, equity decisions. That is really at the point of no return, where the decision-making needs to happen.

CFIUS is a great measure to protect things through the national-security lens, but maybe his transaction didn't present a national-security threat, and therefore it might necessarily be reviewed through those authorities.

Ms. KING-HINDS. So I ask that question because any investment right now in the CNMI is viewed as a national-security threat if it is a foreign investment. And I want to be able to help my community, given the fact that we are just going through an

economic decline. As a matter of fact, I think it is in economic free-fall at this point.

And so I think you are absolutely right that CFIUS is reactive. How do we change it so that we ensure that what happened to Mr. Murphy doesn't happen? Because CFIUS is the arm of the federal government that is supposed to review foreign investments for national-security risks. And so how do we bridge that gap?

And I see Mr. Lyons there nodding his head.

Mr. LYONS. Thank you, Congresswoman.

I think that it is a complex problem, but one thing to address first is that there is nothing illegal about PRC investment into companies. And so that means that our law enforcement mechanisms have no tools here.

It does require—it does require background checks, due diligence, and I don't think it is always appropriate for the government to be involved in that, because the government simply doesn't collect on these issues. As a former intelligence officer, we focus on bigger things, I would say—on weapons systems, plans, and intentions. We don't focus on mergers and acquisitions or, really, much in the economic realm.

So, for that reason, there has to be partnerships on that front. I think SBA pushing out threat briefs could help. I think tax incentives—I think tax credits—to allow companies to take advantage of that, from a tax standpoint, so that they can build a CI program or a cyber program. There is a limited amount of funding available from the SBA today that goes towards funding cyber programs, and we need to expand programs like that.

Ms. KING-HINDS. Thank you.

Mr. Doshi, you can chime in for the rest of the time I have.

Mr. DOSHI. Thank you, Congresswoman. Let me just offer one additional point, because I agree with what everyone else has said.

I think there is some value in helping small companies recognize that, if they take investment from Chinese sources and that they are in their cap table, it might make it a lot harder for them to get access to certain government benefits, from the [inaudible] to Department of War, et cetera. And I think getting people to understand that there is a risk, not just a legal risk but a reputational risk potentially, in having these investors is critical.

And I will end with this. We need corporate transparency. We need to know the beneficial ownership of some of these vehicles. If we know that, we can do better due diligence in the open-source.

Ms. KING-HINDS. Thank you.

I yield back, Mr. Chairman.

Chairman WILLIAMS. The gentlelady yields back.

I now recognize Ms. Scholten from the great State of Michigan for 5 minutes.

Ms. SCHOLTEN. Thank you, Mr. Chairman.

Thank you, Ranking Member.

And thank you so much to our witnesses for being here today.

It seems like our questions this morning have kind of been going back and forth and questioning, to a certain extent, whether China actually is a problem or trying to point out how it is.

I think we all agree, China is a problem, right?

You agree?

You agree?

Yes. All heads are nodding.

The question is, what are we going to do about it?

Dr. Doshi, in your questions, you talk about the rapid pace at which China is investing in its small businesses. At the same time, we have seen major scaling back of our small-business programs.

Can we continue at the same pace and expect different results? To our entire panel, I mean, yes or no, can we continue—no, we cannot. No. No. We cannot.

I think that this is the central question, you know. And the oversight of this Committee is—if we take nothing more away, if we are all in agreement that China is a threat, we cannot continue at the same pace of scaling back our programs. Yes, there are other multiple things that we need to do, but making sure that we are putting our money where our mouth is and addressing this problem head-on is essential.

I have a few other questions particular to west Michigan, but I really wanted to emphasize that point.

So west Michigan is home to world-class innovation. I have had the privilege of touring small businesses in my district who are at the forefront of research and development that will enhance everything from medical treatments to new defense technologies. Many of these businesses were SBIR/STTR award recipients. We had 11 businesses receive awards in 2024, 4 more recipients in 2025.

I was proud to vote in favor of the Small Business Innovation and Economic Security Act last week, which passed the House and would reauthorize those programs.

With specific reference to these programs, as we talk about the importance of investment, Dr. Doshi, how will these programs, specifically, help our tech leadership?

Mr. DOSHI. Thank you very much, Congresswoman.

And, as you know, of course, the Midwest is home to a disproportionately large number of our high-tech manufacturers—small businesses, disproportionately.

And so I think for these companies, access to low-cost capital is a challenge. Bigger companies can get better terms from big banks. Our smaller companies struggle. They may not be as well known. They are not as credible, perhaps. They have got other challenges.

The government can step in, as they do in China, but it doesn't have to be a big cost to the government. That is the benefit of some of our programs.

Ms. SCHOLTEN. Right.

Mr. DOSHI. And if you look at the track record, our programs tend to do quite well. They end up creating huge economic benefits. Sometimes even major companies emerge from SBIR and STTR.

So I think the question for us is, do we want to support these companies in high tech? Because if we don't want to support them, China is going to support it, so we have to get even with them.

Ms. SCHOLTEN. That is exactly right. Thank you.

Dr. Doshi, your testimony highlights—I want to talk about small manufacturers and exporters, specifically, who rely on technical assistance to build up and keep an edge over their overseas competitors.

The MEP program—my district has benefited significantly from the State's work there. The Michigan Manufacturing Technology Center, in addition. In the past 3 years, MMTC has assisted 145 manufacturing companies just in my district alone—145—impacting over 16,000 employees. I mean, the impact is just so huge. And I know Michigan is, you know, a little outsized there, with, you know, our huge auto manufacturing sector, but this is a big deal to us.

Moreover, MMTC is working to establish a new AI Lab to help keep Michigan ahead of the AI curve.

Dr. Doshi, the Trump administration has withheld \$19 million in MEP funding, causing major staffing layoffs and hiring freezes within most MEP centers. How is this harmful to our domestic manufacturers? It almost goes without saying, but we are here to take the testimony today, so please do say it.

Mr. DOSHI. Well, thank you, Congresswoman.

I think it is disastrous. I mean, a lot of these programs are now seriously damaged. It will take, you know, months, if not years, for them to scale back up again.

I am not really sure why. The President is very committed to reindustrialization. His team believes in reindustrialization. I think probably somewhere there has been a disconnect. And the team that he has that cares about this should re—should make sure that these programs have the money that need.

Because the Chinese are investing, right? They do technical assistance, and we don't. They do technical from their SOEs, from the universities, state research centers, on a industrial scale.

Ms. SCHOLTEN. Yeah.

Mr. DOSHI. And we shouldn't pause ours.

Ms. SCHOLTEN. Yeah.

As a State that is also home to some of the leading universities in the country, I worry about the brain drain, not from people leaving this country, necessarily, but from not pursuing these advanced degrees in technology because they are not seeing, you know, the opportunity for themselves there as well.

So thank you. I am out of time. I thank you all for your testimony today. It has been, you know, incredibly helpful.

Mr. Lyons, I especially appreciated some of your remarks, so thank you.

Thank you. I yield back.

Chairman WILLIAMS. The gentlelady yields back.

And I think—do we have any more here in the hearing?

I would like to thank our witnesses. This has been a great hearing. And this is a bipartisan subject we all agree with—99 percent, I am sure; maybe even better.

But, without objection, Members have 5 legislative days to submit additional materials and the written questions for the witnesses to the Chair—and before I finish that, somebody from California just walked in.

Ms. SCHOLTEN. California time.

Chairman WILLIAMS. And I yield to the gentleman from California.

Mr. CISNEROS. Thank you, Mr. Chairman.

Sorry. I had a briefing that I had to pop into, and I just got out in time. And I couldn't have my watch or anything, or my phone or anything, to let me know what time it was, so—I am here now.

So thank you all for being here today, and thanks for your time. And I guess I am the last one here before you can all go, but—so I will be quick.

Mr. Doshi, the 2026 National Defense Strategy and National Security Strategy have shifted our focus as it relates to China. The NDS places an implicit bet on outproducing China but hardly mentions technology, as you laid it out in your testimony.

China is prioritizing its small business, particularly in manufacturing and technology. How should Congress scale and invest in programs that boost American small business in manufacturing and technology?

Mr. DOSHI. Well, thank you very much, Congressman, for the opportunity to talk a little bit about that.

My view is that the SBA has a number of tools. Some of them have lapsed and can be reauthorized, and some of them can be expanded.

In many cases, a lot of those instruments that the SBA has can be packaged together to give small companies a one-stop shop so that they can get demand-side support, supply-side support, and regulatory support.

But the key point I want to emphasize is this: China takes its small businesses very seriously as manufacturing competitors. It gives them enormous amounts of resources. It gives them patent support, expedited access to stock-market listings. And it even forces the state companies and its government to buy from them.

We are not going to replicate their system, but we have to put together a program that is not just individual projects and individual initiatives but packaged together to make sure our companies are competitive.

Mr. CISNEROS. All right. Thank you.

You mentioned the SBA. So the SBA is creating barriers for many small businesses to access resources, such as changing eligibility for programs, threatening to pull offices from major metropolitan hubs, and withholding funds from programs and resource partners that support small businesses.

Are these counterproductive to the investments we need to be making in our small businesses for their resilience on the global stage?

Mr. DOSHI. Congressman, I do worry that some of the current efforts are counterproductive. In particular, as we have discussed in this hearing, some of the key programs have lapsed or have been reauthorized but that has not fully gone through within the administration.

That can change quickly. We know that the President is committed to reindustrialization, so there may be a disconnect within his team, but it should be possible to make progress.

As for, you know, offices closing that are part of the MEP program, that is disastrous. I mean, when those offices close, it can take a long time for them to staff back up. In the meantime, our companies lose important connections to the assistance that they need.

Mr. CISNEROS. Thank you for that response.

Mr. Lyons, you highlighted the lack of awareness in security by small businesses against cyber intrusion in your testimony.

If a small business wanted to improve their cybersecurity, what federal education, legal, or technological resources are available to them?

Mr. LYONS. Thank you, Congressman, for the question.

I think that the SBA has a cyber program that allows them to take—allows small businesses to take advantage of some subsidized offerings there. I think that should be expanded.

I think that CISA also puts out routinely updated information regarding how small businesses can protect themselves.

A lot of this is free.

Mr. CISNEROS. Uh-huh.

Mr. LYONS. A lot of this—I think tax credits would help bolster defense and bolster awareness. But a lot of this is also out there on sites like CISA or the NCSC.

Mr. CISNEROS. Can I ask just one followup on that? I mean, the resources, you said, are free and are provided by CISA, SBA. But when it comes to the actual financial cost of having to fight this, how are small businesses able to keep it up? Or can they?

Mr. LYONS. Sir, they are not.

Mr. CISNEROS. Yeah.

Mr. LYONS. They simply—in conversations that we have had with numerous small businesses, oftentimes economic espionage is ignored because of the legal costs associated.

I would point to my written testimony of a few examples but also of some possible legislative initiatives that could change something like that.

Mr. CISNEROS. Mr. Doshi, you are shaking your head “yes,” so I will let you respond to that as well.

Mr. DOSHI. Well, thank you, Congressman. I just want to add one additional factor.

When our company is the victim of cyber espionage and they lose their IP and it goes to a Chinese manufacturer, who then makes the same things and sells it back to us, it should be easier for us to stop the importation of that infringed-upon export.

Right now, it is really hard. Those small companies have to hire lawyers; they have to go through a process. We should make it easier for our companies to protect their IP from foreign manufacturers that have taken it essentially illegally.

Mr. CISNEROS. All right.

Thank you all for your testimony.

And, with that, I yield back.

Chairman WILLIAMS. The gentleman yields back.

I now recognize Mr. Bresnahan from the great State of Pennsylvania for 5 minutes.

Mr. BRESNAHAN. Thank you, Mr. Chairman, and to the Ranking Member.

And thank you to our witnesses for being here today.

The influence of the Chinese Communist Party is no longer something we can ignore or afford to underestimate. It is a real threat to our economy and everyday life happening right now, and our small businesses are on the front lines.

The CCP knows exactly what kind of leverage it holds, and is not afraid to use it, whether that means undercutting American businesses, stealing intellectual property, or flooding our markets with cheap and inferior products.

COVID-19 made that crystal-clear. It exposed just how vulnerable we are and how reliant we had become on China to keep our economy and supply chains running. That should have been a wake-up call, but that dependence still exists today, and it remains a direct risk to both our economy and our national security.

That is why this Committee must continue working with the administration and the SBA to bring manufacturing back home and prioritize American production over CCP entanglement.

That starts with being clear about what the CCP involvement means for our American entrepreneurs and their intellectual property.

Starting a business is already a heavy lift. It takes risk, capital, long hours, just to get off the ground. We have seen it happen too many times: when the American entrepreneur puts everything on the line to build something from the ground up, only to have a CCP-linked company steal that idea, copy it using cheap labor, and flood the markets with knock-offs that undercut them at home.

That is unacceptable and a fundamental threat to the American Dream. We have a duty to protect American innovation from that risk.

Mr. Murphy, you know this reality of the situation all too well, and what your company went through is something no American business should ever have to face.

So my first question, for Mr. Murphy: Looking back now, what would you tell a small-business owner who was considering taking on foreign investment? And what do you wish you had known before making that decision?

Mr. MURPHY. Mr. Chairman and Congressman, we have talked a little bit about this—obviously, due diligence, expedient access to capital, the type of capital.

And the one theme that I have heard here from the panel that I think I just want to highlight is this. And I don't know anything about the "Little Giants" program in China, but something similar.

I mean, we are—our motto is "free markets and competition." It is not outside of our SBA to have a packaged-up, competing program where an entrepreneur or business like mine can feel confident and empowered to go to the SBA and have this package of diligence, access to capital, trusted vetted capital partners, and the like. That seems like something we can and should do to compete.

Mr. BRESNAHAN. At what point in the process, Mr. Murphy, did you start to feel that something was wrong, or what was the first indication that you had some kind of China influence taking over your business? Was there, like, an antenna moment or an a-ha moment that caught your attention?

Mr. MURPHY. Congressman, yes, there was. There was—as we were breaking ground, one day, several individuals just arrived at the site. They showed up at the gate, they wanted to be seen, and they said that they had come over from Asia. And then, once we started putting the pieces together, we realized, no, they came from China, and who were they.

And then it got back to—and we heard this term from Dr. Doshi—who is the ultimate beneficial owner? We did not know. And it turned out to be somebody different than the people that were on site, and it turned out to be the person who had sent these individuals.

So it was that, when they showed up, that——

Mr. BRESNAHAN. Totally unannounced.

Mr. MURPHY. Unannounced. And that is——

Mr. BRESNAHAN. And you had no recourse——

Mr. MURPHY.—when I said—and I said, “Stop. Something is going on here.” And that is when I, in my mind, started realizing, there is something afoot.

And then more came. And then when bitcoin miners showed up, this, you know, millions and millions of dollars of bitcoin mining machines showed up just on a dime—you know, 30 trucks, boom, into Cheyenne—that is when I said, we are going to start documenting, you know, every email, every conversation.

And then it was shortly after that that they said, “Hey, we want to renegotiate our contract. Basically, you guys go from your operational role in our contract that was this to a very small role and basically be our Wyoming guys to protect us in this State.” And that was when we sued them.

Mr. BRESNAHAN. That is absolutely abhorrent and unacceptable.

One more followup question. What could we be doing in Congress to prevent things like this from happening in the future to other entrepreneurs and other businesses?

Mr. MURPHY. Yes, Congressman. We have heard a lot of those good ones, ideas, today in testimony. But I think it goes back to—and I think, with this Committee, it is the SBA, right? That that is where entrepreneurs—right now, as an entrepreneur, I wouldn’t even have thought to go to the SBA. To get a loan? To get a \$10-million debt loan? Doesn’t make any sense.

But for that to be a resource that entrepreneurs and small business can turn to that actually helps with capital, diligence, and all these pieces, that, I think, makes the difference.

Mr. BRESNAHAN. Thank you for being here.

Mr. Chairman, I yield.

Chairman WILLIAMS. The gentleman yields back.

And I now want to repeat myself and say what a great hearing this has been.

Thank you guys for taking time to do that.

And, without objection, Members have 5 legislative days to submit additional materials and written questions for the witnesses to the Chair, which will be forwarded to the witnesses. I ask the witnesses to please respond promptly.

So, if there is no further business, without objection, the Committee is adjourned, and thank you again.

[Whereupon, at 11:28 a.m., the Committee was adjourned.]

[Mr. Andrew Pahutski did not respond to QFR’s in a timely manner.]

APPENDIX

SUBMITTED TESTIMONY

Submitted Testimony of Andrew Pahutski

Before the House Committee on Small Business

Hearing on: “Defending Main Street: Combating CCP Threats to America’s Small Businesses”

25 March 2026

Andrew Pahutski

Appearing in an individual capacity

The views expressed in this testimony are my own and do not necessarily reflect the views of my employer, Systems Planning and Analysis, or any other organization.

Chairman, Ranking Member, and Members of the Committee, thank you for the opportunity to testify today on a challenge that deserves far more attention than it often receives: the threat that Chinese Communist Party-linked activity poses to America’s small businesses.

Over 27 years in national security, including as a senior executive advising senior U.S. and foreign leaders, I have seen how economic and strategic risks increasingly converge. Today, in private industry, I partner daily with small businesses serving the U.S. government, and I see firsthand both the innovation they bring and the vulnerabilities they face.

The central point of my testimony is straightforward: America’s small businesses are not peripheral to our national strength. They are central to our future industrial capacity, innovation, and strategic advantage.

Every large business started small. Every major manufacturer, technology leader, and critical supplier began at a smaller scale, usually with fewer resources, fewer protections, and less ability to absorb risk that is created or directed by a national adversary. That is why protecting small business is not merely a local economic issue. It is a national security issue. Protecting small businesses means protecting America’s long-term competitive edge.

In today’s environment, economic security is national security. A nation’s strategic power is directly tied to its ability to innovate, produce products, secure supply chains, and scale trusted capabilities.

That is also why this conversation should not be framed too narrowly around the defense industrial base alone. Our long-term advantage depends on the strength of the broader American industrial base. Many firms relevant to future national strength do not think of themselves as defense companies at all. They are small firms across key sectors of the American economy, building capabilities essential to America’s resilience, competitiveness, and security.

This issue is not only about stopping adversarial activity. It is also about making trusted growth easier than vulnerable growth for America’s small businesses.

The challenge is that CCP-linked threats to small businesses rarely appear in only one form. They can come through investment, supply-chain dependence, intellectual property theft, cyber intrusion, predatory pricing, data harvesting, talent recruitment, or business relationships that appear beneficial in the near term but create long-term vulnerability.

SUBMITTED TESTIMONY

For many small businesses, the threat does not present itself as coercion. It presents itself as opportunity: an investor, a supplier, a market, a key employee with specialized technical knowledge or a partnership at exactly the moment the firm is trying to grow.

That is why this issue deserves greater attention. Small businesses are often among the most innovative actors in our economy, but too often they are asked to navigate strategic risk without the resources, visibility, or support that larger firms can rely upon.

The public record illustrates the pattern clearly. In some cases, theft of proprietary technology has been followed by canceled contracts, financial losses, and layoffs. In others, agricultural trade secrets and sensitive research and development files have been stolen for transfer to China. The specific facts vary, but the underlying playbook is familiar across diverse American industrial sectors: steal innovation, exploit insiders, transfer advantage, and weaken U.S. firms before they can fully scale.

The risk is larger than the loss of any single business, contract, or patent. The larger danger is that the United States allows avoidable pressure on small firms to weaken the pipeline from which future industrial strength, innovation, and job creation emerge.

When promising firms are compromised early, when proprietary technology is stolen before it scales, and when American firms are undercut by non-market practices, the United States loses more than near-term economic value. It loses future capacity, resilience, and the next generation of manufacturers, suppliers, and technology leaders before they fully mature.

That is how strategic erosion occurs: quietly, incrementally, and often below the threshold of national attention.

The policy goal, in my view, should be straightforward: make trusted growth easier than vulnerable growth for America's small businesses.

That means helping small firms recognize risk earlier and more practically. It means expanding access to trusted growth capital so innovative American firms are not forced toward vulnerable financing or staffing practices. It means improving supply-chain visibility and supporting trusted sourcing. It means treating cybersecurity and intellectual property protection as part of economic competitiveness. And it means making federal support attractive and easier for small businesses to navigate.

The central policy question is not how to respond after an American company has already been compromised because that is more than likely too late to mitigate the damage. It is whether we will act early enough to ensure that the next generation of American innovators, manufacturers, and strategic suppliers can grow on a trusted, secure, and competitive path from the beginning.

Every large business started small. Every strategic industry begins somewhere. If we want to preserve the value of innovation for America's long-term advantage, we need to make sure the firms most likely to become our future strengths are able to grow, compete, and remain anchored here in the United States.

Thank you for the opportunity to appear before the Committee. I look forward to your questions.

Respectfully,

Andrew Pahutski

Andrew Pahutski

Written Testimony of Sean Murphy
Founder, Kompassion
Former Executive at Bison Blockchain
Before the House Committee on Small Business
Hearing on Defending Main Street: Combating CCP Threats to America's Small Businesses
March 25, 2026

In the testimony that follows, I discuss three specific topics – Bitcoin/blockchain, palliative care, and energy medicine – seemingly separate issues; however, the common thread is the need to protect each, to promote each, and to secure against corruption, fraud and abuse. The CCP and other bad actors in these fields are undermining our national stability, national security, and the continued survival of the United States of America as a democratic republic.

My name is Sean Murphy. I am an entrepreneur, investor, and small business owner. I am a palliative father. My son battles a terminal illness, and I am fighting for his life. I've been a VA hospice volunteer for sixteen years, sitting at the bedside of dying warriors.

My advocacy for my son and veterans centers on palliative care and has previously focused on access to cannabinoids and rescheduling "marijuana" from Schedule I to Schedule III, which I think will be a monumental movement in research and development of cures.

I'm also an advocate against child trafficking. I implore you to stand against child trafficking at home and abroad and pursue justice for the victims. As a palliative parent, defending children has become a moral imperative.

Being with my son and veterans, I've realized we are not chemical beings to be pumped full of pharmaceuticals—we are electrical beings. Our bodies run on bioelectric fields, energy pathways, and natural frequencies. I did not learn this by choice. Being a palliative father led me to this. I had to become an expert on my son's condition and how the human body's own innate health abilities are activated. I had tried everything else to help my son, only to find energetic medicine, including sound and light therapies, were what helped him when I was forced into a place where I had no other options to help him. This is the next wave of healthcare and the intellectual property behind it is pure gold.

Lawfare, and IP theft are a direct threat to every small business on Main Street, where energy medicine is a frontier industry. We cannot allow any foreign country—especially

the CCP—to steal IP and weaponize our own legal system against American entrepreneurs, parents, and veterans.

Additionally, in healthcare, I am witnessing firsthand how rampant fraud and abuse are, from massive DME over-billing schemes in Florida to ghost hospice facilities in California, siphoning hundreds of millions from Medicare and Medicaid. This fraud and abuse devastates patients, inflates taxes for every American family, erodes trust in legitimate services, and jeopardizes the long-term solvency of these critical programs. These scams not only crush honest small businesses trying to deliver real care but also create vulnerabilities that foreign adversaries can exploit to speed up economic damage by weakening our entitlement systems from within.

There are documented cases of Chinese nationals or China-linked individuals involved in U.S. healthcare fraud (e.g., straw owners, money laundering, or telemedicine scams), and the FBI has warned about hybrid scams where criminals impersonate U.S. insurers and Chinese law enforcement to target Chinese-speaking residents. Florida's Attorney General has recently created a "CHINA Unit" focused on data privacy risks and foreign-linked health-tech companies.

What follows is background and information involving Bison Blockchain, energy medicine, healthcare fraud, and my recommendations on protecting entrepreneurs and small business owners focused on the applications to the healthcare industry and access to capital for experienced American entrepreneurs and small business owners.

I. Bison Blockchain, Bitcoin Mining, and the CFIUS Presidential Divestment Order

I am a former executive at Bison Blockchain. We survived a Chinese takeover that literally wiped out everything we had built. In 2022 and 2023, the Bison Blockchain team poured sweat and every last dollar into building the largest bitcoin mine in Wyoming, near Cheyenne, just one mile from Warren Air Force Base and our nation's Minuteman III missiles. Early in the project, our lead domestic capital option didn't come through, and we were forced to take on a last-minute capital partner, a group of investors who identified themselves as "international businessmen."

After breaking ground, it became clear our capital partners were not from Singapore, as they had represented. They were from Beijing and Hong Kong — majority Chinese nationals backed by CCP-linked capital. These men, we later came to find out, also owned and operated IP transfer companies.

Just before starting to mine bitcoin, the Chinese brought in individuals to replace us as the site operators. We were left with litigation as our only option, suing them for breach of contract and contract interference. They countered by suing Bison Blockchain, a small local business, for \$110 million. It wasn't litigation—it was lawfare.

The Chinese Defendants hired six law firms, two in New York, one in Los Angeles, and three locally, right in Cheyenne — and exploited relationships between their Wyoming lawyers and state legislators. By this, I am clarifying, the CCP had influence in the Wyoming legislature. They mocked us and our judicial system.

Then President Biden issued the presidential divestment order¹ in May 2024 under CFIUS authority (pursuant to the Defense Production Act and FIRRMA) because the Cheyenne, Wyoming bitcoin mining site—located just one mile from the Warren Air Force Base and its Minuteman III ICBM silos—posed an unacceptable national security risk because of its proximity to critical nuclear triad infrastructure.

CFIUS determined that the foreign owners (MineOne Cloud Computing Investment I L.P., majority-controlled by Chinese nationals) could use the specialized foreign-sourced mining equipment for surveillance, signals intelligence collection, or espionage against U.S. strategic assets, creating a vector for Chinese intelligence operations on American soil.

This was the first-ever presidentially ordered divestment of real estate under the expanded CFIUS real-estate rules, requiring full foreign divestment within 120 days plus removal of all improvements and foreign equipment to eliminate the threat.

But... the Chinese Defendants saw the divestment coming months in advance, and preemptively sold the site to a large US public company, CleanSpark², a company that had contracts worth hundreds of millions of dollars with one of the other Chinese Defendants in the lawsuit, Bitmain, the manufacturer of CleanSpark's bitcoin mining equipment. [There is currently an investigation into Bitmain called Operation Red Sunset³. According to *Bloomberg* and other media outlets, the Department of Homeland

¹ Regarding the Acquisition of Certain Real Property of Cheyenne Leads by MineOne Cloud Computing Investment I L.P., 89 Fed. Reg. 43301 (2024).
<https://www.federalregister.gov/documents/2024/05/16/2024-10966/regarding-the-acquisition-of-certain-real-property-of-cheyenne-leads-by-mineone-cloud-computing>

² CleanSpark, Inc. (2024, May 16). CleanSpark to acquire 75 MW of bitcoin mining sites in Wyoming for \$18.75 million [Press release]. PR Newswire.
<https://www.prnewswire.com/news-releases/cleanspark-to-acquire-75-mw-of-bitcoin-mining-sites-in-wyoming-for-18-75-million-302141720.html>

³ Bloomberg News. (2025, November 21). Chinese manufacturer Bitmain faces US security review. Bloomberg.

Security is spearheading the investigation, and a 2025 Senate Intelligence Committee Report⁴ highlighted the Cheyenne project and "disturbing vulnerabilities" in Bitmain bitcoin mining machines].

This wasn't competition. It was a blatant misuse of the American legal and Judicial system, where the Chinese and CleanSpark worked together to try to wipe out the small, local guys—the Main Street guys.

Their plan to crush us would have worked and we would have lost everything—the business and millions of dollars—but for my father, Patrick Murphy, Bison Blockchain's attorney, and my brother, Michael Murphy, we won the jurisdictional dispute and a landmark ruling in Wyoming Federal District Court ("the Court") for Prejudgment Writs of Attachment and Garnishment to lock up the sale money with the Court after the divestment.

Bison Blockchain retained Andrew Astuno to be its CFIUS expert witness as part of the emergency motion and hearing for Prejudgment Writs of Attachment and Garnishment. Mr. Astuno, a former Treasury Department official and now a legal expert on sanctions, provided critical testimony against the Chinese Defendants. It was a joy and relief to watch Mr. Astuno professionally dismantle the legal charade created by the Chinese Defendants and their New York lawyers. Thank you, Mr. Astuno.

With the sale proceeds locked up with the registry of the Court, and with the help of these people, Bison Blockchain defeated the Chinese and negotiated a multi-million settlement resolving all claims with the Chinese Defendants. The victory of exposing the Chinese Defendants was complete.

II. Energy Medicine Innovation and Intellectual Property

The CCP and other nations know the next wave of healthcare belongs to energetic medicine and whole-health technology. Our bodies operate on bioelectric fields and natural frequencies.

Advancements in energetics and frequency are already reshaping national defense — from Directed Energy Weapons (DEWs), high-power microwave systems, and battlefield

<https://www.bloomberg.com/news/articles/2025-11-21/chinese-manufacturer-bitmain-faces-us-security-review>

⁴ Select Committee on Intelligence, United States Senate. (2025, July 29). *Report to accompany S. 2342, Intelligence Authorization Act for Fiscal Year 2026* (Report No. 119-XXX).

<https://www.intelligence.senate.gov/2025/07/29/report-to-accompany-s-2342-intelligence-authorization-act-for-fiscal-year-2026/>

energy applications that harness the very same bioelectric principles. Yet in healthcare we are using that exact same understanding of how we are electrical beings to heal, not to harm. This dual-use reality makes our IP not just innovative, but a national security imperative: we must ensure the next wave of energetic healing approaches and technological advances here on American soil, protecting veterans, families, and our technological edge before Beijing copies, knocks off, or weaponizes it against us.

Basic Biology explains that every cell in your body generates a small electrical charge. Your heart beats because of electrical impulses. Your neurons fire using electrical signals. Muscles contract because of tiny voltage changes across cell membranes.

The EKG used every day in medicine measures your heart's electricity, an EEG reads your brain's electrical activity. For the last 70 years our health care system has attempted to fix electrical issues through chemical applications (drugs).

The CCP and others systematically target this space through knock-offs, reverse-engineering, data exfiltration, and genetic targeting. Healthcare and healthcare data are designated critical infrastructure under CISA/HHS. Stolen biotech and AI IP flows directly into companies backed by foreign interests, including China's Military-Civil Fusion strategy, weakening our technological edge and endangering veterans and American families.

To get ahead of this emerging threat, Congress must proactively support American small businesses and Main Street innovators in this space. By directing capital and resources to proven U.S. entrepreneurs developing domestic solutions and innovations, we protect our IP, safeguard healthcare data as a national security priority, create jobs, and ensure the next wave of healthcare remains American-led rather than ceded to adversaries and foreign interests.

The March 2026 SBA foreign-national ban already closed the front door on risky foreign capital. But we must also lock the back door and send a clear message to those who would misuse and abuse our justice system. We cannot allow foreign adversaries and their enablers to steal IP, weaponize American courts through abusive lawfare, stacked law firms, and exploited local relationships. Congress should use every tool — including SBIC leverage requirements and national-security certifications — to deny capital and federal benefits to any entity that has engaged in such contempt for our judicial system. Small businesses must never again be forced to choose between financial survival and national loyalty.

III. Combatting Healthcare Fraud and Abuse Through Targeted Federal Funding for AI and Blockchain Innovation by American Small Businesses

As a VA hospice volunteer for sixteen years who sits at the bedside of dying warriors, I have seen and appreciate how fraud and abuse in healthcare devastate actual patients, waste taxpayer dollars, and crush legitimate small businesses trying to provide honest care. In Florida, DME companies have been caught in massive overbilling schemes for wheelchairs, oxygen equipment, and other durable goods — schemes that drain Medicare and Medicaid while driving ethical providers out of the market. In California, the situation is even worse: explosive growth in hospice agencies (a 1,500% increase in Los Angeles County alone since 2010) has led to empty “ghost” facilities billing millions while luxury cars fill the parking lots — exactly the kind of systemic fraud recently exposed in public investigations showing over \$170 million stolen in just one operation.

These scams don’t just hurt seniors and veterans; they directly increase taxes for every American family by inflating Medicare and Medicaid costs that must be covered by higher payroll taxes, premiums, and general revenue. More insidiously, widespread fraud erodes public trust and reduces the credibility of legitimate hospice and DME services for everyone else — making patients and families hesitate to seek care, delaying treatment, and ultimately worsening outcomes for those who need it most. Honest small businesses like mine are then forced to compete in a tainted market where fraudsters undercut prices and regulators apply blanket scrutiny that punishes the complaint.

The cumulative effect of unchecked fraud is even more dangerous: it jeopardizes the long-term solvency of Medicare and Medicaid programs themselves. If fraud continues to balloon unchecked, these programs risk insolvency or severe benefit cuts, threatening healthcare access for tens of millions of Americans — especially the elderly, disabled, and low-income families who rely on them most.

Foreign adversaries, particularly the CCP, have a clear strategic interest in accelerating this collapse. Weakening or bankrupting America’s massive entitlement systems would inflict enormous economic damage — driving up deficits, forcing painful austerity measures, eroding public confidence in government, and diverting resources from defense and innovation — all while Beijing gains relative power. By flooding the market with fraudulent claims or enabling shell companies that siphon funds, foreign-linked actors can quietly contribute to the very strain that could destabilize these critical programs from within.

IV. Recommendations

- **Recommendation #1: Codify the March 2026 SBA Rule + \$1B Health Sub-Tranche via H.R. 1081 + lawfare protections**

H.R. 1081 (Preventing SBA Assistance from Going to China Act) is already before the House Small Business Committee. It represents the perfect vehicle to both codify the March 2026 foreign-national ban into permanent law *and* dramatically increase SBA access to capital for proven entrepreneurs. Proposed mark up language includes:

“Within the SBIC Critical Technologies Initiative, allocate \$1 billion in additional SBA leverage capacity (FY2027–FY2028) for a dedicated **Healthcare Sub-Tranche**. This sub-tranche shall prioritize 100% U.S.-citizen-owned small businesses led by proven or experienced U.S. entrepreneurs developing Applied Artificial Intelligence (AAI) and Biomanufacturing applications.”

Provide enhanced 3:1 leverage incentives and expedited licensing review for SBIC funds committing ≥50% of their portfolio to these applications. Require all portfolio companies to certify zero foreign ownership/control (consistent with the March 2026 SBA foreign-national ban now codified in this Act), fully domestic supply chains, and robust IP protection.

For purposes of this sub-tranche, a ‘proven or experienced U.S. entrepreneur’ means an individual who (i) has led a U.S.-citizen-owned business for at least two years with demonstrated execution in a regulated or national-security-adjacent sector, (ii) has achieved measurable scaling milestones (such as \$1 million+ cumulative revenue or a prior exit), and (iii) maintains a clean regulatory and foreign-influence history, as verified through the SBIC Management Assessment Questionnaire process already required under 13 CFR Part 107.

Proven entrepreneurs qualifying under this sub-tranche shall be eligible for direct equity investments and hybrid equity-debt structures (subordinated debt with equity warrants or convertible features) of \$10–25 million per deal, enabling rapid scaling of U.S.-only technologies without ever relying on foreign capital.” This single rider transforms the existing SBIC program into a true capital-access engine for operators who have already proven they can build and pivot under fire — delivering the equity and hybrid-equity capital we need right now to outpace Beijing and other foreign operators in the next wave of healthcare.

To directly address the abusive lawfare I experienced in Cheyenne — where CCP-linked actors used stacked law firms, exploited local influence, and countered sued for \$110 million to drain resources and delay justice — Congress must protect small businesses, especially those developing dual-use technologies in energetics, frequency systems, and artificial intelligence. The Committee should advance targeted legislation or amendments requiring:

- **Mandatory national-security flagging** of any civil litigation or financing involving foreign parties (or entities financed by foreign individuals) where the underlying IP concerns energetics, frequency-based systems, bioelectric technologies, or artificial intelligence — automatically triggering expedited DOJ/CFIUS review.
- **Automatic debarment** from all SBA programs, SBIC participation, federal contracts, and grants for any entity (foreign or domestic) found by a court, CFIUS, or DOJ to have engaged in lawfare or provided foreign financing against U.S. small businesses in these dual-use fields.
- **Fast-track anti-lawfare relief** for qualified small businesses, including fee-shifting, preliminary injunctions against asset freezes during litigation, and priority access to SBA emergency working-capital lines when foreign-linked suits or financing threaten IP with national-security implications.
- **Recommendation #2: Targeted ARPA-H Funding for Energetic Medicine, Palliative Care, and Cannabinoid Research**

ARPA-H is currently funded at \$1.5 billion in FY2026. Direct a portion of ARPA-H's budget, at least \$150–200 million in targeted solicitations—expanded SBIR/STTR set-asides, or new program initiatives—specifically toward small-business-led projects in energetic medicine, bioelectric/frequency-based platforms, AI neurofeedback for Traumatic Brain Injury and palliative care, and whole-health technologies aligned with VA Whole Health.

This funding should explicitly advance energy medicine, palliative care innovation, and cannabinoid research, including new therapeutic pathways made possible by marijuana's rescheduling from Schedule I to Schedule III. All mammals possess an endocannabinoid system (ESC) that plays a central role in inflammation reduction and homeostasis; targeted research in this area would unlock breakthrough whole-health approaches that treat the body's nervous and endocannabinoid system, while supporting veteran and family care, all while keeping IP and data 100% secure from foreign exploitation.

- **Recommendation #3: Combat Waste, Abuse, and Fraud in Healthcare**

Congress should direct dedicated federal funding — through existing mechanisms such as the SBIR/STTR programs across the Department of Health and Human Services, or through new appropriations in upcoming health-related reauthorizations or omnibus spending bills — to allocate at least \$100–150 million specifically for U.S.-owned small businesses to develop and deploy AI-driven anomaly detection and blockchain-based supply-chain tracking systems. These tools would verify legitimate DME and hospice operations in real time — cross-checking billing, patient visits, equipment delivery, ownership, and provider credentials — while flagging ghost companies, inflated claims, and foreign-linked fraud rings before taxpayer dollars disappear. By funding American innovators to build these solutions, we protect honest small businesses, restore credibility to essential healthcare services, reduce the tax burden caused by fraud, safeguard the solvency of Medicare and Medicaid, and deny foreign adversaries a pathway to economic sabotage through internal healthcare abuse.

Common sense Americans are asking themselves, why no one at CMS questioned the existence of 30 Durable Medical Equipment (DME) companies in the same city block (the hotel in Florida) when payments were being authorized; how the hospice fraud continued for at least four years in California, why warning signs were ignored and the fraud and fraudulent payments continued.

- **Recommendation #4: Stand Against Child Trafficking. Defend and protect children. Justice for the victims.**

As an advocate against child trafficking, I urge the Committee to take a clear, bipartisan stand against this evil both at home and abroad. Child trafficking networks often intersect with foreign influence operations, economic espionage, and lawfare and IP theft tactics. Congress must strengthen existing legislation — including the Frederick Douglass Trafficking Victims Prevention and Protection Reauthorization Act and related provisions in the annual NDAA and appropriations bills — by directing federal agencies (DOJ, DHS, and FBI) to prioritize aggressive investigation and prosecution of traffickers, impose stricter penalties on foreign entities and financiers involved in cross-border networks, and expand victim-protection resources for American families.

This includes mandating annual reporting on trafficking cases linked to foreign adversaries and ensuring small-business owners and entrepreneurs like me have access to targeted federal support when our advocacy or operations intersect with these threats. In particular, the Department of Justice must be pressed to fully investigate and pursue justice for the victims of Jeffrey Epstein and associated networks. As Health and

Human Services (HHS) Secretary Robert F. Kennedy Jr. has said, and as President Donald Trump has confirmed, 300,000 children went missing during the Biden Administration and the whereabouts of only 30,000 have been confirmed. What happened to these children? Why hasn't former Health and Human Services Secretary Xavier Becerra or former Department of Homeland Security Alejandro Mayorkas been questioned or investigated over what happened and the government contracts in their agencies?

As a palliative parent, standing firmly against child trafficking, including securing justice for Epstein victims and bringing to light what happened with these missing children is not a side issue. It is a moral imperative that protects the most vulnerable while reinforcing the rule of law we demand in every other arena.

Respectfully submitted,
Sean Murphy

Kompassion, Founder
Palliative Father, VA Hospice Volunteer, Advocate Against Child Trafficking

Written Statement

Before the
House Committee on Small Business

Hearing on
"Defending Main Street: Combating CCP Threats to America's Small Businesses"

Tom Lyons
2430 Group

March 25, 2026

I. Introduction

Good morning, Chairman Williams, Ranking Member Velázquez, and distinguished members of the Committee. My name is Tom Lyons. I am the co-founder of a small business called 2430 Group. 2430 Group is a non-profit, non-partisan organization that educates American companies, research institutes, and universities and defends their innovation from nation-state economic espionage attacks. I am here today because America's small businesses are under attack and most of them do not know it.

We have long characterized the Chinese Communist Party (CCP) as a strategic competitor. But we need to ask ourselves whether their behavior looks like that of a competitor, or that of a nation at war. These are two different things, and they prompt very different policy responses. The evidence my organization will present today should inform that judgment.

In 1999, two colonels in the People's Liberation Army (PLA) published a book called *Unrestricted Warfare*, arguing that the future of conflict would be waged through economic subversion, legal manipulation, cyber intrusion, and the systematic theft of a rival's technological advantage. In 2003, elements of this were adopted by the CCP's Central Military Commission through the "Three Warfares" doctrine into PLA teachings. And again, in 2013, the strategy of using non-military tools to extend warfare across economic, legal, financial, technological, and information domains was further institutionalized into military training and education in the PLA's authoritative *Science of Military Strategy*. We see this influence in state-directed industrial strategies, like "Made in China 2025," that operationalize the same doctrines. The pattern of intellectual property (IP) theft, patent exploitation, lawfare, and economic coercion documented in this testimony and elsewhere is consistent with what the PLA highlights as multi-domain, non-kinetic warfare. In their words, this is war, not corporate competition.

The CCP's strategy is to win without firing a shot. Chinese companies do not *compete* with American companies. The Chinese party state wages a campaign to acquire, replicate, and *replace* them—through espionage, predatory investment, coercion, lawfare, and state-subsidies. Yet, because these operations do not look like war, as we know it, most Americans do not recognize the situation we are in.

The continued availability of low-cost electronics and consumer goods masks the threat to the public. But those cheap goods are subsidized by the destruction of American companies and American jobs. Every solar panel sold globally with stolen American technology, every wind turbine sold with stolen American software, every telecommunications network built on stolen American research represents a company that was hollowed out, a loss of global revenue, a workforce that was displaced, and an industry that will not easily come back.

As someone who now owns a small business dedicated to countering economic espionage, I see how exposed Main Street is every day.

II. The True Scale of the Threat

The most commonly cited estimate of the cost of Chinese intellectual property theft is \$225 to \$600 billion annually. This comes from the 2017 IP Commission report. Those numbers are dangerously incomplete and low.

The Commission's methodology relied on extrapolations from counterfeit goods seized at the border and corporate surveys. The figures do not account for industry-level losses. When Apple effectively exits the autonomous vehicle market due in part to Chinese espionage—as former National Counterintelligence and Security Center Director Bill Evanina has publicly recounted from his conversations with Apple CEO Tim Cook—that is not a case of counterfeit goods. It is the abandonment of a multi-hundred-billion-dollar industry. When Linwei Ding, a single Google engineer, walked out with the architecture for Google's Tensor Processing Unit chips, the foundation of a multi-hundred-billion-dollar AI infrastructure market, the value of that one case of theft dwarfed the Commission's entire annual estimate.

The Commission's numbers do not capture cumulative technology transfer or the trickle down impact on other U.S. companies. The United States pioneered innovation in solar energy, lithium batteries, drones, wind turbine technology, advanced steel production, and the active pharmaceutical ingredients in our generic drugs. Today, China dominates all of these industries. The true scale of the threat is measured in the loss of industries and the adjacent sectors upon which they rely.

The Commission's numbers are also eight years old. The threat has accelerated dramatically. In 2019, one in five U.S. corporations reported being a victim of IP theft. Compare this to a 2025 study in Germany, which found that 87 percent of German companies reported data theft, industrial espionage, or sabotage, costing the German economy nearly €300 billion. FBI surveys of U.S. companies found that China was the perpetrator in 95 percent of economic espionage cases. China is associated with more cyber espionage campaigns than any other country, 30 percent more than Russia.

Trade deficits are a symptom of this problem. We will not fix trade imbalances without addressing the underlying anti-market and anti-competitive behavior that allows Chinese companies to undercut American businesses by selling stolen American technology at Chinese subsidized prices.

III. How China Wages This Campaign

The CCP's technology acquisition is not just opportunistic. It is systematic, multi-vector, and state-directed. 2430 Group has identified at least thirteen methods that the CCP uses to acquire technology and undermine American competitiveness:

1. Forced Technology Transfer and Coerced Consent. Foreign companies seeking access to China's market are required to form joint ventures with Chinese partners, disclose proprietary technology, and manufacture locally. What begins as "consent" frequently becomes coercion. As an example, Kawasaki, Siemens, Alstom, and Bombardier were all required to transfer high-speed rail technology to China; China now dominates that industry exporting rail technology across the world.

2. Coercion Through Law. China's 2017 National Intelligence Law requires all People's Republic of China (PRC) citizens and organizations to "support, assist, and cooperate with national intelligence work." This means that any PRC national working at an American company can be compelled to cooperate with the PRC Ministry of State Security, with consequences for non-compliance extending to family members. This happens behind closed doors every day and exists as a major threat to the U.S. workforce and our global companies.

3. Fraud. Misrepresentation as customers or licensees to gain access to technology is common. Around 2017, Huawei approached an Illinois based company called Akhan Semiconductor as a prospective customer to evaluate its export-controlled "Miraj Diamond Glass," and agreed not to reverse-engineer the product. Huawei was reported to have retained, damaged, and transferred samples to China for analysis, which triggered an FBI investigation. Access to restricted products was obtained legitimately, but exploited in bad faith. This highlights a core issue: **U.S. companies operate under a rules-based, contract-driven, profit-maximizing model. By contrast, many PRC competitors operate with strategic, state-directed mandates where acquiring technology outweighs the commercial model.** The result is a mismatch in assumptions: one side sees a customer relationship; the other an opportunity for capability acquisition.

4. Predatory Finance and Acquisitions. State-backed PRC venture capital firms invest in American startups to gain access to technology and talent. One example is Oriza Ventures, a subsidiary of a PRC state-owned investment holding company based in Suzhou, which has made dozens of investments in U.S. startups. U.S. government reporting suggests that PRC state-linked investment activity is best understood as not just finance, but as a means of gaining access to technology, talent, and sensitive commercial information. The venture investment, due diligence, and partnership discussions are collection opportunities, allowing the state-backed VC to extract valuable information without completing a transaction.

5. Lawfare. The CCP weaponizes democratic legal systems against American companies. Recently, Yangtze Memory Technologies Company (YMTC), which the Commerce Department placed on its Entity List in December 2022, filed patent infringement claims against Micron Technology. Micron alleged in its countersuit that YMTC stole Micron trade secrets; that litigation is pending. YMTC has also pursued defamation claims against those who publicly characterize its conduct as malign, itself a form of lawfare designed to chill legitimate criticism. Separately, in a dispute with KLEO Connect, PRC investors launched dozens of lawsuits across

multiple countries to pressure the company into selling low earth orbit (LEO) spectrum rights on behalf of the PLA. As the KLEO dispute illustrates, equity investments can do more than provide access and influence; they also create the legal standing for PRC investors to use courts to frustrate the growth of U.S. start-ups that rival PRC competitors.

6. Insider Espionage. Employees steal trade secrets both wittingly and unwittingly. Xiaolang Zhang and Jizhong Chen, both Apple engineers on Project Titan, stole autonomous vehicle technology. Linwei Ding stole Google's TPU designs. Xanthe and Allen Lam stole cancer drug trade secrets from U.S. biotech firm Genentech on behalf of the PRC-based biotech firm JHL. Yet while the DOJ's list of indictments highlights the PRC's major areas of interest, they cannot be relied on to represent the scale of the issue as most incidents are not detected, reported, or prosecuted.

7. State-Orchestrated Talent Recruitment. More than 200 variants of talent recruitment programs—the best-known being the Thousand Talents Plan—recruit researchers and engineers from Western institutions. Participants maintain their positions in U.S. industry specifically to access and transfer IP. Harvard professor Charles Lieber received over \$15 million in U.S. federal funding while secretly drawing a \$50,000 monthly salary from Wuhan University of Technology under a Thousand Talents contract. He was convicted in 2021.

8. Use of Supply Chain as Intelligence Collection. Chinese-manufactured hardware and software embedded in U.S. networks create opportunities for surveillance, remote access, and data exfiltration without triggering a traditional cyber intrusion warning. As an example, according to a U.S.-China Economic and Security Review Commission (USCC) report, Yealink office phones are capable of enabling covert audio capture, monitoring of local network traffic, and require compliance with Chinese legal terms through device service terms. Likewise, policymakers warn that TP-Link routers contain an unusual degree of vulnerability, which could enable cyber operations. DHS has likewise warned that Chinese-made internet-connected cameras enable surveillance and exfiltration of sensitive data. Chinese-developed applications and connected devices collect behavioral, geolocation, biometric, health, and device-level data at scale, creating rich intelligence on individuals, organizations, and populations. This is the TikTok problem, but it extends well beyond TikTok. Temu similarly faces allegations of broad sensitive-data harvesting. Chinese vehicles such as those made by BYD and TuSimple can gather location, camera, sensor, and cabin data through modern vehicle systems. The issue is not whether given users think they have “nothing to hide”; it is about whether a foreign adversary should be able to collect biometric, health, location, and behavioral data that can be used for surveillance, targeting, coercion, and operational planning. These are known public cases, but there are many more that remain unknown to the American public, including US company products that white label these technologies to mask their origin.

9. Simple Theft. Individuals and companies engage in the physical theft of materials and prototypes. Mo Hailong dug up genetically modified corn seeds from a DuPont Pioneer test field in Iowa and tried to ship them to his employer, Beijing Dabeinong Technology Group, in the PRC. He was caught only because a DuPont employee happened to see him in the field.

10. Cyber Intrusion. The PRC operates the world's most expansive state-backed cyber espionage apparatus not only to steal intellectual property, but also to map, surveil, and exploit the networks on which U.S. government, business, and critical infrastructure depend. APT41, a PRC-linked hacking group, ran years-long campaigns against more than 100 targets worldwide, including companies in defense, energy, aerospace, and healthcare, exfiltrating hundreds of gigabytes of sensitive "crown jewel" research, formulas, and source code. In a separate case, Chinese national Su Bin worked with PLA-linked hackers to steal sensitive military and export-controlled data from U.S. defense contractors, including designs and files related to the C-17, F-22, and F-35. More recently, the Salt Typhoon campaign shows how the PRC cyber operations have moved beyond corporate theft into direct penetration of U.S. telecommunications networks, with PRC hackers allegedly gaining access to major carriers to surveil communications, exploit lawful-intercept systems, and collect data at scale. These actors were detected because the targeted companies had cyber and CI resources to put towards the issue - most small businesses do not.

11. Standards Manipulation. Beijing uses international standard-setting as an instrument of industrial policy, directing its firms to flood standards bodies with proposals, technical contributions, and personnel to shape competition before products reach the market. This matters because standards determine interoperability, compliance, and the architecture of entire technical systems; firms that influence them privilege their own technologies, raise rivals' costs, and capture licensing revenue. Huawei ranks at the top globally in 5G standard-essential patents, has submitted more than 10,000 standardization contributions, and reported \$630 million in patent licensing revenue in 2024. Firms building 5G-compliant products may have to license Huawei-owned IP, embedding dependence even when Huawei gear is not used.

These methods work singly and in combination. Predatory investors scout the target. Insiders extract the technology. Lawfare protects the theft. Cyber intrusions fill gaps. State subsidies scale production. And Chinese companies flood the market with products built on stolen American innovation, sold at prices no legitimate competitor can match.

IV. Why Small Businesses Are the Most Vulnerable Target

If Apple—a three-trillion-dollar company with world-class security—could not protect its autonomous vehicle program from Chinese espionage, what chance does a fifty-person startup have?

Small businesses have little to no security. One-third of America's small businesses rely on free, consumer-grade antivirus software. Twenty percent have no endpoint security at all. Only 17 percent conduct routine vulnerability assessments. Fewer than half use multi-factor authentication. These companies are not prepared to defend against state-sponsored cyber intrusion.

Small businesses have no legal resources. According to court filings, employees of FemtoMetrix, a California semiconductor quality control company, stole its proprietary metrology technology and established a competing company, Weichong Semiconductor, in China. The Chinese side hired a large international law firm specifically to bleed FemtoMetrix through legal costs. For a small company, the legal fight itself can be fatal, as the expense drains its runway. Further, any judgment is unenforceable in China and unenforceable against any other China company that uses the stolen technology.

Small businesses have no awareness. Most small business owners have never heard of talent recruitment programs, CFIUS, the 2017 Intelligence Law, supply chain surveillance risks, or the concept of weaponizing a supply chain. They do not know they are targets.

Small businesses have no resilience. Sixty percent of small businesses shut down within six months of a significant cyber attack. The average cost of a cyber incident for a small business is \$254,000. For a company with twenty employees, that is an extinction-level event. Only 17 percent carry cyber insurance.

Small businesses have no incentive to report. Companies do not call the FBI because they fear information sharing with regulatory agencies, public disclosure that damages their market valuation, being drawn into investigations that are incompatible with running a business, and retaliation from the PRC. The FBI documented \$16.6 billion in cybercrime losses in a recent year; actual losses are estimated at 15 to 35 times that figure. The vast majority of economic espionage goes unreported.

Small businesses are the hub of innovation, the engine of the economy, and the foundation of national defense. Small businesses are 99 percent of all U.S. firms and employ nearly half the private workforce. They generate the breakthrough technologies in AI, quantum computing, and biotech that will define both economic and military superiority for a generation. They are the supply chain to the defense industrial base. Breaching a small supplier is how adversaries reach the Department of Defense. Small businesses are not peripheral targets. They are the soft underbelly of American national security and economic growth.

Small businesses are targets of predatory capital. A startup desperate for funding may not realize that its Chinese investor is backed by the state, or that the "due diligence" process is intelligence collection. Worse, taking that investment may permanently bar the company from government contracts. Under the Defense Counterintelligence and Security Agency's FOCI process, even a minority Chinese investment can render a company ineligible for facility security

clearances, DoD contracts, and ITAR-controlled work. FOCI mitigation involving Chinese investors is rarely approved. Companies, such as, PatientsLikeMe and Jupiter Systems, illustrate a broader problem: startups may accept foreign capital without fully appreciating their FOCI exposure, only to discover later that the transaction carries national-security risks they cannot absorb. By then, money raised for growth must be diverted into CFIUS counsel, mitigation efforts, regulatory response, and defense costs—turning strategic investment into a drain on enterprise value before any formal divestiture occurs.

This is not only a high-technology problem. The headline cases involve AI chips and autonomous vehicles, but the CCP's interests include manufacturing processes, agricultural innovation, industrial chemistry, and consumer products. A Chinese national was caught digging up genetically modified corn seeds from a DuPont Pioneer test field in Iowa. A former DuPont employee was convicted of stealing the manufacturing process for titanium dioxide — a white pigment found in house paint, plastics, and toothpaste — and delivering it to a Chinese state-owned enterprise. A small company in Boulder, Colorado has had to remove more than 75,000 counterfeit copies of its products from online marketplaces, nearly all originating from China. If your small business makes something valuable, whether it is a semiconductor or a carabiner, you are a target. The CCP does not distinguish between high technology and low technology. It takes anything that gives China a competitive or strategic advantage, and small businesses are where much of that innovation lives.

V. The Pattern: American Innovation, Chinese Domination

The above methods have been used over the course of the past two decades to acquire U.S. innovation, subsidize a PRC competitor, and to then dominate the industry with low-cost copycats. Our market-based companies simply cannot compete against non-market-based state-subsidized competitors; and over time, they die off. By competing fairly, we cede the industry and become reliant on China-based companies for the very products we created. This erosion impacts not only the primary firms within a targeted industry but also the extensive network of transportation, logistics, and technology providers that form its critical infrastructure.

Solar Energy. America helped invent modern photovoltaic technology, but China captured the industry. By 2024, China held more than 80 percent of global manufacturing capacity across the core solar supply chain and more than 90 percent of some upstream segments such as polysilicon and wafers. U.S. firms including Solyndra, Evergreen Solar, and SpectraWatt collapsed as China scaled subsidized production and drove prices down, and the United States lost domestic solar wafer manufacturing altogether after 2016. What emerged was not just import dependence, but Chinese control over the industrial bottlenecks that determine cost, scale, and strategic leverage in solar energy.

Wind Turbines. American Superconductor Corporation (AMSC), a Massachusetts company, lost its wind turbine control software to theft by Sinovel, a Chinese state-backed competitor. AMSC lost over a billion dollars in market value and 700 American jobs. Sinovel was fined \$59 million and kept the technology. That stolen software now powers China's wind turbine industry. Chinese companies' global market share surged from 46 percent to 66 percent in a single year; Western companies collapsed from 44 percent to 22 percent. U.S. wind energy deployment now relies on supply chains that China controls, built in part on software stolen from an American company.

Telecommunications. Nortel, which went bankrupt in 2009, remains the clearest example, but it was not alone. The company endured years of cyber intrusions linked to China-based, PLA-affiliated actors, with attackers exfiltrating R&D, business plans, engineering documents, and proprietary blueprints, while Huawei rose during the same period from a marginal player to a global telecom leader. Lucent faced similar issues with insiders transferring IP to a China state supported company; and, Motorola alleged that Huawei obtained confidential base-station technology through former Motorola personnel. Taken together, these cases suggest that the decline of North American telecom champions was not a story of market competition, but one in which sustained theft of innovation weakened the market leaders while accelerating the rise of a strategic rival. Today, much of the world's telecommunications infrastructure runs on equipment from Chinese companies that rose to dominance during the same period North American competitors were drained of their IP.

Semiconductors. Micron Technology had its DRAM manufacturing process stolen by Taiwan's UMC at the direction of China's Fujian Jinhua. The estimated value of the stolen intellectual property: \$400 million to \$8.75 billion. UMC's fine: \$60 million.

Pharmaceutical Key Starter Materials: America may discover the drug, but China increasingly controls the chemistry needed to make the drug. China is the largest foreign supplier of critical pharmaceutical inputs to the United States by volume, and its real advantage lies upstream—in key starting materials (KSM), intermediates, auxiliary chemicals, and precursor compounds that form the backbone of generic drug production. That means even medicines labeled as Indian or American will depend on Chinese precursors for the first and most essential production steps. In practical terms, China does not need to control every finished drug; controlling the starter ingredients is often enough to control the supply chain.

The pattern is consistent and devastating. If you stand back and look at the industries that China has systematically targeted—energy, communication, logistics, medicine, advanced computing, and steel—these are the building blocks for winning in any conflict. And it is not limited to large companies or to critical technology. The same pattern plays out in agriculture, manufacturing, and consumer goods.

The strategic danger is not only the lost market share, but rather in the United States moving from being the inventor to the importer — dependent on Chinese supply chains that were built, in many cases, on stolen American technology. That dependency is not an accident. It is the objective. When a country controls the supply of another nation's critical inputs, as the US has done for the past 70 years, it does not need to fire a shot to win a conflict.

VI. The Collection Infrastructure Operating in America and Funded by American Taxpayers

Beyond the headline espionage cases, an entire system of collection tools operates on American soil, much of it funded by the American taxpayer. The U.S. government subsidizes the CCP's strategic competition through at least six channels: research grants flowing to PRC entities; federally funded university research partnerships that produce dual-use knowledge; SBIR/STTR grants to companies with Chinese ties; pension fund capital flowing to PLA-linked corporations; the training of CCP- or military-affiliated PRC nationals in sensitive STEM fields at taxpayer-funded institutions; and the operation of a patent system that can be weaponized against the very companies whose IP was stolen. Each channel individually has defenders who can explain why U.S. openness is important for our system. It is harder to defend the cumulative picture of American taxpayers simultaneously funding the research, training the researchers, capitalizing the companies, granting the patents, and providing the legal system that makes it all work.

All six channels share the same structural blindness: they evaluate participants based on formal legal status, U.S. incorporation, employee headcount, ownership percentages, academic credentials; they do not look at FOCI influence or relationship to a foreign state. The patent system itself is a seventh channel: when a Chinese entity files a U.S. patent on technology derived from stolen IP, the American taxpayer funds the patent office that examines it, and the American legal system provides the procedural protections that make challenging it expensive and slow.

VII. A Necessary Distinction: This Is the CCP, Not the Chinese People

We want to be absolutely clear about something. This fight is against the Chinese Communist Party—not against Chinese people.

Many Chinese nationals in the United States came here to escape exactly the system I am describing. They are themselves victims of CCP coercion. The 2017 Intelligence Law does not ask for volunteers; it compels cooperation and threatens consequences for refusal, including consequences for family members remaining in China. The secret police stations, the Fox Hunt operations, the social media harassment campaigns—these target Chinese diaspora communities as much as they target American institutions.

The United States is the strongest nation on earth in part because we have been a melting pot. That must not change. Operation Paperclip—the post-World War II program that brought German scientists to the United States—should be our model. We should actively facilitate the brain drain from China, welcoming talent who want to contribute to America and protecting them from CCP coercion. Any legislation we propose must include robust civil liberties protections and must target entity conduct, not ethnicity or national origin.

VIII. Why Our Legal Framework Fails Against a State-Directed Adversary

Before we turn to specific legislative proposals, this Committee needs to understand why our existing legal framework is structurally incapable of addressing the threat we have described. The problem is not that our laws are too weak in isolation. The problem is that they were designed to regulate competition between private actors operating in their own self-interest with market-based principles.

Our courts treat PRC subsidiaries as ordinary American companies. A Huawei subsidiary incorporated in Texas receives the same procedural protections as any Texas company. A state-backed BIS entity listed organization, YMTC, suing Micron for patent infringement is treated the same as a domestic competitor asserting a legitimate claim. Our courts under current law cannot account for the fact that these entities are instruments of commercial warfare, not market-based competition.

Our legal system assumes companies act in market-based self-interest. American antitrust law, patent law, trade secret law, and commercial regulation all rest on the assumption that companies are rational, market-oriented actors. They have no framework for an entity that operates at a sustained loss on purpose, files patents on stolen technology on purpose, litigates to exhaust competitors on purpose.

Our patent system stops at the border. U.S. patent law applies only within the United States. The ability to prohibit importation of goods incorporating infringed components is limited. A PRC entity can steal American technology, manufacture products in China using that technology, and sell those products in every market on earth except the United States—and our patent system provides no remedy. Even the International Trade Commission’s Section 337 process, which can block infringing imports, is narrow, slow, and inaccessible to small businesses.

Our enforcement targets individuals, not the system. Under current law, the U.S. can prosecute the individual who stole the trade secret. But in the PRC’s unified and command based economy, one company steals the technology, a second company manufactures products using it, and a third company exports those products to global markets. The theft, the production, and the market exploitation are disaggregated across separate entities. Because our system treats each entity as if it is acting independent from another, we miss the opportunity to hold the system

accountable. Prosecuting the individual thief without reaching the beneficiary system is like arresting a drug dealer on the corner and missing the logistics cartel or production process.

We criminalize less serious conduct more severely. American executives go to federal prison for price fixing, insider trading, and engaging in anti-competitive behavior. Yet the PRC does the same thing at nation-state scale. The legislation we propose below recognizes that what the PRC is doing is not a trade issue, not a diplomatic matter, and not a regulatory gap. It is the systematic exploitation of our system which was designed for good-faith commercial actors — by an adversary that has told us, in its own doctrine, it is engaged in warfare.

IX. What Congress Can Do

On behalf of 2430 Group, we recommend the following proposals for the Committee.

A. The Foreign Economic Espionage Organization Designation Act

Today, the entire infrastructure of Chinese economic espionage operates legally on American soil. Talent program administrators recruit insiders. Expert networks pay thousands for proprietary intelligence. Venture capital intermediaries channel state intelligence requirements through investment access. Sham universities run visa pipelines into technology clusters. None of this is illegal unless you can prove a specific trade secret was stolen—a bar so high that the vast majority of collection activity goes unpunished.

We already have the tools to go after terrorist infrastructure. Under 18 U.S.C. §2339B, knowingly providing material support to a designated Foreign Terrorist Organization is a federal crime carrying up to twenty years. The power of that framework is that it criminalizes the infrastructure, not just the final act.

We propose creating an analogous framework for economic espionage—but targeted at the specific gap in current law. The President, on recommendation of the Director of National Intelligence, would designate specific entities as Foreign Economic Espionage Organizations, such as: named talent recruitment programs, identified expert networks functioning as intelligence collection platforms, military-civil fusion entities, and businesses that serve dual commercial and intelligence purposes. This targets specific programs and entities that constitute the collection infrastructure.

Here is the critical element: the criminal provision would make it unlawful for any person to knowingly receive compensation, funding, or material benefit from a designated FEEO. This targets the financial transaction—not association, not membership, not speech.

This would mean that a talent participant, like Charles Lieber, drawing a \$50,000 monthly salary from a PLA-affiliated university while working at an American research lab, could be prosecuted. This gives companies the hook companies need to terminate employment, when they

recognize talent membership among their employees. Right now, unless you can prove these people stole a specific trade secret, there is no crime. Under this Act, the government only needs to prove two things: the entity is designated, and the defendant knowingly accepted compensation or material benefit from it.

Penalties would be comparable to material support for terrorism—up to fifteen years. The Act would include a knowledge requirement: you must know, or be willfully blind to the fact, that the entity is designated. This protects innocent commercial transactions. And critically, it would include an affirmative defense for individuals who report coercion and cooperate with law enforcement. A Chinese researcher being pressured under the 2017 Intelligence Law should have an off-ramp—report the coercion, cooperate, and receive protection rather than prosecution. This is Operation Paperclip with a legal framework.

B. The Malign Foreign Interests Disclosure Act

American small businesses cannot protect themselves from threats they cannot see. Today, a small company purchasing an inexpensive VOIP phone system has no way to know it is buying a collection platform. A startup accepting a venture capital term sheet has no way to know the money is state capital with intelligence requirements attached.

We propose requiring disclosure by any entity operating in the United States that has received material support from a country of concern, whether directly or indirectly, including through: (1) equity investment by a state-owned, state-controlled, or state-directed entity, or by any subsidiary, affiliate, or intermediary acting on its behalf; (2) loans, grants, subsidies, or other financial assistance from a foreign government or state-linked institution, including through offshore shell companies or similar pass-through structures; (3) participation by any officer, director, or key employee in a foreign government talent-recruitment program; (4) technology-licensing, technology-transfer, or joint-development agreements with state-linked entities; or (5) any contractual, statutory, or informal obligation to provide data, technology, research, or intelligence to a foreign government or its affiliates.

The threshold is not an ownership percentage, as they are easily circumvented through layered corporate structures or routed through offshore jurisdictions. The threshold is any material state support. Disclosures would go to a public registry housed at the Department of Commerce, searchable by any American business considering a vendor, investor, or partner.

This is not about criminalizing foreign investment. Companies that disclose their connections and operate lawfully have nothing to fear. But American businesses deserve to know who they are doing business with and whether it is a nonmarket-oriented partner.

C. The Economic Espionage Infrastructure Act

The Economic Espionage Act must be strengthened to target the beneficiaries of trade secret theft, not just the individual thieves. In the AMSC case, Sinovel canceled nearly \$800 million in contracts when it stole AMSC's software, then generated billions in revenue from that stolen technology. Its punishment: a \$59 million fine. Sinovel kept the technology. The fine was less than the cost of developing the software legitimately. Stealing was a rational economic decision.

The PRC's unified economy means one company can steal intellectual property and an entirely different company can benefit from it—with no formal legal connection between the two. The statute must be broadened to allow prosecution of any party that **uses, benefits from, or facilitates the use of stolen technology**, with penalties severe enough to change the economic calculus. As it stands, prosecuting individuals without devastating the beneficiary system is like arresting drug dealers while leaving the cartel untouched.

D. Patent and IP Enforcement Reform

Our patent system was not designed for an adversary that steals technology, patents it, and then uses those patents offensively against the original inventor. We propose two reforms. First, allow the Patent Trial and Appeal Board to review trade secret evidence and provide in-camera review by default, so companies can challenge patents built on stolen innovation through the most cost-effective mechanism available. Second, once a U.S. court or the International Trade Commission makes a trade secret misappropriation finding involving entities linked to a country of concern, the PTO should institute enhanced prior art and provenance review for patent applications in the same technology area from entities connected to the theft. This is not blocking patent filings based on national origin—it is applying heightened scrutiny where a specific theft has already been proven, the same logic that underlies enhanced CFIUS review.

E. Proposals Within This Committee's Jurisdiction

Small Business Economic Defense Act. Authorize the SBA to establish a dedicated counter-economic espionage program delivered through Small Business Development Centers. This would include threat briefings, counterintelligence assessments, and incident response for small businesses. The current SBA cybersecurity budget is \$3 million nationally.

SBIR/STTR Security Enhancement. Strengthen national security screening across all twelve participating agencies, building on the Senate's S. 3971. Mandate FOCI checks on all applicants across all agencies.

Small Business Cybersecurity Investment Act. A 30 percent tax credit, up to \$75,000 annually, for cybersecurity investments by firms under 250 employees. This should cover hardware, software, training, assessments, and dedicated security personnel.

Small Business IP Legal Defense Fund. A federal fund covering up to \$250,000 in legal costs for small businesses fighting intellectual property theft by state-sponsored actors. Small businesses cannot afford international IP litigation; this fund levels the playing field.

Small Business Threat Intelligence Program. Direct CISA and the FBI to provide actionable, declassified threat intelligence specifically tailored for small businesses, delivered through SBA channels. Today, classified threat briefings reach Fortune 500 companies but never reach Main Street. That must change. Likewise, make it clear and easy for where companies experiencing theft, with knowledge of theft, or fraud should report information to.

Counter-Espionage Subsidies and Tax Credits. We do not ask American citizens to wage war against foreign nation states. That is the responsibility of the national government. But right now, that is exactly what we are asking small businesses to do—defend themselves against a state-directed intelligence campaign with no tools, no training, and no support. As the CCP calls this warfare, the U.S. government has an obligation to provide the resources for small businesses to establish counterintelligence programs, the same way we fund national defense. This should include direct subsidies or matching grants for small businesses to establish CI programs, in addition to tax credits for investments in counterintelligence, employee vetting, and security training.

F. Additional Cross-Committee Recommendations

Whistleblower Bounty Program. Modeled on the Dodd-Frank SEC program, paired with immigration benefits for foreign national whistleblowers who report economic espionage. Create a proactive incentive for people to come forward.

Qui Tam Enforcement Model. When a company identifies and reports state-sponsored trade secret theft, DOJ takes the lead on prosecution so the company does not bear the legal cost. When the case results in penalties, the reporting company shares in the financial recovery. This changes the fiduciary calculus from silence to action.

Federal Preemption of Obstructive State Privacy Laws. Provide federal authority for companies working on critical technology to conduct employee due diligence, overriding state laws that currently prevent it.

Chinese Whistleblower and Defector Protection. Create immigration and protection pathways for Chinese nationals who report CCP economic espionage operations. This facilitates the brain drain while protecting individuals from retaliation.

X. Conclusion

American industries operate within a rules-based, market-oriented system. They comply with antitrust laws and procedural protections that define a free economy. They do so because they

believe, as we do, that these rules create the conditions for fair competition, honest innovation, and shared prosperity.

The Chinese Communist Party has weaponized that belief.

It has used commercial activity to acquire technology that American companies spent decades and billions of dollars developing. It has used its people to transfer knowledge that our taxpayers funded and our entrepreneurs built. It has used its companies to enter our markets, access our capital, and absorb our subsidies while operating under a system that requires them to serve Beijing's strategic objectives. And it has used our own legal system as an instrument of exploitation.

The result is not competition. It is the systematic reduction of America's global competitiveness and the deliberate creation of strategic dependencies. We are providing Beijing leverage over our economy, our military readiness, and the health of our citizens.

The PRC has told us, in its own words, in its own planning documents, in its own military curricula, that what it is doing to our economy is warfare conducted through non-kinetic means.

We should believe them and we should act accordingly. The American entrepreneur who built a company in her garage should not have to defend it against the strategic resources of a nation-state. Main Street should not have to fight this war alone.

With the right legislative framework it will not have to. Our proposals are designed to close the gaps that have allowed the PRC to exploit our openness. They are designed to shift the burden from individual victims to systemic defenses. They are designed to recognize that the threat is not a collection of isolated incidents but an integrated strategy working against us.

The PRC has built a system to put the United States out of business. We must respond to meet this challenge.

Prepared Statement: For the Hearing “Defending Main Street: Combating CCP Threats to America’s Small Businesses”

Prepared statement by

Dr. Rush Doshi

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Before the

U.S. House Committee on Small Business

United States House of Representatives

2nd Session, 119th Congress

March 25, 2026

Chairman Williams, Ranking Member Velazquez, and distinguished Members of the Committee, thank you for this opportunity to testify.

My argument is simple: Small businesses are critical to America’s industrial and technological future. Today our small businesses, particularly those involved in manufacturing, are facing unprecedented if not existential challenges as China mounts the most comprehensive industrial strategy any major power has ever attempted. And the task for this Committee is to consider how to help these small businesses meet that challenge.

This statement addresses four questions.

First, what are China’s objectives in manufacturing and technology?

The Chinese Communist Party aims to “catch up and surpass” the West. It believes there have been four industrial revolutions that determined the fate of nations. The first was steam power, which brought British dominance. The second was electrification and the third was mass manufacturing, which brought American dominance. We are now in the fourth — quantum, biotech, AI, and robotics — which China is determined to win. Its purpose in seeking to win this revolution is not merely to achieve prosperity, but also relative power.¹ Beijing sees manufacturing as the key to winning this revolution.

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Second, what progress has China made in manufacturing and technology?

China overtook the United States to become the world's dominant manufacturer in less than twenty-five years. Over that period, our share of manufacturing fell by half from 30 percent to 15 percent. China's share quintupled from 6 percent to 30 percent.² It now exceeds that of the next nine countries combined.³ It is not standing still. China spends roughly \$400 billion on industrial policy per year and has achieved leadership positions in advanced sectors from batteries and electric vehicles to solar panels and biotechnology.³ By contrast, the U.S. Chips and Science Act is \$50 billion over multiple years.

Third, what is the role of small businesses in manufacturing and technology?

There is a debate today on how to reindustrialize. But it too often misses a simple fact: the path to U.S. reindustrialization runs through our small businesses.

Large firms have dominated American manufacturing for decades, and they still do today. Their supply chains, however, are composed of smaller, specialized firms that produce precision components, tooling, specialty materials, software, and process equipment—and where specialized process knowledge often resides.

Consider aerospace and defense. Roughly 70 percent of Boeing's Dreamliner comes from its smaller suppliers. Roughly 60 percent of all employment in the sector is in small and mid-sized businesses.⁴⁵ The story is similar in several other sectors, including automobiles.⁶

China recognizes the value of small and medium enterprises, viewing its program as a means to boost innovation, replace foreign suppliers, eliminate chokepoints, and create globally competitive companies. That is why China has made this sector a priority.⁷

In 2011, China launched the "Specialized, Refined, Unique, Innovative" (专精特新) program to support small businesses in high-technology and manufacturing sectors. Then, in 2015, China launched its Made in China 2025 program, a massive industrial policy push to catch up and surpass the West in key high-technology sectors.

Three years later, as part of that effort, its Ministry of Industry and Information Technology upgraded the "Specialized, Refined, Unique, Innovative" program by launching the "Little Giants" (小巨人) initiative, which provides even more support for the very best small and medium manufacturers in high-tech sectors. To date, more than 17,000 firms have been designated "Little Giants."⁸ Ninety percent of these companies are in fact in high-tech manufacturing, and some have grown into global titans, like Unitree Robotics.

This program is competitive. To become "Little Giants," firms must hit growth targets, spend on research and development, and fit into prioritized government sectors. Once they obtain the coveted "Little Giants" designation, they receive access to an impressive package: preferential loans, direct subsidies, state equity investment, quick patent processing, university research support, streamlined stock market listings, and mandatory integration into the supply chains of state-owned enterprises (SOEs).⁹ This is what our system is up against.

Fourth, what steps can Congress take to support American small businesses, particularly those in manufacturing and technology?

The Small Business Administration (SBA) has some powerful tools. In FY2025, it guaranteed \$45 billion in loans to more than 85,000 small businesses—the most in its history, though only a small fraction went to manufacturers.¹⁰ More needs to be done, and Congress can draw on elements of Beijing’s approach without replicating it wholesale.

First, China is going all-in on research support, but we have let the programs we use to support early-stage research in small businesses lapse. Congress should immediately reauthorize the Small Business Innovation Research (SBIR) and the Small Business Technology Transfer (STTR).

Second, China packages benefits together and ties them to a certification program. We instead launch individual, uncoordinated programs. We can change that. Congress should direct the SBA to launch a program to certify companies in key technology sectors to unlock a package of demand-side, supply-side, and regulatory support.

Third, by some estimates, China’s “Little Giants” raised \$125 billion from private sources, often with state support and credentialing playing a critical role, in only a few years.¹¹ Meanwhile, the first cohort of our SBIC Critical Technologies Initiative might channel \$4 billion to small businesses. Congress should scale up the program given the competitive challenge from China.

Fourth, China provides manufacturers ample access to low-cost capital, including loans. To keep up, Congress should raise the loan amounts under the SBA’s new Manufacturer’s Access to Revolving Credit program from \$5 million.

Fifth, China’s “Little Giants” can draw on universities, state research institutes, and SOE mentors for technical assistance. Our equivalent program has lapsed.¹² Congress should restore the Manufacturing Extension Partnership (MEP) promptly.

These recommendations are among the most straightforward steps Congress could take. The common thread running through them is integration. The SBA already possesses loans, equity vehicles, research and development programs, and technical assistance. What it lacks is a mechanism to deploy them together in a coordinated way.

China has built that coordinated capacity, and it is working. This Committee has the tools—and the jurisdiction—to build an equivalent with American characteristics.

Thank you for your time, and I look forward to your questions.

Notes

¹ Rush Doshi, *The Long Game: China's Grand Strategy to Displace American Order* (New York: Oxford University Press, 2021).

² Estimates for shares of global manufacturing vary. See, U.S. Library of Congress, Congressional Research Service, *U.S. Manufacturing in International Perspective*, by Marc Levinson, R42135 (February 21, 2018), <https://sgp.fas.org/crs/misc/R42135.pdf>.

³ Richard Baldwin, "China is the World's Sole Manufacturing Superpower: A Line Sketch of the Rise," VoxEU (Column), Centre for Economic Policy Research, January 17, 2024, <https://cepr.org/voxeu/columns/china-worlds-sole-manufacturing-superpower-line-sketch-rise>.

⁴ These statistics are widely-used if slightly dates. If anything, the trend is towards continued use of suppliers. See John Teresko, "Boeing 787: A Matter of Materials — Special Report: Anatomy of a Supply Chain," *IndustryWeek*, December 1, 2007, <https://www.industryweek.com/leadership/companies-executives/article/21942033/boeing-787-a-matter-of-materials-special-report-anatomy-of-a-supply-chain>. See also David Pritchard and Alan MacPherson, "A Wing and a Prayer: Outsourcing at Boeing," *YaleGlobal Online*, January 30, 2009, <https://archive-yaleglobal.yale.edu/content/wing-and-prayer-outsourcing-boeing>.

⁵ Aerospace Industries Association, *Facts & Figures: U.S. Aerospace & Defense* (Washington, DC: Aerospace Industries Association, 2024), <https://www.aia-aerospace.org/industry-impact/>.

⁶ McKinsey & Company, "Automotive Suppliers," McKinsey Automotive & Assembly Practice, <https://www.mckinsey.com/industries/automotive-and-assembly/how-we-help-clients/automotive-suppliers>; MEMA, "U.S. Automotive Parts Manufacturing Jobs Up Nearly 19 Percent," press release, Motor & Equipment Manufacturers Association, 2017, <https://www.mema.org/us-automotive-parts-manufacturing-jobs-nearly-19-percent>.

⁷ Alexander Brown, François Chimits, and Gregor Sebastian, "Accelerator State: How China Fosters 'Little Giant' Companies," Mercator Institute for China Studies (MERICS), August 3, 2023, <https://merics.org/en/report/accelerator-state-how-china-fosters-little-giant-companies>.

⁸ Zongshuai Fan, "How 'Little Giants' Help China Defend Its Manufacturing Dominance," *South China Morning Post*, February 25, 2026, <https://www.scmp.com/opinion/china-opinion/article/3344508/how-little-giants-help-china-defend-its-manufacturing-dominance>.

⁹ Alexander Brown, François Chimits, and Gregor Sebastian, "Accelerator State: How China Fosters 'Little Giant' Companies," Mercator Institute for China Studies (MERICS), August 3, 2023, <https://merics.org/en/report/accelerator-state-how-china-fosters-little-giant-companies>; Zongshuai Fan, "How 'Little Giants' Help China Defend Its Manufacturing Dominance," *South China Morning Post*, February 25, 2026, <https://www.scmp.com/opinion/china-opinion/article/3344508/how-little-giants-help-china-defend-its-manufacturing-dominance>.

¹⁰ U.S. Small Business Administration, *2025 Annual Report* (January 20, 2026) → <https://www.sba.gov/annual-report/>.

¹¹ U.S. Small Business Administration, *FY2025 Annual Report* (Washington, DC: SBA, 2025), <https://www.sba.gov/annual-report/>; Brown, Chimits, and Sebastian, "Accelerator State," citing CYZone, "2022 Specialised New Small Giant Enterprise Development Report" (January 2023).

¹² Robert Schoenberger, "Manufacturing Extension Partnerships Face Uncertain Future as Trump Pulls Funding," *IndustryWeek*, April 7, 2025, <https://www.industryweek.com/leadership/news/55280007/manufacturing-extension-partnerships-face-uncertain-future-as-trump-pulls-funding>.

Ranking Member Velázquez,

The Corporate Transparency Act (CTA) does not help in my situation. It creates a secure, non-public database accessible only to authorized government agencies and financial institutions (31 U.S.C. § 5336(c)(7)(A)). As a small business owner and entrepreneur, I would have had no access to verify the Ultimate Beneficial Owners (UBOs) during the critical, time-sensitive diligence period. Our Chinese capital partners represented themselves simply as “international businessmen” primarily from Singapore. In reality, we only identified the true UBO deep into litigation discovery—after having to compel production of documents where we found the UBO deep in a critical contract between the UBO and Bitmain.

In our case, the CTA might have assisted CFIUS by providing quicker visibility into the UBO, potentially accelerating its review. Instead, we had no contact with CFIUS and received no information from them to assist with the lawfare we faced. To my knowledge, CFIUS began its inquiry sometime between October and December 2022. We filed our complaint in March 2023 (following the takeover weeks earlier), and the Presidential divestment order was not issued until May 2024—nearly 18 months later.

From the perspective of entrepreneurs and small business owners, the core issue is **expediency**. Experienced operators with proven track records need fast, reliable diligence and ready access to trusted capital so they can seize market opportunities for innovation, growth, and acquisitions. Government processes like CFIUS reviews often move too slowly. Even SBA programs can involve delays: while 7(a) loans can close relatively quickly in straightforward cases, SBIC funding through licensed funds frequently requires extended review periods that do not match the pace of competitive markets.

What experienced entrepreneurs truly need is streamlined access to trusted **private-sector capital**—enabled where appropriate by SBA guarantees—so that strong operators can move decisively without being hindered by opaque foreign sources, bad actors, or prolonged bureaucratic and fund-manager diligence requirements.

Respectfully,

Sean Murphy
Founder, Kompassion

Questions from Rep. Nydia M. Velázquez, Ranking Member

Question 1

Mr. Murphy stated in his testimony today that he entered into a predatory arrangement with his former P.R.C. business partner partially because it hid its beneficial owner from him, the government, and the general public. Would you agree that we need beneficial ownership disclosure – such as that found in the Corporate Transparency Act (CTA) – to stop this practice in its tracks?

2430 Group supports the principle of beneficial ownership transparency. However, beneficial ownership transparency is not sufficient to address the threat from state-directed adversaries that routinely use layered offshore structures or national laws to defeat disclosure requirements.

In my written testimony, we propose the **Malign Foreign Interests Disclosure Act**. This Act would require any entity operating in the United States that has received material state support from a country of concern, whether through equity investment, loans, subsidies, talent program participation, technology licensing agreements, or any obligation to share data or intelligence with a foreign government, to disclose that relationship in a public registry housed at the Department of Commerce. The threshold is not an ownership percentage, which is easily circumvented through layered corporate structures and non-ownership agreements and contracts. The threshold is material state support at any level.

This approach captures relationships to hostile nation states, such as talent program participation, data-sharing obligations under China's 2017 National Intelligence Law, and informal state direction. None of these appear in a cap table. This requirement also creates a searchable public registry that any small business owner can consult before entering into a vendor, investment, or partnership arrangement. Mr. Murphy should have been able to look up his prospective partner and see the state connections before signing the deal, not after.

The response should be targeted at all the specific mechanisms of concealment that state-directed adversaries use, not just ownership opacity..

Question 2

In its September 15, 2025 newsletter, the 2430 Group wrote that the P.R.C. is weathering the storm of President Trump's tariff wars, because their companies are shifting export sales elsewhere, while it becomes harder for the U.S. to do international business, as our firms have trouble buying inputs and selling exports. The Group's analysis states "Indeed, there are signs that the U.S. may, somewhat ironically, be helping China achieve its long-term economic goals." Can you expound on that?

The Trump administration's imposition of tariffs on foreign partners has incentivized companies to trade less with the United States and more with alternative partners, including the PRC. Since the imposition of tariffs, Chinese overall exports recorded a record \$1.189 trillion surplus (compared to around \$800 million in 2024) while pivoting away from the United States towards

alternative export destinations.¹ By some estimates, Chinese exports increased 21.8% for January-February 2026 compared to the previous year, despite a 16.9% decrease in bilateral trade between the US and China to 609.71 billion yuan (\$88.22 billion) over the same period.² At the same time, US manufacturing output, investment, or job creation did not increase.³ This means that Chinese goods are now more prevalent in third countries and China is increasingly overtaking the United States in multiple global export markets. Collectively, US tariffs have therefore unintentionally helped China both find and exploit new markets, aiding Chinese manufacturers and PRC macroeconomic goals at the United States' expense.⁴

China's long-term goals include replacing the United States as a major trading partner worldwide. In part, as a purely economic matter, Chinese domestic overcapacity requires increasing the number and volume of trading partners outside of the PRC to compensate for low domestic consumption and to sustain growth.⁵ The broader political ambition, however, is to not only outcompete US companies around the world, but to put US companies out of business. Increasing the volume of external trading partners through a state-coordinated strategy is designed to insulate the Chinese economy from future US trade shocks while forcing world markets to rely permanently on Chinese firms at the expense of American competitors.⁶ For US small businesses, tariffs not only increase prices for foreign imports, but also create more challenging conditions for US businesses to compete abroad against Chinese state-backed firms.

Below is the full quotation from 2430 Group's "Red Report," September 15, 2025:⁷

Are US tariffs affecting China's economy?

The US-China trade war will continue as neither side has any incentive to back down. US businesses should plan for a long-term reality of tariffs and trade restrictions.

The US-China trade war is one thing the Chinese economy really doesn't need right now. Reports that China's central bank is introducing [market cooling](#) mechanisms and looking to boost the flailing property sector appear to have sent a few jitters through global markets. Yet despite these quibbles, one potentially major disruption, namely US tariffs on Chinese exports, appears to have made only a mild impact on China's economy, particularly when compared to what US policymakers likely hoped for. How can China have both a fragile economy and be relatively insulated from a major external shock like US tariffs?

¹ The PRC's outbound shipments grew 6.6% in value terms year-on-year in December 2025, compared with a 5.9% increase in November 2025. [China's trade ends 2025 with record trillion dollar surplus despite Trump tariffs](#)

² Trade between China and the EU increased 19.9% to 998.94 billion yuan, while trade with ASEAN states increased 20.3% to 1.24 trillion yuan over the same period. [China exports sharply beat expectations as trade surplus in the first two months surges to highest on record](#)

³ [Every President Tries It. It Never Works. - The New York Times](#)

⁴ [习言道 | 中国对外开放，不是要一家独揽角戏--时政](#)

⁵ [Beyond overcapacity: Chinese-style modernization and the clash of economic models | Merics](#)

⁶ [中共中央关于制定国民经济和社会发展第十五个五年规划的建议](#)

⁷ <https://newsletter.2430group.org/p/china-rewrites-the-rules-for-global-business>

China is weathering the tariff storm for two main reasons. First, China has developed an indigenous supply chain that, while not fully domestic, protects the Chinese economy from US shocks. Second, the Chinese political system is designed to react less to short-term market and political demands than as occurs in democracies. The freedom to ignore (to a degree) clamoring from below allows for a far greater degree of government steering of the economy than in other countries. This means that senior CCP officials are both able to [direct](#) the economy—albeit not always perfectly—in a way that follows their own political priorities, rather than according to market forces, including who Chinese corporations trade with, at what prices, and at what quantity. China's [overall exports](#), for example, have not significantly declined, despite the US becoming a much more challenging export destination. Rather, exports have either increased in volume to make up for reduced prices, or [shifted](#) towards other countries, including in the Global South, to compensate. ***Indeed, there are signs that the US may, somewhat ironically, be helping China achieve its long-term economic goals.*** While there is short-term pain from reallocating trade, the US trade war, as we have previously argued, gives political cover in the shape of standing up to the US for [catalyzing](#) the Chinese economy away from relying on US buyers in a manner that domestic consumers are more likely to swallow.

There are some signs that US-China relations are improving; a bipartisan Congressional delegation will [visit China](#) for the first time in six years. But the reality is that China is [unlikely to negotiate](#) on tariffs or trade while, on the one hand, the US has little to offer beyond removing trade barriers, and, on the other, China thinks it is in a much stronger position to dictate terms of engagement. This is particularly the case with China's stranglehold on rare earth metal processing, over which it maintains a vicegrip on global supply.

The current trade war will therefore continue because neither side has much political incentive to negotiate. US businesses therefore need to plan for what a business and supply chain looks like either with the additional costs of tariffs baked in, or with the (far more challenging) use of alternative suppliers that do not rely on Chinese components or suppliers. The real question is which side will blink first.

Questions from Rep. Maggie Goodlander

Question 1

The SBA's State Trade Expansion Program (STEP) provides funding to support the needs of small businesses that are exploring, or expanding their businesses operations in export markets. The SBA has failed to disburse funding on a timely basis, and has delayed the application process for future funding cycles. I am attaching Committee Democrats' letter detailing the impacts of these disbursement failures. Could these delays make it more difficult for small businesses to successfully access export markets, and to receive support for IP protection services?

While not immersed in the details of STEP, it would seem that such delays would make it more difficult for the small business applicants to the program to reach export markets, and this delay benefits PRC competitors. The CCP's IP theft campaign is global. Chinese companies flood international markets with products built on stolen innovation at subsidized prices no competitor can match. Every delay in helping American small businesses compete internationally is time that PRC state-subsidized competitors use to establish market position and thus crowd out foreign competitors.

Question 2

What are some unique cybersecurity and IP theft vulnerabilities that our small businesses face, compared to other businesses?

Our small businesses face fundamentally different threats from those of large enterprises, and the vulnerabilities are structural, not just a matter of scale.

Our small businesses lack basic security infrastructure. These companies are being targeted by the same state-sponsored cyber intrusion capabilities that are deployed against Fortune 500 companies and the United States government — but small businesses lack the same defenses as large corporations and the government.

Small businesses typically have no insider threat programs, no employee vetting for foreign government affiliations, and no access to government threat intelligence. Most small companies cannot conduct even basic due diligence on whether an employee participates in a foreign talent recruitment program - and in some states, like California, privacy laws prevent them from trying.⁸

Small firms often cannot survive even one attack. The average cost of a cyber incident for a small business is \$254,000. For a company with twenty employees, that is an extinction-level event, as very few carry cyber insurance.

They also cannot afford to fight back legally. When employees at FemtoMetrix, a California semiconductor company, stole metrology technology and established a competing company in the PRC, the Chinese side hired a large international law firm specifically to bleed FemtoMetrix through legal costs. Even if FemtoMetrix had prevailed, a U.S. judgment is unenforceable in China and unenforceable against any other Chinese company that uses the stolen technology. For a small company, the legal fight itself can be fatal.

U.S. small companies have no incentive to report attacks or suspicions. Even larger firms do not call the FBI because they fear regulatory exposure, public disclosure that damages their valuation, investigations that are incompatible with running a business, or retaliation by the PRC for the legal case that is brought afterwards.

⁸https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=CIV&division=3.&title=1.6A.&part=4.&chapter=&article=1.

US small businesses constitute the bulk of the U.S. supply chain. The most strategically consequential vulnerability may be that small businesses are how adversaries reach the defense industrial base. Breaching a small supplier, for example, is how state-sponsored actors get to the Department of Defense. Small businesses are not peripheral targets — they are the soft underbelly of American national security.

Question 3

Can you provide suggestions on targeted, specific interventions that Congress and the SBA should take to harden our small businesses against cyberattacks and IP theft attempts?

2430 Group's written testimony proposes specific interventions within this Committee's jurisdiction. I will summarize them here.

First, we propose authorizing the **Small Business Economic Defense Act**. Authorize the SBA to establish a dedicated counter-economic espionage program delivered through its existing Small Business Development Center network. This would include threat briefings tailored to specific industries and regions, counterintelligence assessments that go beyond cybersecurity to address insider threats, predatory investment, and supply chain risks, and incident response support when a small business discovers that it has been attacked or scouted. The current SBA cybersecurity budget is \$3 million nationally. That figure does not reflect the scale of the threat, which extends well beyond cyber intrusion to encompass the full range of methods that I describe in my testimony.

Second, we propose enhancing **SBIR/STTR** security. This effort should include strengthening national security screening across all participating agencies and mandating FOCI checks on all applicants. When 36 percent of reviewed applications are denied for foreign adversary concerns, and agencies like NASA deny just one of 125 flagged applications, the screening regime is demonstrably inadequate.

Third, we propose the **Small Business Cybersecurity Investment Act**. A 30 percent tax credit up to \$75,000 annually for cybersecurity investments by firms with fewer than 250 employees, will help to cover hardware, software, training, assessments, and dedicated security personnel. This addresses the economic reality whereby small businesses know that they need better security but cannot justify the cost against immediate revenue demands. Our businesses are fighting nation states, let's arm them properly.

Fourth, we recommend a **Small Business IP Legal Defense Fund**. This would be a federal fund covering at least up to \$250,000 in legal costs for small businesses fighting intellectual property theft from state-sponsored actors. Small businesses cannot afford international IP litigation against state-backed adversaries. This fund levels the playing field and changes the calculus for U.S. companies that currently choose silence over the cost of fighting.

Fifth, we propose a **Small Business Threat Intelligence Program**. This would direct CISA and the FBI to provide actionable, declassified threat intelligence specifically tailored for small businesses, delivered through SBA channels. Today, classified threat briefings may reach some Fortune 500 companies but they very rarely if ever reach Main Street. Additionally, this program would make it clear and easy for companies experiencing theft, or with knowledge of theft or fraud to know where to report that information.

Sixth, we recommend introducing **Counter-Espionage Subsidies and Tax Credits**. We do not ask American citizens to wage war against foreign nation states, but that is what small businesses do. The government should provide direct subsidies or matching grants for small businesses to establish counterintelligence programs, in addition to tax credits for investments in employee vetting and security training.

Federal preemption of state laws that currently prevent companies from conducting security-relevant due diligence on employees - such as California's Investigative Consumer Reporting Agencies Act - should accompany these financial incentives.

ROGER WILLIAMS, TEXAS
CHAIRMAN

NYDIA M. VELAZQUEZ, NEW YORK
RANKING MEMBER

Congress of the United States
U.S. House of Representatives
Committee on Small Business
2501 Rayburn House Office Building
Washington, DC 20515-0515

January 29, 2026

The Honorable Kelly Loeffler
Administrator
U.S. Small Business Administration
409 3rd St. SW
Washington, DC 20416

Dear Administrator Loeffler:

We write to urge you to immediately provide reimbursements to states and territories participating in the Small Business Administration's (SBA) State Trade Expansion Program (STEP) for services completed in Fiscal Year (FY) 2023 and FY 2024, as well as follow through in the awarding of FY 2025 grants and release the FY 2026 funds in a timely way.

It has come to our attention that reimbursements to STEP grantees have been delayed. Based on feedback from grantees, 23 recipients are waiting for reimbursements from STEP 11, totaling \$2.3 million in FY 2023. Thirty-two grantees are waiting for reimbursements from STEP 12, totaling \$5.8 million in FY 2024. It is imperative that the SBA honor its commitments and disburse funds for services already rendered by the states. Withholding millions of dollars in reimbursements from SBA's partners is causing financial constraints on an otherwise effective program.

Further, SBA has not followed through in awarding grants to states and territories for STEP 13. In FY 2025, Congress approved \$20 million in funding for the STEP program. On June 13, 2025, the SBA posted a Notice of Funding Opportunity (NOFO) seeking proposals for STEP 13 grants. The closing date for states to submit applications was July 31, 2025. However, the awards have not been announced, nor have the funds been disbursed. When Congress appropriates funds for entrepreneurial development programs, including STEP, SBA has a legal obligation to implement those programs and provide full funding, consistent with Congressional intent.

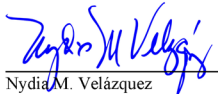
STEP has been incredibly successful over the years. In FY 2024, SBA reported making several program improvements including additional steps to monitor STEP reimbursement requests and digital tools to better track and report on the STEP process. That year, STEP conducted twice as many outreach events as originally planned, assisted at least 3,400 small businesses, and supported more than 14,800 jobs.

Since its inception, STEP has helped to level the playing field for small businesses and enter new markets, in turn creating jobs and expanding our economy. Small businesses currently account

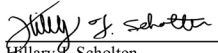
for about 35 percent of all U.S. exports, with \$542 billion of the \$1.5 trillion in total export sales coming from small businesses.¹ To achieve our shared goals of expanding the base of small business exporters and increasing export sales it is crucial that you reimburse grantees and award FY 25 grants to promote export development, unlocking opportunities to participate in trade missions, foreign market sales trips, export trade shows, international marketing efforts, and export training. In conclusion, STEP is a proven, time-tested program that spurs job creation and boosts our economy, and congressionally appropriated funds should be released without further delay.

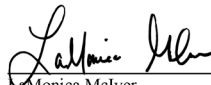
Thank you for your attention to this request, and we look forward to your prompt reply.

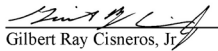
Sincerely,

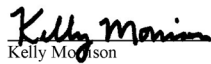

Nydia M. Velázquez
Ranking Member
Committee on Small Business


Morgan McGarvey
Member of Congress

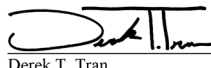

Hillary G. Scholten
Member of Congress


LaMonica McIver
Member of Congress

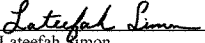

Gilbert Ray Cisneros, Jr.
Member of Congress

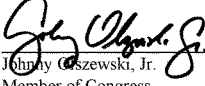

Kelly Moynihan
Member of Congress


George LaRimer
Member of Congress


Derek T. Tran
Member of Congress

¹ Amanda Radwanski, *What Do We Know About Small Businesses that Export?* SMALL BUSINESS ADMIN. OFFICE OF ADVOCACY (Mar. 5, 2024).


Lateefah Simon
Member of Congress


Johnny Olszewski, Jr.
Member of Congress


Herbert C. Conaway, Jr.
Member of Congress


Maggie Goodlander
Member of Congress

Responses to Questions for the Record

Rush Doshi, Ph.D.

Assistant Professor, Georgetown University

C.V. Starr Senior Fellow for Asia and Director, China Strategy Initiative

Council on Foreign Relations

U.S. House of Representatives, Committee on Small Business

Hearing: Defending Main Street: Combatting CCP Threats to America's Small Businesses

March 25, 2026

Questions from Ranking Member Nydia M. Velázquez

1. Mr. Mr. Murphy stated in his testimony today that he entered into a predatory arrangement with his former P.R.C. business partner partially because it hid its beneficial owner from him, the government, and the general public. Would you agree that we need beneficial ownership disclosure – such as that found in the *Corporate Transparency Act (CTA)* – to stop this practice in its tracks?

How has President Trump's refusal to enforce the CTA undermined our ability to look into entities' P.R.C. links?

Yes. As I emphasized in my testimony, knowing the beneficial owners of entities that invest in, partner with, or supply our small businesses is the single most difficult element of due diligence. Without that information, U.S. small businesses, federal agencies, and lenders cannot reliably identify when an apparent domestic counterparty is in fact controlled by a Chinese state-owned enterprise, a PRC government-linked investment vehicle, or a sanctioned individual operating through layered shell companies. The Corporate Transparency Act was designed precisely to close that gap. As I noted at the hearing, and in previous testimony before other committees, beneficial-ownership transparency is also a powerful tool against fentanyl trafficking and money laundering.

I am concerned that the Treasury Department's March 2025 interim final rule narrowed reporting so that the great majority of U.S.-formed entities no longer file beneficial-ownership information.

2. The last administration made landmark investments in domestic computer chip manufacturing through the *CHIPS and Science Act*. The Act gave \$39 billion in capital for domestic chip manufacturing, and research and development. It also created the Advanced Manufacturing Investment Credit to help reduce the costs of building domestic chip manufacturing facilities. How critical is this supply chain in our rivalry with the P.R.C.?

In his 2025 State of the Union address, President Trump called to repeal the CHIPS and Science Act, and Speaker Johnson made similar comments in 2024. How would a repeal hurt our tech competitiveness with the P.R.C.?

The semiconductor supply chain is among the most strategically consequential industries in the U.S.–China competition. These advanced semiconductors are the foundation of artificial intelligence. Beijing has identified semiconductors as a top priority and is spending tens of billions of dollars annually through its “Big Fund” and related industrial initiatives. It would be strategic suicide to dismantle our (limited) efforts in this space, particularly when China’s industrial policy support may total roughly \$400 billion every year.

3. The U.S. Patent and Trademark Office operates IP attaché offices overseas, especially in places with high volumes of IP theft like Turkey and Southern Africa. It also provides resources on IP protection abroad to entrepreneurs, like the China IP Rights Toolkit, which I have attached for your awareness. Would you agree we should fully fund the Office and give it the resources it needs to protect American IP?

Yes. These offices are specifically built to help American small businesses navigate IP protection in high-risk jurisdictions. Attachés in Beijing, Shanghai, and Guangzhou have for years been the front-line resource for U.S. firms confronting trademark squatting, patent infringement, and trade-secret theft in China; their counterparts in Turkey, Southern Africa, and Southeast Asia perform similar functions in markets where small businesses are otherwise on their own. Fully funding the Office essential.

4. The first Trump administration launched the China Initiative, a DOJ campaign that accused researchers of disloyalty and espionage based on paperwork snafus and regulatory compliance mistakes. In fact, a 2024 Stanford report, attached, finds that because of the China Initiative and the fear of persecution it sparked, departures of Chinese scientists from the U.S. have increased by 75 percent, with two-thirds moving to the P.R.C. to work there instead. Was this helpful to our tech competitiveness?

As I noted in my testimony, the United States has 300 million people and China has 1.4 billion, so our asymmetric advantage is the ability to attract and retain the very best scientific talent from around the world, including from China. Sending Chinese-born researchers, many of whom are U.S. citizens or permanent residents who had built their careers in American universities and companies, back to China to staff Beijing’s industrial-policy programs is a strategic own-goal. There are real, documented cases of PRC-directed espionage and talent-recruitment programs (the Thousand Talents Plan and its successors) that targeted U.S. research. Counterintelligence enforcement against actual espionage is legitimate and necessary. But we need a more evidence-driven approach to balance those aims with the need to avoid prejudiced enforcement and counterproductive alienation of the very scientists we want to retain. We have not always had that balance right.

5. We briefly discussed onshoring supply chains for critical items like pharmaceutical precursors. I grew up on Puerto Rico, a U.S. colony that once had a thriving pharmaceutical manufacturing industry. This industry boomed because the federal government supported the island and promoted private investment in its economy. But that support dried up 20 years ago, leading to an economic recession and the colonial government’s eventual default on its debt. Can you speak to how the federal government can help with onshoring by giving places like Puerto Rico the respect and investment they deserve?

Restoring U.S. capacity in pharmaceutical precursors, APIs, and finished generics is precisely the kind of supply-chain resilience challenge where Puerto Rico has comparative advantages: an existing skilled pharmaceutical workforce, a stock of FDA-inspected facilities, and U.S. legal and regulatory jurisdiction. Targeted federal investment could revive that industry, and that is now more necessary than ever. Treating Puerto Rico as a domestic manufacturing partner rather would also help address the island's broader economic challenges. The principle is the same one I emphasized in my testimony: federal commitments to industry need to be predictable, packaged, and sustained over time, instead of announced and then prematurely withdrawn.

6. Is there anything else you would like to add to the record?

Not at this time.

Questions from Vice Ranking Member Morgan McGarvey

Today, we discussed how coordinating with allies, like Canada, the E.U., Japan, South Korea, and Australia makes it easier to balance out the P.R.C.'s overwhelming size advantage, than it is to go it alone.

1. Do you think it makes our allies more likely to work with us against the P.R.C. if we unilaterally impose tariffs on them in violation of existing trade agreements?

Allies have their own publics, parliaments, and political constraints, so I worry that coercive tariff actions might lead to polarization along anti-American lines. It is harder to enlist their support if we are alienating their publics.

2. Do you think it makes our allies more likely to work with us against the P.R.C. if we threaten to invade them, repeatedly belittle their sovereignty, or disparage the military sacrifices they have made on our country's behalf?

These measures are extremely damaging to our alliances. Rhetoric questioning the sovereignty of treaty allies — whether Canada, Denmark over Greenland, or others — and dismissals of their military contributions in joint operations is not prudent or defensible. It alienates the allies that we need and hands Beijing a useful strategic narrative: that the United States is an unreliable partner and that quietly hedging toward China is a prudent course. That narrative is being used in capitals from Ottawa to Canberra to Brussels, and it works against everything else we are trying to accomplish.

3. What would be more effective strategies for building a coalition of countries that has the will and ability to compete with and balance the P.R.C.'s global influence?

I have previously written about the need for the United States to build “allied scale” with others to balance China's enormous scale. In the current moment of distrust, we may have to move slowly and carefully, starting on smaller projects before tackling larger ones. The potential is enormous. As I noted at the hearing, the combined GDP, technological base, manufacturing capacity, and scientific output of the United States, the European Union, Japan, South Korea, Canada, Australia, the United Kingdom, and other like-minded partners substantially exceeds China's. We do not

need to outscale Beijing on our own; we need to outscale it through coalition. That is achievable, but only if we treat allies as partners rather than, as sometimes seems the case, adversaries.

Questions from Representative George Latimer

1. One way IP theft can occur is through cyberattacks. Why is it important for small businesses to invest in robust cybersecurity tools and practices?

The U.S. Small Business Administration (SBA) used to have an online cybersecurity educational resource, but it was removed in 2018. Should we add one back, and if so, what should an updated resource include?

Cybersecurity is no longer optional for small manufacturers. PRC-linked actors, including state intelligence services and state-affiliated cybercriminal groups, routinely target small firms precisely because they hold valuable IP (designs, manufacturing processes, supplier lists, customer data) but typically lack mature cyber defenses. As I noted in my testimony, IP that is stolen from an American small business often resurfaces in Chinese-manufactured products sold back into our market. Basic cyber hygiene is a start, but it is not enough. Congress should restore and modernize SBA resources in this area.

2. Small businesses often look to the federal government for help with their cybersecurity and cyber hygiene, but these resources are often disjointed and spread across various agencies without small business outreach expertise. Is it worth having the U.S. Government Accountability Office (GAO) study ways to improve this ecosystem?

Yes, a GAO study would be valuable in consolidating this landscape. Today, small businesses encounter cybersecurity resources scattered across CISA, NIST, the FBI, the Treasury, the SBA, the Department of Commerce, the Small Business Development Centers, the Manufacturing Extension Partnership, and, for defense contractors, the Department of War's Office of Small Business Programs. Each agency does important work, but it is a daunting task to track all of these institutions.

Questions from Representative Derek T. Tran

1. Can you give more color on the significance of the Small Business Innovation and Research (SBIR) due diligence program, particularly its requirement to assess potential security risks that small business applicants may pose to U.S. technological leadership?

The SBIR due diligence program is important and worth preserving. SBIR has, over its history, deployed roughly \$70 billion in non-dilutive capital to early-stage small businesses in areas of national importance, and many iconic American firms trace their origins, at least in part, to SBIR support. I do worry that some due-diligence criteria may effectively not be evidence-based and risk-tiered but instead based on blanket national-origin disqualifications.

2. President Trump has threatened Section 232 tariffs on pharmaceuticals and their ingredients. While I agree that we need to diversify such supply chains, how would this impact our community pharmacies and local doctors' offices? Would it truly help reduce China's chokepoints in the pharmaceutical industry?

Tariffs alone do not build domestic capacity. And in some cases, tariffs may even entrench China's position, particularly if allied countries are hit hard. Ultimately, we will need to produce some quantity at home. But standing up an API or fermentation facility requires capital, FDA-inspected sites, a skilled workforce, and a customer base willing to commit to U.S.-sourced product at higher prices. So to address this issue, we should pair any protective measures with investment in domestic and allied manufacturing: BARDA, DPA Title III, dedicated tax credits, advance market commitments from federal payers, and the kind of integrated SBA support I described in my testimony.

3. President Trump has justified his broad, untargeted tariffs on the P.R.C. in part on the issue of IP theft. Does tariffing an entire nation's goods address these individual acts of IP theft?

Tariffs imposed on an entire nation's goods are a blunt instrument for what is, fundamentally, a narrower problem. IP theft is committed by particular firms, particular state-affiliated entities, and particular individuals. The United States, however, currently allows several PRC companies that have infringed on the intellectual property of small businesses to export to the United States. Those companies should be prohibited or otherwise punished. Tariffs should be reserved for other problems, including chronic imbalances and dumping.

4. What other tools would be useful to help small businesses combat the CCP's theft of American intellectual property?

Several additional tools would be useful. A critical one would be faster and lower-cost remedies for trade-secret theft: the Defend Trade Secrets Act provides a civil cause of action, but small businesses often cannot afford the litigation; a federal grant program could subsidize trade-secret enforcement for qualifying small firms. Moreover, strengthened CBP authorities to expedite seizure of imports that infringe U.S. IP would be useful. Beneficial-ownership transparency through the Corporate Transparency Act, which enables better identification of foreign-controlled entities engaged in IP misappropriation, would be useful too. I also suggest considering entity-list and outbound-investment tools to target PRC firms credibly tied to IP theft.

Questions from Representative Johnny Olszewski, Jr.

1. One barrier to onshoring is the lack of qualified, skilled workers to fill manufacturing and trade jobs. What is the importance of career and technical education in building the workforce we need to onshore?

One specific solution I have thought about is adding critical mineral mining fellowships to the State Department's Fulbright Educational Exchange Program, so we can train Americans for related advanced degrees and recruit foreign talent to serve our nation. How does that sound?

Workforce is among the most binding constraints on U.S. reindustrialization. China's manufacturing capacity is, in part, the product of a workforce strategy that produces millions of vocationally trained workers, technicians, and engineers each year. The United States has, by contrast, substantially underinvested in technical and apprenticeship pathways for several decades. Accordingly, this Fulbright proposal is a sensible, low-cost addition to the toolkit. The United States has a documented gap in advanced training for critical-minerals geology, metallurgy, and processing.

2. One aspect of the U.S.-P.R.C. rivalry is control of strategic ports, which are important to our trade positions and national security. Last year, the House passed H.R. 1701, which would direct the State Department to study and report on these ports, to better inform our maritime strategy. Should the Senate take it up?

Yes. PRC-affiliated firms, including COSCO Shipping, China Merchants Group, and entities tied to the State-Owned Assets Supervision and Administration Commission, have, over the past two decades, acquired operating stakes in port terminals on every inhabited continent. A systematic State Department study and report would help inform U.S. maritime, infrastructure, and diplomatic strategy; it would also be of practical use to allied governments evaluating their own port investment decisions. This is precisely the kind of low-cost informational measure that pays for itself many times over.

Questions from Representative Maggie Goodlander

1. What is the impact of the President's tariff policy and the subsequent imposition of reciprocal tariffs on the ability of small businesses to access new export markets?

On net, the current tariff environment has materially harmed the export prospects of U.S. small businesses. First, U.S. tariffs on intermediate goods raise the cost of inputs that small manufacturers depend on, eroding their cost competitiveness in foreign markets and in some cases pushing them out of contention for international contracts. Large companies can escape some of this dynamic, but smaller ones cannot, and much of the U.S. industrial base depends on these smaller companies. Second, reciprocal tariffs by partners close off or shrink the markets small exporters can reach. Small businesses are especially exposed because they typically lack the supply-chain flexibility, currency hedging, and legal resources to absorb tariff shocks that larger multinationals can deploy. The result, as several witnesses including small-business owners reflected at the hearing, is that small exporters are losing contracts, delaying capital investment, and in some cases winding down export operations entirely.

2. What investments should the SBA be making to better support small manufacturers and small businesses that are interested in exporting their products for the first time?

Several investments would help. But the overarching point is that the federal government already has most of the tools to support these exports. What is missing is a coordinated delivery system that meets the small exporter where it is.

First, the SBA's State Trade Expansion Program (STEP) and Export Express loan program should be substantially expanded and modernized, with simplified application processes and dedicated

technical assistance for first-time exporters. Second, the SBA should embed export-finance specialists in district offices so that small businesses can access EXIM Bank, USTDA, DFC, and Foreign Commercial Service tools through a single front door, rather than navigating each agency on their own. Third, the Manufacturing Extension Partnership, once restored, should explicitly include export-readiness assessments and integration with allied supply chains in its mandate. Fourth, the SBA should partner with the Foreign Commercial Service to provide small manufacturers with curated market-entry assistance in priority allied markets — Japan, South Korea, the European Union, Canada, Mexico, the United Kingdom, Australia, and partner countries in Southeast Asia.

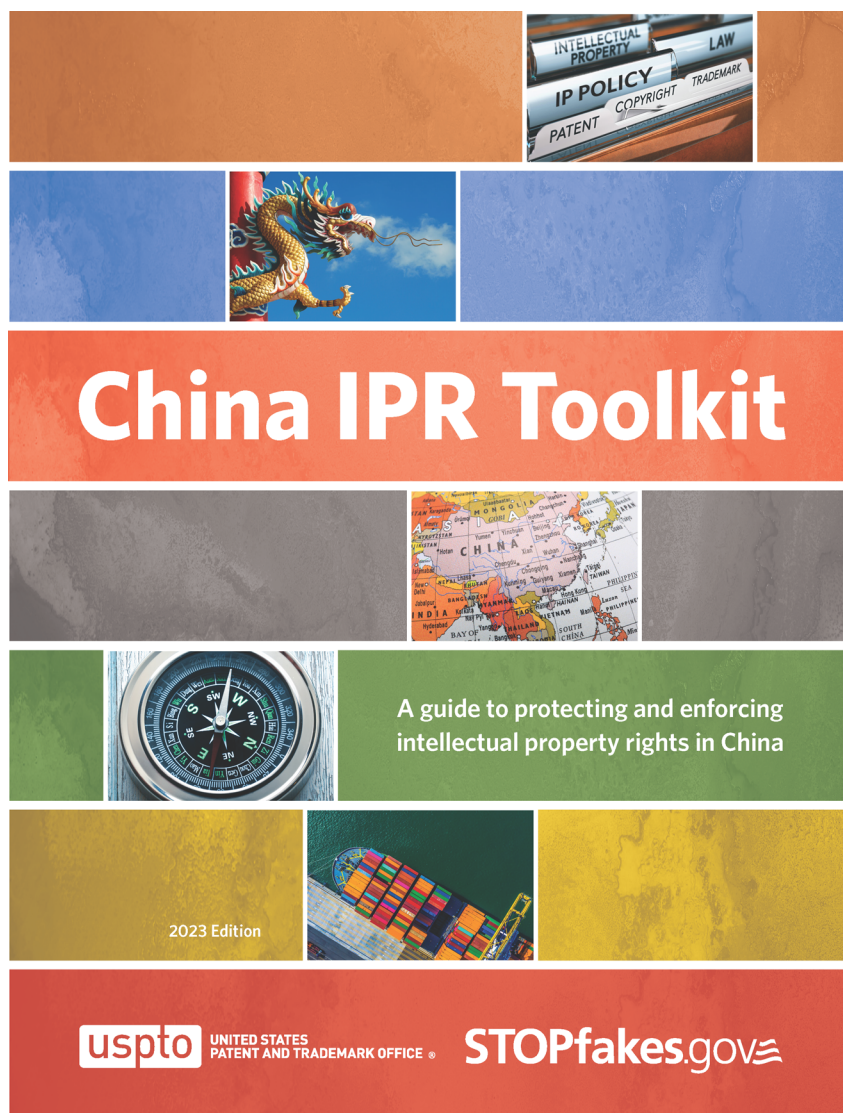
3. During your testimony, you detailed the successes of the P.R.C.’s “Little Giants” program, through which the state provides support services including preferential loans, direct subsidies, equity investments, expedited patent processing, research support, and supply chain support for small- and medium-sized manufacturers in high-tech sectors. How should Congress work to support domestic small- and medium-sized manufacturers to better compete with companies in the Little Giants program?

The core insight from the Little Giants program is that targeted, packaged support to high-technology SMEs can produce world-class competitors at relatively modest federal cost. To build the American equivalent, the central recommendation of my testimony, Congress should consider a coordinated package along the following lines:

- A federal certification or designation program, housed at the SBA and coordinated across Commerce, the Department of War, and Energy, that identifies high-priority small manufacturers in strategic sectors and bundles their access to capital, demand, R&D, and regulatory support.
- Scaled non-dilutive capital through reauthorized and expanded SBIR and STTR programs, and a substantially larger SBIC critical-technology fund-of-funds vehicle (the first cohort of which is on track to raise roughly \$4 billion against China’s \$125 billion in private Little Giants funding).
- Low-cost debt through expanded SBA 7(a) and 504 lending caps (to be coupled with more loans too, to ensure the lifting of the cap does not allocate capital to a smaller number of beneficiaries who receive larger loans), and a fully appropriated Manufacturing Access to Revolving Credit Program with raised loan caps and total appropriation, so that small manufacturers can access working capital at terms approaching what their Chinese competitors enjoy.
- Demand-side support, including federal procurement set-asides for certified strategic SMEs in defense, energy, and infrastructure — the closest analog to the offtake commitments Beijing extracts from its SOEs and ministries on behalf of Little Giants.
- Technical assistance through a fully restored and expanded Manufacturing Extension Partnership, with tighter ties to national labs, university research centers, and federally funded research and development centers.
- Expedited patent processing and trademark protection for certified firms, modeled on the USPTO’s existing accelerated examination authorities.
- Workforce support through Perkins CTE, registered apprenticeships, and targeted exchange fellowships of the kind discussed in response to Representative Olszewski.

- Protective measures, including beneficial-ownership disclosure of investors via the Corporate Transparency Act, CISA-administered cyber support for certified firms, and outbound-investment screening to prevent the leakage of supported technologies to PRC-linked entities.

The total federal outlay required to stand this up is a small fraction of China's roughly \$400 billion in annual industrial-policy spending. What it requires is integration, or more specifically, a single agency-level mechanism to deploy existing authorities together, on behalf of identified firms, at scale. That is the gap I emphasized in my testimony, and it is the gap this Committee, more than any other in Congress, has the jurisdiction to close.



China Intellectual Property Rights Toolkit

2023 Edition

This publication was prepared by the United States Patent and Trademark Office, a participating agency in www.STOPfakes.gov. STOPfakes.gov is a one-stop shop providing U.S. government tools and resources on the protection and enforcement of intellectual property (IP) rights. The federal agencies behind www.STOPfakes.gov have developed a number of resources to educate and assist businesses, particularly small and medium-sized enterprises, as well as consumers, government officials, and the general public.

This toolkit is intended to provide general guidance for businesses and practitioners in better understanding the basics of the IP landscape in China. It is distributed with the understanding that the authors, editors, and publisher are not engaged in rendering legal, accounting, or other professional services. Nothing in it should be understood as legal advice. When legal or other expert assistance is required, the services of a competent professional should be sought.

This report contains information that was current as of the date of publication. While every effort has been made to make it as complete and accurate as possible, readers should be aware that all information that is contained herein is subject to change without notice. Images used in this toolkit are for educational purposes only.

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Acronyms and abbreviations

AUCL	Anti-Unfair Competition Law
CNIPA	China National Intellectual Property Administration
CNNIC	China Internet Network Information Center
CPCC	Copyright Protection Center of China
HKIAC	Hong Kong International Arbitration Center
GACC	General Administration of Customs of the People's Republic of China
IP	intellectual property
IPR	intellectual property rights
MPS	Ministry of Public Security
NCAC	National Copyright Administration of the People's Republic of China
NDA	non-disclosure agreement
NPC	National People's Congress
PCT	Patent Cooperation Treaty
PRB	Patent Reexamination Board
PRC	People's Republic of China
RMB	renminbi (Chinese currency)
SAMR	State Administration for Market Regulation
SPC	Supreme People's Court
SPP	Supreme People's Procuratorate
TLD	top-level domain

China's intellectual property environment

U.S. companies doing business in China face a range of challenges in protecting and enforcing their intellectual property (IP). Companies planning to do business in the People's Republic of China (PRC) should understand that the U.S. and PRC IP legal systems are different and that registration of rights in the United States does not confer rights in China. It is important to become familiar with the differences between the two systems and to develop and implement a comprehensive strategy for protecting and enforcing your IP in China. This toolkit provides a starting point for developing an understanding of the challenges you may face in protecting and enforcing IP in China, and it may be helpful for developing a China IP strategy.

PRC government agencies with IP-related responsibilities

China's system for granting, enforcing, and adjudicating IP rights relies on a variety of administrative and judicial bodies. The different roles of these bodies are discussed throughout this toolkit. The following list identifies their principal responsibilities:

- The **China National Intellectual Property Administration** (CNIPA) examines and decides on applications for patents, trademarks, geographical indications, and layout designs of integrated circuits. CNIPA also includes administrative bodies that decide on requests to invalidate patents and to reverse decisions by patent and trademark examiners. CNIPA's trademark-related work is conducted by its Trademark Office and its patent work by its Patent Office.
- The **State Administration for Market Regulation** (SAMR) is responsible for managing the administrative enforcement of patents, trademarks, unfair competition and trade secrets.¹ Note that most actual enforcement is generally undertaken at the local level, either district, municipal, or provincial, depending on the circumstances of the case.
- The **National Copyright Administration of the People's Republic of China** (NCAC) is responsible for the management of administrative enforcement of copyrights. As with other IP rights, a copyright owner can initiate an administrative proceeding against an alleged infringer by filing with the relevant local authority. In addition, NCAC supervises the Copyright Protection Center of China.
- The **Copyright Protection Center of China** (CPCC) issues copyright registrations.
- The **General Administration of Customs of the People's Republic of China** (GACC) enforces patents, trademarks, and copyrights at China's borders.
- The **Ministry of Public Security** (MPS) and its local bureaus investigate certain criminal infringement cases, and the **Supreme People's Procuratorate** (SPP) and its local branches prosecute certain criminal infringement cases.

- Court cases involving IP are heard by China's regular People's Courts, by four specialized IP Courts, and by multiple IP tribunals throughout China. Internet Courts hear cases involving the online sale of copyright-infringing goods. Certain appeals go before the Intellectual Property Court of the Supreme People's Court, which serves as a national IP appellate court, for appeals of patent cases and other complex IP-related cases. Other IP-related appeals generally go before the highest court of the province or directly-administered municipality in which the first-instance court sits.²



General considerations for protecting IP rights in China

The following may be helpful in protecting IP rights in China:

- Create a basket of IP rights, including patents, trade secrets, trademarks, and copyrights. A multilayered IP portfolio can provide synergistic protection and compensate for gaps in China's IP system.
- Develop an IP strategy with enforcement in mind. The strategy could involve hiring a competent local IP attorney who can provide a full range of services. Such services should include not only registration of rights but also monitoring, investigation, and enforcement work.
- Customize your strategy according to your needs. Your strategy may differ depending on the nature of your business and your IP rights and on your plans for doing business in China. To be successful in China, you should plan carefully. Begin by considering the general strategies and best practices identified in this toolkit.
- Instill in your China-based workforce a sense of IP ownership, and make IP protection and enforcement the responsibility of your entire China team.
- Keep good records. IP enforcement in China generally requires original documentary evidence (for example, certificates of registration) to establish rights and provide a basis for enforcement.
- Take advantage of U.S. government resources, including the China team at the U.S. Patent and Trademark Office (USPTO), China IP resources made available on the USPTO website, and the USPTO's three IP attachés posted in China (see the "China IPR resources" section on page 33 for links to contact information). The IP attachés can offer on-the-ground assistance and information on protecting and enforcing IP rights; finding local service providers; and addressing problems with PRC counterparts, including advocating for U.S. rights holders under exceptional circumstances.



Trademarks

What is a trademark?

A *trademark* is any sign—including words, phrases, letters, numerals, designs, three-dimensional symbols, and combinations of colors or sounds—that identifies and distinguishes the source of the goods of one party from those of others. A *service mark* is any sign that identifies and distinguishes the source of a service rather than a product. Some examples of each include brand names, slogans, and logos. The term “trademark” is often used in a general sense to refer to both trademarks and service marks.

Unlike the United States, which grants priority to trademark owners based on their use of a trademark, China is a “first-to-file” jurisdiction: a party can obtain ownership of a trademark merely by filing an application to register it and is not generally required to show evidence of use. The PRC Trademark Law states that in the application for registration or use of a trademark, the principle of good faith shall be followed. In addition to trademark and service mark registrations, you may also file to register certification marks and collective marks. *Certification marks* are signs controlled by organizations that have the ability to oversee certain products or services, and they are used by companies or individuals to indicate the original place of manufacture, the raw materials used, the method of manufacture, the quality, or other specific characteristics of the product or service associated with the mark. *Collective marks* are signs registered in the name of groups, associations, or other organizations for use by members to indicate their membership in the organization.

A mark is generally eligible for trademark registration in China if it is distinctive, is easily distinguishable, does not conflict with prior lawful rights obtained by a third party, and is not otherwise prohibited by the Trademark Law. Under the PRC Trademark Law, signs that cannot be registered as trademarks include ones that are the same as or similar to the state name, national flag, national emblem, or military flags or military decorations, not only of China but also of other countries and international intergovernmental organizations, unless approved by the relevant country or organization. Other marks that cannot be registered include those that discriminate against any nationality, are detrimental to socialist morals or customs, have so-called “unhealthy influences,” or lack sufficient distinctiveness. For a list of prohibited marks, refer to the current PRC Trademark Law.

The term of protection in China for a trademark is 10 years, commencing from the date of registration. A trademark may be renewed indefinitely, subject to the payment of a renewal fee every 10 years.

In the United States, trade dress is protectable under the trademark law. Although certain elements of trade dress, such as 3-D marks, may be eligible for protection under the PRC Trademark Law, trade dress is protected primarily through the Anti-Unfair Competition Law (see the “Trade Dress” section on page 8).

Unlike the
United States,
China is a
“first to file”
jurisdiction

How to obtain trademarks in China

Because rights are determined according to priority in filing (that is, the first applicant to file generally obtains the rights), be sure to file as early as possible with the Trademark Office of CNIPA, using the following steps:

Step 1: Determination of eligibility

A mark is eligible for trademark registration if it is distinctive, does not conflict with the prior lawful rights obtained by a third party, and is not otherwise prohibited by the Trademark Law. A China trademark agent or lawyer may provide advice as to whether a trademark is eligible for registration.

Step 2: Selection of trademark agent

Under the PRC Trademark Law, foreigners or foreign enterprises must work with a local China trademark agent or legally-formed trademark agency that is qualified to practice before the Trademark Office. However, if a foreign enterprise has a presence in China, it is not required to use such agents and may apply directly to the Trademark Office. Many still choose to use a China trademark agent to assist in the process.

Your U.S. trademark attorney may have a global network of attorneys and agents, including in China, who will be able to assist in the filing of any trademark application, including under the Madrid Protocol (Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks).

Certified China trademark agents typically prepare the application, conduct a pre-application trademark search, and submit the application.

Step 3: Selection of classes

In China, as in the United States, trademarks are administratively categorized into classes of goods or services following the International Classification of Goods and Services for the Purposes of the Registration of Marks under the Nice Agreement. Unlike the United States, China further categorizes goods and services into similarity subclasses in its trademark classification list. Goods or services are deemed similar if they fall in the same subclass.

An agent or lawyer may provide advice regarding classification. A trademark must be registered in connection with at least one particular class of goods. In addition, a trademark agent or lawyer may advise you to register your mark not only in classes that pertain to your particular products or services, but also in other classes and subclasses, both as a hedge against bad-faith actors who may seek to register your mark before you do and in the event you later expand into other goods or services.

Step 4: Performance of preapplication trademark search

A preliminary trademark search is necessary to ensure that there are no prior conflicting registrations. Normally, a registered trademark agent or attorney can do this search using a database on the PRC's official Trademark Office website (<http://sbj.cnipa.gov.cn/>).

Note the following:

- Not all firms conduct these searches automatically when you retain them; you should specify that you want a search of the official Trademark Office website.
- The preliminary searches may be costly and time consuming.
- Other databases that an attorney or agent may search may not contain the official register and may not include pending applications.

Step 5: Submission of application to the Trademark Office

Trademark applications must include:

- a trademark application form,
- a power of attorney form, and
- a certificate of incorporation or business license if the applicant is a company.

All documents must be submitted in the Chinese language. Documents submitted in languages other than Chinese are deemed "not to have been submitted" to the Trademark Office.

As an alternative to filing an application directly with the Trademark Office, consider extending your U.S. application or registration into China through the Madrid Protocol, which can be done through the USPTO.³

Step 6: Application for priority registration under international agreement

China and the United States are members of the Paris Convention for the Protection of Industrial Property ("Paris Convention"). The Paris Convention provides that under certain circumstances, trademark owners from Paris Convention member countries who apply to register their marks in their home countries and subsequently apply to register the same mark in other Paris Convention countries are deemed to have filed the later applications on the same date as their home country filings. That "priority filing date" is available if the subsequent applications are filed within six months from the date of the home filings. An applicant who claims priority in its application before the China Trademark Office must state so in writing at the time when the first application is filed in China.

In addition, within three months, the applicant must also submit a copy of the first application filed in its home country.

Step 7: China Trademark Office review

The Trademark Office will review the trademark application materials to ensure that they are complete and comply with all the application requirements and that the trademark meets the criteria for eligibility for registration.

Step 8: Preliminary approval and publication in the Trademark Gazette, request to amend application, or rejection of application

If the Trademark Office determines that the application packet is complete and that no other similar or identical trademark is currently registered or pending, it will grant preliminary approval and publish the trademark in the *Trademark Gazette*. The public at large will then have three months to challenge the application to register the trademark.

If the Trademark Office decides that the application needs to be amended (for example, if the applied goods are not submitted in standard language contained in the classification chart), it will notify the applicant in writing. The applicant must amend the application within 15 days of receipt of the notification from the Trademark Office. The applicant has only one chance to amend, and if the amendment is rejected again by the Trademark Office, or if it is not filed within the time limits, the application as a whole will be rejected. A rejection based on a failure to sufficiently amend an application can be appealed internally, by filing for administrative reconsideration through the Trademark Office.

If the Trademark Office rejects the application on substantive grounds (for example, if the trademark is found to be similar to an existing registered trademark), it must notify the applicant of the rejection in writing. Within 15 days of receipt of the rejection, the applicant may request administrative review by the Trademark Office.

If the applicant is dissatisfied with the review decision, it may seek judicial review by filing an administrative appeal to the Beijing IP Court within 30 days of receiving written notification of the review decision.

Step 9: Registration

If no third party opposes the mark during the three-month opposition period, the Trademark Office will register the trademark and publish notice of the registration in the *Trademark Gazette*.

Opposition to preliminary approval of registration

If the Trademark Office preliminarily approved someone else's application to register a trademark that you believe infringes your mark, you may file an opposition to the registration of that mark. This must be done within three months of publication of preliminary approval in the *Trademark Gazette*. The Application for Trademark Opposition must be submitted in duplicate and must set out the relevant information.

Thereafter, the parties are entitled to provide additional information within strict time limits (three months). A company's use of an experienced trademark attorney to advise on filing an opposition is important.

Invalidation of registered trademark

You may ask the Trademark Office to invalidate a registration of a trademark that you believe infringes your mark. Such requests must be filed within five years from the day the registration is issued.⁴ The Trademark Office will issue its decision on the invalidation request within 12 months, and either party can appeal the decision to the Beijing IP Court within 30 days of receiving the decision.

What constitutes infringement of your trademark in China

Under the PRC Trademark Law, *once you register your trademark*, a third party can be found to have infringed your mark if he or she does any of the following:

- Uses a trademark that is *identical* to yours in connection with *identical goods* without your authorization;
- Uses a trademark that is *similar* to yours in connection with *identical goods* without your authorization, if that use is likely to cause confusion;
- Uses a trademark that is *identical or similar* to yours without your authorization in connection with *similar goods*, if that use is likely to cause confusion;
- Sells goods that infringe your exclusive right to use the trademark;
- Forges or manufactures representations of your trademark (for example, on tags, labels, or stickers) or sells those representations without your authorization;
- Affixes your trademark on other products and then sells those products, all without your authorization;
- Helps others to infringe your mark, or deliberately creates conditions that facilitate the infringement of your trademark; or
- Carries out other acts that result in harm to your exclusive right to use your registered trademark.

Obtaining domain name registrations in China

You may wish to protect your trademarks and trade names as domain names, both so that you can use your mark in that manner and to prevent others from improperly registering your mark as a domain name. Domain names are granted on a first-to-file basis. Note that registration of a domain name consisting of a trademark with a “.cn” (China) extension is handled by a domain name registrar, not by the Trademark Office.

Developing a domain name strategy involves both business decisions and legal implications. Working with PRC attorneys, either directly or through your U.S. trademark attorney, will help you develop your strategy. As with trademarks, file as early as possible.

Challenging third-party domain name registrations in China

If a third party registers a domain name that you believe infringes your trademark (or is otherwise improper), you can challenge the registration in China in one of two ways:

- Through dispute resolution conducted by an arbitration center, such as the China International Economic and Trade Arbitration Commission (CIETAC) or the Hong Kong International Arbitration Center (HKIAC); or
- By filing a dispute with a People's Court, claiming infringement or unfair competition.

Arbitration is generally the easier and cheaper of the two options, and CIETAC and HKIAC tend to be relatively sympathetic to trademark owners. If the domain name includes the “.cn” country code top-level domain (TLD), arbitration through CIETAC is available only if requested within three years of the registration of the domain name.

Trade dress: protection for product and service shapes, packaging, and decoration

What is trade dress?

Trade dress is the overall commercial image (look and feel) of a product or service, which indicates or identifies the source of the product or service and distinguishes it from those of others. It may include the design or configuration of a product, the packaging of goods, and/or the décor or environment in which services are provided. Trade dress can consist of elements such as size, shape, color, or texture to the extent that such elements are not functional.

How to obtain trade dress protection in China

The PRC Anti-Unfair Competition Law (AUCL) provides protection against the unauthorized use of names, packaging, or decorations that are identical or similar to those of products enjoying a degree of notoriety. The AUCL can therefore provide legal grounds for opposing unauthorized copying of the distinctive packaging or shapes of popular products.

This protection has been extended to the design elements of a restaurant, employee uniforms, and other distinctive components of a business's overall image. However, enforcement authorities will not protect the look and feel of a product or business environment if the elements for which protection are sought result from the nature of the product itself, are functional, or add material value to the product.

Parties who believe that their distinctive product shapes, packaging, or elements of their business image have been used by third parties without authorization may seek redress through administrative enforcement and/or civil enforcement via the PRC court system.

Administrative enforcement

Under the AUCL, businesses whose trade dress has been infringed may file a complaint with the relevant administrative enforcement authority.

As with cases involving trade secrets (see discussion on page 20), enforcement officials are empowered to conduct broad investigations into cases of alleged infringement, including conducting raids, making copies of relevant documentation, seizing or freezing relevant assets, and interviewing individuals under investigation.

Upon making a determination that infringement has occurred under the AUCL, the administrative enforcement authority may issue a local injunction against further use of the relevant goods, may seize the infringing goods for destruction, and may issue a fine.

The fine is calculated on the basis of the amount of illegal profits earned by the infringer. In cases where profits exceed RMB 50,000 (approximately US\$6,870 in 2023), the fine may be as high as five times the amount of the illegal profits. In cases where illegal profits are less than RMB 50,000, or in cases where no illegal profits are earned, the fine may not exceed RMB 250,000 (approximately US\$24,350 in 2023).

Civil enforcement

Under the AUCL, businesses harmed by infringement of their product shape, product packaging, retail store design, and so on may seek redress in China's court system.

If a court determines that infringement has occurred, it may award compensation equal to the amount of harm suffered. If such harm is difficult to calculate, the court may award compensation equivalent to the illegal gains made by the infringing party. This compensation may include reasonable costs expended to stop the infringement (for example, legal fees).

If the foregoing methods of calculating compensation are ineffective or inapplicable, the court may award statutory damages of up to RMB 5 million (US\$687,000 in 2023).



Tips for protecting your trademarks in China

The following tips may be useful in seeking to protect your trademarks in China:

- Trademarks are territorial, meaning that rights to a trademark in one country do not necessarily confer rights in other countries. Because a U.S. registration does not provide protection in China, you should apply to secure the rights to your brand in China as early as possible.
- China's strict adherence to a first-to-file system has resulted in third parties filing first in bad faith to prevent legitimate brand owners from registering their marks. Because it can be difficult to cancel these registrations, you should monitor your marks in China and address any bad-faith filing early. Monitoring can be accomplished by periodically conducting searches of the PRC public searchable trademark database or by hiring companies that specialize in monitoring trademark filings. Those companies may have enhanced, software-based methods of spotting trademarks that might be missed during ordinary database searches.
- You should file your trademarks early to avoid bad-faith filers and to arm yourself with rights to pursue infringers and counterfeiters.

Other preventive measures include the following:

- File defensive applications covering all classes of goods and services that you may sell in the future or that may cause consumer confusion.
- Consider creating and filing a Chinese-language version of the mark.
- Consider filing in Hong Kong, Macao, and Taiwan, as well as in Singapore and other nearby jurisdictions.
- Maintain ownership of your registrations within your company rather than allowing a local distributor or business partner to arrange for registration and maintenance of your trademark.
- Record your PRC trademark registrations and authorized distributors with the General Administration of Customs of the People's Republic of China through its free online IPR protection platform (<http://english.customs.gov.cn/zscqbb/main.html?page=04.htm>). After you are registered, China Customs can proactively monitor your brand and seize counterfeits that are imported into or exported from China (see the "IP Enforcement" section, page 31).

- Conclude and register trademark licensing contracts.
- Ensure that a legally formed trademark agent or law firm monitors the *Trademark Gazette* for applications for similar marks, so that you can oppose an application or seek to cancel a registration.
- Monitor the market for infringing products.
- Consider filing even if you are only manufacturing products in China for export but do not have present plans to sell products in the China market. A third party may register your trademark and have your products detained at the port of departure.
- There may be avenues other than the trademark laws for protecting your trademark rights. For example, a company logo can be protected by both trademark and copyright. A copyright in the company logo can be used as a “prior right” under the PRC Trademark Law to oppose or cancel bad-faith trademark registrations.
- China provides enhanced protection for marks that are deemed to be “well known.” For example, such marks may be given priority over similar marks that were previously registered in bad faith. However, it is generally difficult for foreign rights holders to have their marks designated as well known.



Patents

What is a patent?

A patent for an invention is the grant of a property right from the government to the inventor to prevent others, for a limited duration of time, from using, making, offering for sale, selling, or importing the invention without the patent owner's consent. China's National Intellectual Property Administration (CNIPA) is the government authority that receives and examines patent applications.

CNIPA grants three types of patents—invention patents, utility model patents, and design patents:

- An *invention patent* is similar to a utility patent in the United States. It protects technical solutions, chemical compounds, and processes that are new, useful, and nonobvious. The term of protection is 20 years from the filing date (or the priority date, if priority is claimed).
- A *utility model patent* protects products with new shapes, structural physical features, or a combination thereof. Methods of production or chemical compounds are not protected by a utility model patent. The term of protection is 10 years from the filing date.
- A *design patent* protects the shape, pattern, and color, or a combination thereof, of a product or a portion of a product, and is similar to a design patent in the United States. The term of protection is 15 years from the filing date (or the priority date, if priority is claimed).

China's Patent Law provides that the following are not eligible for patent protection:

- Scientific discoveries
- Rules and methods for intellectual activities
- Methods for the diagnosis or treatment of diseases
- Animal or plant varieties
- Substances obtained by means of nuclear transformation, or methods of nuclear transformation
- Designs that are used mainly for marking a pattern, a color, or a combination of the two, on prints

How to obtain patents in China

When deciding whether to apply for a patent in China, companies should consider the following:

- Patents are territorial; only a PRC patent has the potential to protect against infringement in China.

- Prior to 2022, design and utility model patent applications were generally reviewed only for compliance with application formalities and were not examined for substance. However, in early 2022, CNIPA confirmed that it had begun conducting limited substantive examinations of design and utility model patent applications. Despite the addition of this new substantive examination, the issuance of design and utility model patents is still generally faster than invention patents.
- Invention patents undergo a rigorous examination process, which may take years.
- When a foreigner, foreign enterprise, or any other foreign organization that has no official residence or business office in China applies for a patent in China, it must do so through a registered PRC patent agent.

Steps to apply for a patent:

Step 1: Obtain a qualified patent attorney

Now that many companies are seeking to market their products globally, seeking patent protection in multiple countries is important. Because disclosure (inadvertent or otherwise) in one country may result in a loss of patentability in others, inventors should obtain legal advice as early in the process as possible. Residents of Patent Cooperation Treaty (PCT) member states (which include the United States, China, and more than 150 other countries) may file an international patent application that can reduce the complexity and cost of overseas filings and allow the applicant greater time to decide in which countries to seek patent protection. Your U.S. patent counsel will be able to help you navigate these complicated matters, including filing through the PCT. In addition, your U.S. patent counsel will likely have a global network of patent attorneys and agents and can help you select appropriate PRC counsel and agents, as needed.

Unlike the
United States,
China grants
utility model
patents

Step 2: Determine whether you have a priority claim

China and the United States are members of the Paris Convention for the Protection of Industrial Property. The Paris Convention provides that an applicant who has filed a patent application in his or her home country, may, within one year of that filing, file subsequent patent applications in another country that is a member of the Paris Convention, claiming the filing date of the first application. For invention and utility model patents, the applicant can first file an application in his or her home country and then file a second application in China within 12 months, claiming the priority date of the first application. For design patents, that period is six months. Priority filing dates allow an inventor to avoid the possibilities (1) that a patent in one country could be granted to someone else in a foreign country and (2) that disclosure in one country subsequent to filing an application could render an invention part of the prior art and thus unable to be patented in other countries.

Step 3: Select a reputable PRC patent agent

Foreign patent applicants who do not maintain business offices in China are required to submit their applications through legally-registered PRC patent agents. Your U.S. patent attorney may be able to refer you to a PRC patent agent. Ideally, the patent agent you select should be familiar with the technology or subject area of the patent.

Step 4: Prepare the required paperwork

PRC patent applications, like most patent applications, are complicated and must be supported by substantial documentation. The applications must be in Chinese and must include a patent specification (an abstract, description, claims, and any relevant drawings). Design patent applications must include drawings or photographs of the design.

If an applicant has filed an international patent application under the PCT that designates China, the applicant must provide a Chinese translation of the application within 30 months of the priority date.

Step 5: Submit the application

Applicants can file their applications with CNIPA in Beijing by hand delivery or by post, or they can file via the CNIPAs representative offices located in provincial intellectual property offices.⁵ Applicants can also file electronically via the government website of CNIPA (<https://cponline.cnipa.gov.cn/>).

Step 6: Preliminary and substantive examination

After it receives the application, CNIPA will conduct a preliminary examination to determine whether the statutory filing requirements have been met. If they have, CNIPA will conduct a substantive examination.

Step 7: Reexamination

If the patent application is rejected, the applicant can seek reexamination of its application by the Re-examination and Invalidation Department of the Patent Office, also known as Patent Reexamination Board, or PRB, of CNIPA within three months of being notified of the rejection. The applicant can likewise appeal determinations of the PRB by instituting legal proceedings at the Beijing IP Court. Those decisions can in turn be appealed to the Intellectual Property Court of the Supreme People's Court.

An applicant
has three
years after
filing to
request a
substantive
examination

5. Local intellectual property offices at the provincial and municipal levels are responsible for administrative enforcement but not for examination, and therefore those offices have no role in the prosecution process.



Tips for protecting your patents in China

- China allows patent applicants to apply for both invention and utility model patents for the same invention, so applicants should consider filing an invention patent and a utility model patent simultaneously for the same subject matter. If you are first granted a utility model patent and thereafter an invention patent, you would be required to abandon one or the other, typically. The benefit of applying for both is that you are likely to be granted utility model protection shortly after filing and, thereafter, to enjoy the benefits of the longer 20-year protection of the invention patent.
- Claims relating to business methods are now eligible for patent protection if they include sufficient technical elements in addition to business rules or methods.
- Pure software programs cannot be protected under China's Patent Law. However, software programs combined with a medium or hardware can be protected.
- Consider that the decision to seek a patent may have significant consequences. For example, if a patent is sought but not obtained or is granted and then invalidated, the subject matter may have become public, meaning that trade secret protection may also be unavailable.
- Ensure that your patent application is translated into Chinese when filing in China. Foreign companies sometimes do not obtain accurate translations, and submission of faulty translations can render a patent vulnerable to invalidation. In addition, such patents can be difficult to enforce. Your U.S. attorney can help ensure your use of appropriate professionals to translate patent documents, including the patent's claims and specifications.
- If you wish to obtain your patent protection in multiple countries, consider filing an international patent application under the PCT, naming China as a designated state. You can file a PCT application with the USPTO. You will then have up to 30 months to initiate the national phase procedure with CNIPA.
- Unlike the U.S. procedure, China Customs will record patents (in addition to registered trademarks and copyrights). Therefore, consider whether the recordation of design patents would be helpful in preventing the export from or import into China of infringing products.



Copyrights

What is a copyright?

A *copyright* protects “original works of authorship,” including literary, dramatic, musical, and artistic works. The authority responsible for the administration of copyrights in China is the National Copyright Administration of the People’s Republic of China (NCAC). Registration of a copyright is not a prerequisite to obtaining protection in China, as in the United States and most other jurisdictions, but voluntary registration is available in China and confers important advantages. By completing a simple registration procedure, you will be granted a certificate that can serve as proof of your ownership of the copyright in your work if a dispute should arise later. The advantages of registration and the procedure for filing an application for registration are discussed below.

China’s Copyright Law defines a work as “an original intellectual achievement ... that can be expressed in a certain form”, and enumerates several types of categories of works eligible for copyright protection: (1) written works, (2) oral works, (3) musical, dramatic, and choreographic works, (4) works of fine art and architecture, (5) photographic works, (6) audio-visual works, (7) graphic works, such as engineering drawings and product designs as well as maps and sketches, (8) computer software, and (9) other intellectual achievements that conform to the characteristics of a work.

A work must be original and capable of being reproduced in a tangible form in order to be protected in China, as in the United States. Originality requires (1) independent creation and (2) a minimum level of creativity.

Copyright owners in China are granted both economic and moral rights. *Moral rights* are rights connected to the personality of the author, such as the right of attribution (the right to have the author’s name mentioned in connection with a work). *Economic rights* give authors the authority to exploit their work commercially. China’s Copyright Law enumerates these economic rights, which consist of rights of reproduction, distribution, rental (for audio-visual works and software), exhibition (for works of fine art, photographs, and audiovisual works), dissemination over information networks, public performance, broadcasting, adaptation, translation, compilation, and “other rights.”

Certain works cannot be protected by copyright in China under its Copyright Law. Written works such as those containing purely factual information, as well as laws, regulations, administrative and court decisions, and other works created by government entities to inform the public, as well as calendars, forms, tables, databases, and formulas, are excluded from copyright protection. However, compilations can be protected to the extent that the selection and arrangement of content is original.

Copyright in China, as in the United States, protects only the expression of ideas and not the ideas themselves. Thus, a detailed written description about a company's internet business model could be protected by copyright, but the business model itself, and the ideas behind it, could not be protected.

The term of protection in China for individual authors is the life of the author plus 50 years. For legal entities, the term is 50 years from first publication of the work. The protection period for moral rights is perpetual. Note that the terms of protection for economic rights in China are less than those provided in the United States.

Advantages of copyright registration

As in the United States and most other countries, copyright protection in China arises automatically when an original work is created, even if the work is created outside China, as long as the author is from a member state of the Berne Convention for the Protection of Literary and Artistic Works. The United States and China are both members of the Berne Convention, which now includes 181 contracting parties around the world. Copyright protection arises on the date the original work is created. For example, if an author writes a book in the United States, the book receives automatic copyright protection in China as soon as it is created. Although copyright is an automatic right, registration confers important advantages.

Registration is highly recommended for easier enforcement. A PRC registration certificate can be used as evidence of ownership if an infringement occurs. When a copyright complaint is filed, a common source of delay is the need for authorities to determine the legitimate owner of the copyright, particularly for U.S. and other foreign works. Providing evidence in a format familiar to PRC government officials will expedite their work.

Use of a PRC certificate of registration is procedurally more efficient because U.S. certificates must be translated, notarized, and legalized. Counterfeiters in China often use photos, designs, content, and marketing materials copied from the copyright holder's website. A PRC copyright registration will provide proof of ownership and save time and money in case of a dispute.

Recordation with China Customs of copyright registrations also may help prevent the export of infringing goods or pirated works from China or, conversely, the import of such goods or works into China.

How to file a copyright registration

Authors can voluntarily register their copyrights with the provincial-level copyright administration or the Beijing-based Copyright Protection Center of China (CPCC). The NCAC has delegated responsibilities for registration to the CPCC. For software, the CPCC is the only entity authorized by the NCAC to register copyrights. An applicant may create a user account at www.ccopyright.com.cn and complete the registration process online (though submission of hard copy samples may be required if the work under registration exceeds a certain size limit).

Copyright
registration is
not required,
but is highly
recommended
for easier
enforcement

Applications for copyright registration are typically processed within several months after the CPCC accepts the application, provided that all required documents are included. Otherwise, the registration process will take longer because of the need to submit supplementary documents. Copyright registration for software at the CPCC is free, but there is a fee for other works, and the fees at provincial-level registration authorities vary by location.

Note that for software, parts of source code may be redacted in the copyright registration to protect trade secrets.



Tips for protecting your copyrights

- Record your copyright agreements, such as software licenses, with the CPCC, which will provide a public record of your rights. In some instances, this record may be required to collect royalties.
- Copyright holders may enforce their copyrights through administrative, civil, criminal, and customs avenues. A number of authorities play a role in administrative enforcement, including the NCAC and local copyright administrative departments, the Ministry of Culture and Tourism, and the National Office Against Pornographic and Illegal Publications. Copyright holders should consult local counsel to determine which authority to approach if planning to pursue administrative enforcement. Generally, administrative enforcement authorities cannot award damages but may order a halt to infringement and issue fines. A copyright owner may request a court in a civil suit to grant an injunction to stop copyright infringement, to preserve evidence of infringement, and to amend damages. Where actual damages cannot be proved, the court may order the infringer to pay statutory damages. Amendments to the copyright law effective June 1, 2021 increased the maximum amount of statutory damages for infringement ten-fold, from RMB 500,000 (approximately US\$68,670 in 2023) to RMB 5 million (approximately US\$687,000 in 2023), and established a minimum amount of RMB 500 (approximately US\$68.70 in 2023).
- Unlike in the United States, copyright holders may directly pursue criminal enforcement by submitting a complaint and supporting evidence to the People's Court or Public Security Bureau (police) if the scale of the infringement is large enough to constitute a crime. A "criminal act" includes acts for the purpose of making a profit, as described in Article 217 of the Criminal Law, and includes the following scenarios: (1) if the amount of illegal proceeds (profits) are not less than RMB 30,000 (approximately US\$ 4,122 in 2023), (2) if more than 500 copies of third-party works have been disseminated, (3) if third parties' works have been disseminated with an actual click number of 50,000 or more, and (4) in other circumstances.⁶ The advice of experienced counsel should be sought if criminal copyright infringement is suspected.

6. Criminal acts of copyright infringement are described in Article 217 of the Criminal Law and have been clarified in a series of judicial interpretations issued by the Supreme People's Court and Supreme People's Procuratorate. These measures set out important elements for internet and related criminal cases.

- Under PRC law, a copyright holder may also request that an internet service provider disable links or internet access to allegedly infringing works. The 2006 Regulations on the Protection of the Right of Communication through Information Network are similar to the 1998 Digital Millennium Copyright Act in the United States, requiring internet service providers to remove infringing content from their networks when notified by a copyright owner.
- In practice, all applications, complaints, and requests submitted to PRC authorities should be in Chinese. In addition, all relevant documents and evidence should include a Chinese translation.
- Copyright can form an important part of an IP protection strategy, both as the primary protection for content and as a supplementary tool to enforce alongside other kinds of IP. For example, a company logo can be protected by both trademark and copyright law. A copyright registration of the company logo can be used as a “prior right” under China’s Trademark Law to oppose or cancel bad-faith trademark registrations and as a basis for taking down infringing stores on e-commerce platforms.
- The work-made-for-hire doctrine in China is different from that in the United States. In China, the copyright of certain works created by an employee will belong to the employee, but the employer has priority for two years to exploit the work within the scope of its professional activities, and the employee may only license the work with the employer’s consent during that period. If you employ personnel in China note that, unlike in the United States where employment is often at will, China’s employment system is largely based on contracts. However, China’s Copyright Law contains default provisions governing the allocation of rights between employers and employees and between commissioning and commissioned parties in the absence of a contract. This issue, along with many others, should be explored with attorneys skilled in employment, IP, and contract law in China.



Trade secrets and unfair competition

China's Anti-Unfair Competition Law (AUCL), amended in 2019, addresses a wide range of unlawful business conduct, including infringement of product shape and packaging, infringement of enterprise and domain names, false and misleading advertising, bribery, and the misappropriation of trade secrets, among other prohibited business activities.

The 2019 amendments to the AUCL aimed to:

- Enhance the protection of trade secrets, including by broadening the definition of trade secret and adding causes of action relating to trade secret misappropriation;
- Broaden the scope of those liable for trade secret misappropriation;
- Provide for a possible shift in the burden of proof on certain issues;
- Increase the upper limit of the statutory damages and the administrative penalty for trade secret misappropriation; and
- Add punitive damages.

As with China's core IP laws, enforcement against trade secret misappropriation and several of the unlawful business activities covered by the AUCL may be carried out through China's three enforcement channels: administrative enforcement, civil enforcement, and criminal enforcement. The local offices of the State Administration for Market Regulation (SAMR) are entrusted with carrying out the administrative enforcement of the AUCL.

U.S. companies are deeply concerned about the lack of adequate protection for trade secrets in China as a general matter, as well as during judicial, administrative, and licensing proceedings.

What is a trade secret?

A *trade secret* in China is defined as technical, operational, and commercial information that (1) is unknown to the public, (2) has commercial value, and (3) is subject to confidentiality measures taken by its owner.

This definition is arguably narrower than that found in U.S. law under the federal Defend Trade Secrets Act of 2016, which covers "all forms and types of financial, business, scientific, technical, economic, or engineering information," as long as the owner has taken "reasonable measures" to keep the information secret and this information "derives independent economic value, actual or potential, from not being generally known to" someone who would benefit from its disclosure or use.

In practice, however, China's definition of a *trade secret* covers a wide range of commercially valuable confidential information, including formulas, business plans, and manufacturing techniques. No registration with PRC authorities is required for protection of a company's trade secrets.

Under the 2019 amendments to the AUCL, *misappropriation of a trade secret* is defined as follows:

- Acquiring a trade secret from the right holder by theft, bribery, fraud, coercion, electronic intrusion, or any other illicit means;
- Disclosing, using, or allowing another person to use a trade secret acquired from the right holder by any means as specified in the preceding subparagraph;
- Disclosing, using, or allowing another person to use a trade secret in one's possession, in violation of one's confidentiality obligation or the requirements of the right holder for keeping the trade secret confidential; or
- Abetting a person, or tempting, or aiding a person into or in acquiring, disclosing, using, or allowing another person to use the trade secret of the right holder in violation of his or her non-disclosure obligation or the requirements of the right holder for keeping the trade secret confidential.

Some of these terms are further defined in the *Interpretation of the Supreme People's Court on Several Issues Concerning the Application of Law in the Trial of Civil Cases of Disputes over Infringement of Trade Secrets* (Sept. 2020).

How to obtain trade secret protection in China

Administrative enforcement

Under the AUCL, businesses whose trade secrets have been stolen may file a complaint with the relevant administrative enforcement authority.

These officials are empowered to conduct broad investigations into cases of alleged trade secret misappropriation, including by (1) unannounced inspections of the business location of the entity or person allegedly responsible for the misappropriation (often called "raids"), (2) reviewing and making copies of relevant documentation, including sales records, accounting books, and so on, (3) seizing or freezing relevant assets, and (4) interviewing individuals under investigation.

Upon making a determination that misappropriation has occurred, the administrative enforcement authority may issue an injunction against further use or disclosure of the relevant trade secret and may issue a fine of up to RMB 1 million (approximately US\$138,700 in 2023). In particularly egregious cases, and where certain factors are met, the fine may be increased to RMB 5 million (approximately US\$687,000 in 2023).

Despite these authorities, the USPTO is not aware that foreign rights holders regularly pursue trade secret misappropriation enforcement via administrative means. Reasons for this may include that, in general, administrative enforcement officials are unlikely to have the requisite level of expertise to address complex trade secret disputes. And as is the case with administrative enforcement in other contexts, enforcement bureaus can levy fines but cannot award compensation to the victim of the misappropriation. To date, administrative enforcement authorities have been most effective in handling straightforward trademark and design or utility model patent infringement cases.

Civil enforcement

Under the AUCL, businesses harmed by trade secret misappropriation may seek redress in China's court system.

If a court determines that misappropriation has occurred, it may award compensation to the trade secret holder equal to the amount of harm suffered. If such harm is difficult to calculate, the court may award compensation equivalent to the illegal gains made by the misappropriating party. This compensation may include reasonable costs expended to stop the infringement.

If the court determines that a trade secret was misappropriated in bad faith, under certain circumstances calculated damages may be multiplied by a factor of up to five.

If the foregoing methods of calculating compensation are ineffective or inapplicable, the court may award statutory damages of up to RMB 5 million (approximately US\$693,550 in 2023).

Businesses should consider the following issues when bringing trade secret cases in PRC courts:

- China does not have a discovery process, and obtaining evidence from the accused remains very difficult.
- All evidence and documentation, including power of attorney forms, will need to be notarized and legalized before submission. This procedure is time consuming and potentially costly.
- PRC IP litigation can move very quickly; first instance cases generally take between 8 and 12 months.
- There is a risk that a court hearing will lead to further disclosure of trade secrets. One option is to ask the court in writing to protect trade secrets during proceedings.⁷ Rights holders should work with local counsel to choose and monitor the court carefully.

Criminal enforcement

Under China's Criminal Law, misappropriation of a trade secret may be deemed a crime "if the circumstances are serious." Under such circumstances, the court may impose a prison sentence of up to three years in addition to a fine.

In cases where the circumstances are especially serious, the court may impose a prison sentence of between three to 10 years in addition to a fine.

PRC police officials may require a trade secret owner to provide the full set of incriminating evidence before they will accept a case. Thus, businesses generally must conduct substantial investigations to gather relevant evidence in advance of seeking police assistance.



Tips for protecting your trade secrets in China

Businesses should take care to establish and maintain robust confidentiality measures to protect trade secrets against unauthorized disclosure. It is typically easier to prevent trade secret theft than to cure it. And even in the event an enforcement action, it will be necessary to satisfy the presiding judge or administrative enforcement officials that adequate protective measures were adopted.

Trade secrets are best protected through good business practices. These start with limiting personnel having access to proprietary information, and ensuring that all that do have signed employment or other confidentiality agreements that are clear as to the scope of the covered trade secret information.

Good practices also include strong technical measures (for example, multifactor authentication, mobile device management, and data-loss prevention software) to limit and monitor access to trade secret information, as well as strong physical measures (such as locked cabinets and server rooms).

In addition to insider threats, companies must be vigilant to protect against outside threat actors. Observers report that outside actors increasingly target early-stage research for theft, making it even more important for companies to establish clear procedures without delay. Useful steps include the following:

- Identify and categorize your trade secrets to understand which are most valuable, and then develop a program that prioritizes resources for protecting them. If a trade secret is vital to your company, significant resources and care should be devoted to its protection.
- Focus on human resources by finding and developing trust in the workforce to prevent breaches.
- Run background checks on key employees and potential business partners and include nondisclosure and nonuse obligations in contracts.
- Share proprietary information with employees only on a need-to-know basis.

Understand
which trade
secrets are the
most valuable
and develop
a program for
protecting
them

- Establish written policies for trade secret management, and educate employees about those policies:
 - Track data flows and file transfers, and closely monitor the entry and exit of storage devices, laptops, mobile devices, and so on.
- Carefully select and closely monitor PRC manufacturers and business partners:
 - Conduct comprehensive due diligence before choosing a partner.
 - Select partners that have brand reputations of their own and experience protecting their own IP.
 - Manage supplier, vendor, and distributor relationships through multiple personnel to prevent local staff members from cultivating a comprehensive personal network.
 - Secure your IP in China before exploring possible business relationships with others.
- Control the production process:
 - Compartmentalize the production process and design products and packaging (and the equipment that produces them) so that they are difficult to copy.
 - Consider keeping vital designs or latest-generation technologies in the United States.
 - Classify and mark information according to IP sensitivity, laying out which employees have what level of access to the information.
 - Consider incorporating into the production process overt and covert technologies and techniques that are difficult to copy, such as chemicals, films and foils, codes, holograms, inks, labels, papers, and odors.
 - Consider including digital rights management and robust licensing terms containing anti-reverse engineering provisions in object codes given to customers (note, however, that these provisions have been deemed unenforceable by some courts in China).
- Use nondisclosure agreements (NDAs). PRC courts are more experienced in handling contract disputes. Breach of contract can be a more effective cause of action than misappropriation of a trade secret.
 - NDAs should be required prior to entering negotiations with potential business partners.
 - NDAs should include secrecy and nonuse obligations, audit rights, and provisions for post-relationship control.
 - NDAs with PRC employees should be separate from labor contracts to avoid mandatory labor arbitration.
 - NDAs should be governed by PRC law and written in the Chinese language.



IP enforcement

As seen in the discussions about trademarks, trade dress, patents, copyrights, and trade secrets, China enforces its IP laws judicially and administratively. Administrative enforcement is conducted by IP enforcement offices and by Customs authorities. Judicial enforcement is conducted through China's court system on the basis of either civil or criminal complaints. In this section, we look more closely at China's enforcement system.

Administrative enforcement

An IP owner in China may enforce its rights through administrative proceedings by requesting that the local administrative authority begin an investigation and stop the infringing conduct. When infringement is confirmed, the administrative authority can confiscate infringing goods, seize and destroy equipment used for producing infringing goods, and levy fines on infringers. However, the administrative authority cannot award compensation to the IP owners. Administrative decisions can be appealed internally for reconsideration or to the courts for judicial review.

The State Administration for Market Regulation (SAMR), which was established in 2018 as part of a restructuring of the IP agencies, is China's preeminent IP protection and enforcement agency. It manages administrative enforcement as to patent, trademark, trade secret, geographical indication, and unfair competition matters. It is also responsible for market-access, competition, and antitrust matters, but not copyrights. In practice, administrative enforcement is carried out primarily at the local level by a variety of municipal or district level authorities.

The National Copyright Administration of the People's Republic of China (NCAC) holds administrative enforcement authority for copyrights and is under the jurisdiction of the Propaganda Department of the Communist Party of China. The Ministry of Culture and Tourism and the National Office Against Pornographic and Illegal Publications also have some limited jurisdiction for the administrative enforcement of copyrights.

Strengths and challenges of administrative enforcement

There may be advantages to pursuing administrative remedies, including the following:

- Easy accessibility
- Low cost
- Prompt injunctive relief
- Agencies with relevant expertise in some subject matter areas

However, the administrative enforcement regime also has shortcomings, including the following:

- No compensatory or punitive damages
- Low, non-deterrent fines
- Limited transparency and control
- Limited deterrence
- Possible local protectionism
- Limited geographic jurisdiction (that is, injunctions are largely limited to the jurisdiction of the local-level authorities actually carrying out the enforcement)
- Limited relevant expertise in more complex matters

Rights holders should discuss the benefits and drawbacks of administrative enforcement with qualified local counsel to determine an appropriate enforcement strategy and to obtain advice regarding the procedures for filing complaints with administrative authorities.

Civil enforcement

Courts

The rules governing which courts have jurisdiction to hear intellectual property disputes and appeals have undergone amendment recently and are sufficiently complex that rights holders should consult competent legal counsel before making any assumptions. The following general outline is subject to conditions and exceptions.

Jurisdiction to hear first instance (“trial level” in U.S. legal parlance) intellectual property-related civil actions may fall to:

- the courts of the local province, autonomous region, or directly administered municipality;
- intermediate People’s Courts designated by the Supreme People’s Court; or
- specialized IP courts.

The specialized IP courts generally offer the advantage of greater expertise and insulation from local influences.

Specialized IP courts and IP tribunals

In 2014, China established specialized IP courts in Beijing, Guangzhou, and Shanghai. The PRC government announced the establishment of a fourth IP court in the Hainan Free Trade Port on December 31, 2020. These courts sit at the same level as the Intermediate People's Courts and can hear both civil cases as well as certain appeals. However, criminal cases still remain within the jurisdiction of the general courts. A 2014 measure describes the jurisdiction of the specialized IP courts as follows, in part:

1. An intellectual property court, as the court of first instance, shall have jurisdiction over the following cases within its municipal jurisdiction:
 - a. Civil and administrative cases involving patents, new varieties of plants, layout designs of integrated circuits, technical secrets, and computer software;
 - b. With the exception of cases exclusively assigned to the Beijing IP Court (as discussed below), challenges to decisions made by organs of the State Council or by county-level or above-county-level local governments in administrative matters involving copyrights, trademarks, and unfair competition; and
 - c. Civil cases involving recognition of well-known trademarks.
2. The Guangzhou IP Court has cross-regional jurisdiction over civil and administrative cases involving patents, new varieties of plants, layout designs of integrated circuits, technical secrets, and computer software and over civil cases involving recognition of well-known trademarks within the territory of Guangdong Province.
3. The Beijing IP Court has exclusive jurisdiction in the first instance concerning appeals from the following:
 - a. Decisions by organs of the State Council regarding the grant or validity of IP rights, including patents, trademarks, new varieties of plants, and layout designs of integrated circuits;
 - b. Decisions by organs of the State Council regarding issuance of compulsory licenses, compulsory license fees, or rewards involving patents, new varieties of plants, and layout designs of integrated circuits; and
 - c. Other administrative acts by organs of the State Council regarding granting or validity of IP rights.
4. The IP courts have jurisdiction to review first-instance judgments or decisions made by basic-level courts regarding copyrights, trademarks, technical contracts, and unfair competition in their territorial jurisdiction.
5. The High People's Courts or the SPC IP Court (see following section) have jurisdiction over appeals against judgments or decisions made by the IP courts and intermediate-level courts within their territorial and subject matter jurisdiction.
6. A case that includes matters within items 1(a) or 1(c) above and matters within the jurisdiction of other courts shall be tried by the IP courts.

Beginning in 2017, China established new, cross-regional IP tribunals in 10 provinces and two municipalities throughout the country. (Note that the tribunals rank below the specialized IP courts). As of the mid-2023, official sources indicate that there were a total of four IP courts and 27 cross-regional IP tribunals. These IP tribunals have first-instance jurisdiction over significant IP matters, similar to the authority of the IP courts. Rights holders should check with qualified local counsel to determine whether a potential dispute may be heard by a cross-regional IP tribunal.

National Appellate Intellectual Property Court

On January 1, 2019, China opened an Intellectual Property Court (the SPC IP Court) within the Supreme People's Court in Beijing. The SPC IP Court has nationwide jurisdiction over appeals of patent and other complex technical IP cases. This jurisdiction was previously held by multiple provincial and municipal high courts.

For civil cases, the SPC IP Court has jurisdiction over appeals of first-instance court decisions regarding invention or utility model patents, new varieties of plants, integrated circuit layout designs, technical secrets, computer software, and antimonopoly cases. For administrative law cases (that is, judicial review of decisions of administrative agencies), the same jurisdiction applies except that the court's jurisdiction over administrative patent cases includes design patents in addition to invention and utility model patents. The SPC IP Court, however, does not have appellate jurisdiction over trademarks, non-technical trade secrets, non-software copyright cases, or IP-related criminal cases, unless these cases also include antimonopoly claims.

These cases will continue to be heard by provincial and municipal appeals courts. Decisions by the SPC IP Court are subject to the Supreme People's Court's Trial Supervision Procedure, which permits the Supreme People's Court to reexamine or retry cases even if the appeal period has expired.

The purpose of the SPC IP Court as stated by the Supreme People's Court is to protect innovation, create a sound business environment, and ensure uniformity of legal decisions. As with China's other specialized IP courts and tribunals, the new Appellate IP Court is a designated pilot that is required to report to the National People's Congress on implementation three years from the date of the court's formation.⁸

Strengths and challenges of civil enforcement

The benefits of pursuing civil enforcement actions include:

- Compensatory damages available to rights holders
- Specialized judiciary trained in intellectual property rights
- Availability of some injunctive remedies
- Right to appeal to higher courts
- Possible timeliness

The shortcomings of pursuing civil enforcement actions include:

- Expensive litigation costs
- Low damage awards generally
- Lack of judicial independence in many jurisdictions
- Uneven quality of court system outside commercial centers
- Difficulties in enforcing judgments, including collecting awarded damages

Criminal enforcement

An IP owner in China also may enforce its rights through criminal recourse.

Definition of a crime

China's Criminal Law includes the following within the definition of crimes:

- Counterfeiting
- Sale of goods bearing a counterfeited trademark
- Production or sale of a third party's registered trademark
- Patent counterfeiting (that is, claim of patent ownership of a third-party patent)
- Infringement of copyrights as follows with the purpose of making a profit:
 - Reproducing and distributing written works, musical works, motion pictures, television programs or other visual works, computer software, or other works without permission of the copyright owner
 - Publishing a book when the exclusive right of publication is enjoyed by another person
 - Reproducing and distributing an audio or video recording produced by another person without permission of the producer
 - Producing or selling a work of fine art with a forged signature of another painter
- Infringing on business secrets

Note that to be considered crimes, the foregoing actions must meet certain thresholds as defined in related judicial interpretations and guidelines (for example, illegal profits must exceed RMB 30,000, approximately US\$4,122 in 2023). Rights holders should seek advice from competent local counsel to determine whether the infringing actions they encounter would fall under China's Criminal Law.

Ministry of Public Security and the Supreme People's Procuratorate

China's laws and regulations provide that IP administrative enforcement authorities and China Customs may transfer egregious IP infringement cases to the police (the Ministry of Public Security, or national police service, and the Public Security Bureaus) and prosecutors (the Supreme People's Procuratorate, or national criminal prosecution service) for criminal investigation. Under PRC law, individuals also have the right to prosecute criminal cases (*zi sui*), although this right has been exercised only rarely.

Supreme People's Procuratorate

The Supreme People's Procuratorate is China's highest prosecutorial body and leads the national criminal prosecution service.

Strengths and challenges of criminal enforcement

Criminal enforcement in China has several benefits relative to other mechanisms:

- Possibility of higher-deterrent penalty, including higher fines and jail time
- Chance of lower cost than civil litigation
- Possibility for injured party to initiate prosecution

The shortcomings of the criminal enforcement regime include the following:

- High evidentiary standards
- Unclear criteria for referral as a criminal matter from an initial administrative case
- Unclear and shifting valuation thresholds for referral as a criminal matter
- Lack of resources and expertise
- Frequent necessity to conduct investigations and prepare a case file before police will accept a case

Customs

General Administration of Customs of China

Regulations of the General Administration of Customs of the People's Republic of China (GACC) ban both the import and the export of goods that infringe IP rights. China Customs can seize shipments on the basis of a specific complaint filed by a rights holder. The GACC also can act ex officio if a right holder's patents, trademarks, or copyrights are recorded with the agency. A GACC certificate of record—documentation that the rights holders' intellectual property registration has been registered with the Customs Service—is valid for 10 years and is renewable for an additional 10 years, as long as the IP right is maintained and remains valid. If an investigation by GACC uncovers evidence of infringement, GACC has the authority to confiscate the goods, destroy or remove the infringing goods, and impose fines.

The benefits of Customs enforcement include the following:

- The procedure is inexpensive.
- Suspect goods can be inspected for either import or export.
- Goods are halted in transit.
- Harm caused by export of counterfeit goods is terminated.
- Unlike in the United States, a rights holder can record patents (including invention, utility, and design) in addition to registered copyrights and trademarks.

Challenges to Customs enforcement are as follows:

- Only a limited amount of goods being exported can be inspected.
- Customs officials require training for effective enforcement.
- Bond and storage charges may rapidly escalate and become expensive.
- There is a short timeline to act upon detainment of goods by Customs.
- The process does not always address root causes or origins of the problem.

Notice-and-takedown procedures on e-commerce platforms

Notice-and-takedown procedures vary widely from one e-commerce platform to another. IP rights holders should carefully review the policies of each e-commerce platform to obtain specific information on notice-and-takedown procedures. E-commerce platforms generally require PRC certificates of registration for IP to take down online merchants selling allegedly infringing products in China.

According to the E-Commerce Law of the People's Republic of China (PRC), e-commerce platforms shall take timely and necessary measures after receipt of the notifications of IP infringement and forward the notice to the on-platform merchant. If the on-platform merchant provides a declaration of non-infringement with prima facie evidence, the e-commerce platform shall forward the counter-notifications to the IP owner.

Under the E-Commerce Law, failure to bring a lawsuit or administrative complaint against the on-platform merchant within 15 days may result in the lifting of any takedown measures implemented by the platform. Rights holders should familiarize themselves with the latest e-commerce regulations and procedures regarding notice-and-takedowns in China before enforcing their rights.



Tips for enforcing IP rights in China

The following are some considerations and challenges for enforcing IP rights:

- Consider the challenges to enforcement in China:
 - Administrative sanctions that are frequently too low to have a deterrent effect
 - Insufficient damages in civil litigation
 - Limited availability of preliminary injunctions and evidentiary preservation orders
 - No discovery system and difficulty collecting evidence, especially in trade secret and online infringement cases
 - Seized counterfeit products and production machinery that are sometimes auctioned back into the commercial stream
- Keep good records. IP enforcement in China generally requires original documentary evidence (for example, certificates of registration to establish rights).
- Hire IP counsel in China who not only have registration experience, but also have familiarity with enforcement, including administrative, civil, and criminal remedies, as well as experience with China Customs and e-commerce notice-and-takedown procedures.



China IPR resources

U.S. government resources

USPTO China IP attachés

The U.S. Patent and Trademark Office (USPTO) has three IP attachés in China: one in the U.S. Embassy in Beijing, one in the U.S. Consulate General in Shanghai, and one in the U.S. Consulate General in Guangzhou. The IP attachés cannot intervene with PRC legal or administrative authorities, but they can do the following:

- Advise and assist U.S. companies doing business in China.
- Provide information and training to rights holders.
- Suggest strategies for protecting and enforcing IP rights.
- Find local help.
- Address unique or abnormal issues through PRC counterparts in exceptional cases.
- Advocate for improvements to the IP system.
- Initiate bilateral dialogues.
- Provide cooperative programs and training.
- Conduct diplomacy.

Website: www.uspto.gov/ipattache

U.S. Patent and Trademark Office

Website: www.uspto.gov

The USPTO's China IP webpage provides links to documents on China IP policy, U.S. and PRC government resources, and links to USPTO events, programs, and publications.

Website: www.uspto.gov/ip-policy/ip-china

United States International Trade Commission

Website: www.usitc.gov/

STOP: Strategy for Targeting Organized Piracy

The website <https://www.STOPfakes.gov> was launched to serve as a one-stop shop for U.S. government tools and resources on IP rights. Through the STOP initiative, the U.S. government educates and assists businesses, particularly small and medium-sized enterprises, as well as consumers, foreign government officials, and the public and empowers U.S. rights holders to protect their IP rights and combat counterfeiting.

U.S. Customs and Border Protection

Website: www.cbp.gov/

U.S. Immigration and Customs Enforcement / Homeland Security Investigations

Website: www.ice.gov/

Office of the United States Trade Representative

Website: <https://ustr.gov/>

U.S. Intellectual Property Enforcement Coordinator

Website: www.whitehouse.gov/ipec/

***Computer Crime and Intellectual Property Section (CCIPS), Criminal Division,
United States Department of Justice***

Website: www.justice.gov/criminal-ccips

Selected industry association resources***U.S. Chamber of Commerce***

The U.S. Chamber of Commerce is the world's largest business organization, representing the interests of more than 3 million businesses of all sizes, sectors, and regions. The Chamber's China team helps bolster the U.S.–China economic and commercial relationship in a number of key areas and industries, including IP rights, capital markets, and environmental reform.

Website: www.uschamber.com/china

American Chamber of Commerce in the People's Republic of China

The American Chamber of Commerce in the People's Republic of China (AmCham China) is a nonprofit, nongovernmental organization whose membership comprises more than 3,300 individuals from 900 companies operating across China. AmCham China's nationwide mission is to help U.S. companies succeed in China through advocacy, information, networking, and business support services. With offices in Beijing, Dalian, Shenyang, Tianjin, and Wuhan, AmCham China has more than 50 working groups and holds more than 250 events each year.

Website: www.amchamchina.org

American Chamber of Commerce in Shanghai

The American Chamber of Commerce in Shanghai (AmCham Shanghai), known as the “Voice of American Business” in China, was founded in 1915. AmCham Shanghai was the third U.S. chamber of commerce established outside the United States, and it now has more than 3,000 members from 1,500 companies. As a nonprofit, nonpartisan business organization, AmCham Shanghai is committed to the principles of free trade, open markets, private enterprise, and the unrestricted flow of information.

Website: www.amcham-shanghai.org/en/

U.S.–China Business Council

The U.S.–China Business Council (USCBC) is a private, nonpartisan, nonprofit organization of approximately 200 American companies that do business with China. Founded in 1973, USCBC has provided information, advisory, advocacy, and program services to its members for more than four decades. Through its offices in Washington, D.C.; Beijing; and Shanghai, USCBC serves its members’ interests in the United States and China.

Website: www.uschina.org/

Quality Brands Protection Committee

The Quality Brands Protection Committee (QBPC) is a China-based organization located in Beijing and has company members from many countries, including the United States. It works with authorities to improve the effectiveness and transparency of IP policy and legislation, as well as IP enforcement, in China.

Website: www.qbpc.org.cn/

Additional resources***Databases***

- CIELA (www.cielacn.com/)
Litigation analysis and trends for PRC IP judicial cases, by Rouse International
- CNIPR Database (<http://search.cnipr.com/>)
PRCs patents and applications, by IP Publishing House
(Chinese version: <http://search.cnipr.com/>)
- Darts-IP (<https://clarivate.com/darts-ip/>)
Global IP cases with statistical tools to generate graphical outputs

- IPHouse (<http://en.iphouse.cn/>)
IP cases in China (Chinese version: www.iphouse.cn)
- Peking University Law (www.pku.edu.cn/)
Legal information database established by Peking University Law School
- GBI (www.gbihealth.com)
Market intelligence information for the pharmaceutical industry
- China Judgments Online (<http://wenshu.court.gov.cn/>)
Supreme People's Court of China (Chinese)
- CNKI (<https://oversea.cnki.net/index/>)
PRC academic journals
- Westlaw China (www.westlawchina.com/)

Websites

- Judicial Protection for Intellectual Property (www.chinaiprplaw.cn/)
- IP Dragon (www.ipdragon.org/)
Collecting, commenting, and sharing information about IP in China
- Intellectual Property Protection in China (<http://chinaipr.mofcom.gov.cn/>)
Ministry of Commerce of China
- PRC Intellectual Property Appellate Court
(<https://enipc.court.gov.cn/en-us/index.html/>)
Website of the Supreme People's Court of China
- China IPR Blog (<http://chinaipr.com>)
Blog of China IP issues by Mark Cohen
- China Law Blog (www.chinalawblog.com)
Blog of China legal issues by Harris Bricken, LLP
- China IP Magazine (www.chinaipmagazine.com/en/)
- China National Intellectual Property Administration (CNIPA)
(<http://english.cnipa.gov.cn/>)
- National Copyright Administration of the People's Republic of China (NCAC)
(<http://en.ncac.gov.cn/>)

Reverse Brain Drain? Exploring Trends among Chinese Scientists in the U.S.

Yu Xie, Xihong Lin, Ju Li, Qian He, and Junming Huang (2023). **Caught in the crossfire: Fears of Chinese-American scientists.** *Proceedings of the National Academy of Sciences (PNAS)* research paper.

Along with native-born Chinese Americans, Chinese immigrants have become a large and visible demographic group in American science, technology, and engineering. However, the pressure of potential federal investigations since the 2018 launch of the "China Initiative" by the U.S. Department of Justice has provided scientists of Chinese descent in the U.S. with higher incentives to leave and lower incentives to apply for federal grants. What are the long-term consequences of the China Initiative on scientists of Chinese descent in the U.S. and the global leadership of the U.S. in science and technology?

The data. Researchers utilized Microsoft Academic Graph to analyze trends in the migration of U.S.-based Chinese scientists. Microsoft Academic Graph is a comprehensive database that tracks over 200 million scientists from over 25,000 institutions authoring over 200 million scientific publications through 2021. Using this data, the authors identified the working countries of researchers through their academic affiliations on publications and tracked those with Chinese surnames who initially published in the U.S., but later changed their affiliations to institutions abroad.

INSIGHTS

■ China has been the most important foreign supplier of U.S.-based scientists for more than two decades.

■ While most China-born, U.S.-based scientists intend to stay in the U.S., the number leaving has steadily increased. After the Department of Justice implemented the "China Initiative" in 2018, departures increased by 75%, with two-thirds of the relocated scientists moving to China.

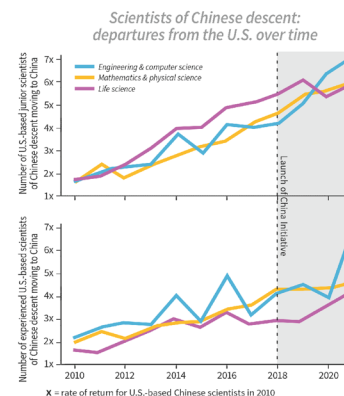
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Additionally, an online survey of 1,304 U.S.-based scientists of Chinese descent was conducted between December 2021 and March 2022 to understand the impact of the China Initiative on the scientific community.

Scientists of Chinese descent play an outsized role in U.S. science.

Previous research has shown that China has been the most important foreign supplier of U.S.-based scientists for more than two decades. Among all 2020 U.S. doctoral degrees in science and engineering, 17% (roughly 5,800 of 34,000) went to foreign students from China. The vast majority of such PhD recipients then stay in the U.S. Between 2005 and 2015, approximately 87% of China-born, non-citizen, new PhDs in science and engineering reported they would stay in the U.S.

The China Initiative accelerated out migration from the U.S. The researchers identified a total of 19,955 scientists of Chinese descent who began their careers in the U.S. but left for other countries, including China, between 2010 and 2021. The number of Chinese-descent scientists migrating out of the U.S. has steadily increased from 900 in 2010 to 2,621 in 2021. Part of the reason for this rise are "pull factors" from China, including China's large and rapidly growing investments in science, high social prestige and attractive financial rewards tied to positions in Chinese institutions, and capable research collaborators and assistants.



■ Surveyed scientists of Chinese descent in the U.S. report anxiety and new difficulties in pursuing their research, with 61% considering leaving the U.S. and 45% avoiding federal grant applications.

■ U.S. science will likely suffer given the loss of scientific talent to China and other countries.

investigations into Chinese-origin researchers” (67%) and “Anti-Asian hate and violence in the U.S.” (65%). A smaller portion expressed other fears, such as that “U.S. government officials often attack the Chinese government or Chinese policies” (38%), “My family, friends, or collaborators might be targeted by the U.S. or Chinese government in retaliation for something I say or do” (37%), and “Others might report what I say or do to the U.S. or Chinese government” (31%).

However, despite an overall fearful sentiment, 89% of respondents indicated their desire to contribute to U.S. leadership in science and technology.

Chinese scientists avoid federal grants, consider leaving U.S. The largest single source of funding for basic research in the U.S. is the federal government. However, 45% of researchers with federal grants now wish to avoid applying for them, and 61% have considered leaving the U.S. Engineering and computer science faculty, senior faculty, and those at public institutions are more likely to avoid federal grants. Junior faculty and federal grant recipients are more likely to consider relocating abroad, which could impact the global competitiveness of the U.S. in science and technology.

Of the 445 respondents who intended to avoid applying for federal grants, 84% indicated that this was “Because I am afraid that I would have legal liability if I made mistakes in forms and disclosures,” while 65% reported that this was “Because I worry that my collaborations with Chinese researchers or institutions would place me under suspicion.”

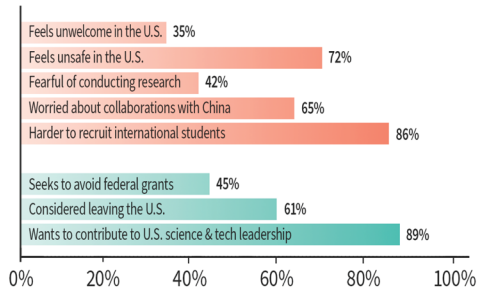
Chinese talent is important for continued U.S. leadership in science. The research suggests that attracting scientific talent from China and keeping scientists of Chinese descent from returning to China or moving to other countries requires alleviating fears and cultivating a welcoming environment for conducting scientific research. U.S. science and society should continue to attract Chinese scientists to maintain U.S. global leadership in science and technology.

But this research also reveals a significant “push factor.” Following the implementation of the China Initiative in 2018, departures of U.S.-based, China-born scientists increased by 75%. Among the scientists of Chinese descent who left the U.S. in 2010, 48% moved to mainland China and Hong Kong, and 52% moved to other countries. As of 2021, the percentage of relocated scientists moving to China increased to 67%. The life sciences field has witnessed the most significant exodus abroad, with over 1,000 life scientists leaving in 2021.

Scientists of Chinese descent experience uneasiness, fear. According to the online survey, 35% of Chinese scientists in the U.S. felt unwelcome; 72% did not feel safe as academic researchers; 42% were fearful of conducting research; 65% worried about collaborations with China; and 86% perceived it was harder to recruit top international students compared to five years ago. Additionally, 83% had experienced insults in a nonprofessional setting in the previous year. Engineering, computer science, and life science faculty, federal grant awardees, senior faculty, and males were more likely to feel fearful of conducting research in the U.S.

Of the five possible reasons for “not feeling safe as an academic researcher in the U.S.,” most survey respondents pointed to fears of “U.S. government

Survey responses among scientists of Chinese descent



STATEMENT FOR THE RECORD

U.S. HOUSE COMMITTEE ON SMALL BUSINESS

“Defending Main Street: Combating CCP Threats to America’s Small Businesses”

Wednesday, March 25, 2026

Prepared by Dr. A. Matt Francis

Founder, President, and CEO Ozark Integrated Circuits

Introduction

Thank you, Chairman Williams, Ranking Member Velazquez, and members of the committee for the opportunity to provide a statement for the record today. I have had the privilege of founding and serving as the President and CEO of Ozark Integrated Circuits, Inc. (Ozark IC) of Fayetteville, Arkansas, for 15 years. When I learned of today’s hearing, “Defending Main Street: Combating CCP Threats to America’s Small Businesses,” I felt compelled to share my story and ask for your continued support for small businesses like ours.

When I founded Ozark IC in 2011, my goal was to use my background in integrated circuits, electronics, and extreme environments to solve difficult problems. Before starting the company, I had studied ‘extreme environments’ – places where electronics typically cannot work because of excessive heat, pressure or other factors – at the Air Force Research Laboratory and startups, as well as in my graduate work at the University of Arkansas, funded by the Defense Threats Reduction Agency.

At Ozark IC, we’ve built a team of over 20 skilled professionals who now make chips for products in space, on jet engines, and even in downhole energy exploration. We have developed our technology through government programs such as the Small Business Innovation Research (SBIR) program. While the technical work is challenging, I never imagined that security and supply chain risks would be just as crucial to my company's success.

What has become obvious to me is that the U.S. develops the world’s best ideas, but because we don’t have the financial, political, and academic infrastructure to scale them properly, everyone else can – and does.

Arguments and Evidence

Starting a company is hard, and starting a high-tech company from nothing is not just hard – it sounds impossible. Yet, according to SBIR.gov, SBIR loans have led to the creation of

over 700 publicly traded companies and over 70,000 patents. Ozark IC is one of those successful companies, receiving its first award from NASA in 2012 . As our company used the program to explore the needs of high-temperature electronics, we found ourselves working across energy production (nuclear, oil and gas, geothermal) and aerospace, as well as hypersonics. We eagerly built prototypes and partnerships with commercial and university partners, which began to drive demand for a scalable product . This stage of development is typically called ‘the valley of death’ – and we quickly learned how difficult it can be to navigate and how easily companies can be taken advantage of.

In 2020, we learned from an FBI investigation that one of our university partners had been involved in a Chinese talent program. Working with the FBI, we learned we were lucky – our technology had not yet been stolen – but many others had. The Chinese government actively recruits people to take technologies – proven at the prototype level – and then patent and scale them in China.

As a company, we learned from this episode and developed a strong security program at great expense. We are very proud to be among the first several hundred certified at the Cyber Security Maturity Model (CMMC) level 2.0. We learned to be very careful in vetting our partners and investors. With a modest investment, we began to scale our technologies to production through our work with the Air Force, DARPA, and DOE, and continue to see success today as our company grows.

Recommendations/Proposed Solutions

Navigating a small business is hard - and doing so while under threat from adversaries and bad actors is unfortunately something every business owner must endure. We are constantly handed more rules from the government, but navigating security and compliance remains difficult and expensive to secure through private-sector means and the government itself offers only modest support

However, the biggest takeaway from our experiences is that our adversaries are *exploiting gaps in our patchwork funding for innovation*. The SBIR program is an incredibly successful engine of innovation for our country, but that’s just the start of a long journey. Our companies will remain susceptible to foreign influence and infiltration if we do not provide *pathways to scale from prototypes to production* (i.e., to cross the valley of death). SBIR brings companies from feasibility to demonstration. SBIR does not provide direct paths for companies to scale manufacturing-based technologies, e.g., semiconductors, into production lines and plants.

This ‘valley of death’ must be filled by directly connecting programs like SBIR to trusted sources of capital. And this could and should include true ‘Phase III’ funding from the

government, the private sector, or a combination of both. SBIR-funded companies could be streamlined into existing SBA programs, such as 7a, and should be given preference in acquisitions of military and government systems, putting them in the front seat for adoption. Finally, our companies need support. We have successfully built mentoring programs in Arkansas through the Science Venture Studio, where experienced entrepreneurs have the opportunity to guide new companies through these difficult phases. If we combine strategic capital with structured mentoring from experienced firms who have ‘been there’ we, as a country, could be an unstoppable engine of innovation.

Conclusion

While the U.S. does an amazing job (the best in the world) of encouraging and incentivizing innovative ideas and technologies, it completely drops the ball when it comes to helping U.S. companies (especially small businesses) turn them into products at scale. Other countries, especially China, have been taking our great ideas to turn them into large-volume products that they sell all around the world. And we help them do it. The U.S. MUST fix this! Moving great ideas into production is how we bring manufacturing back to the country – and, at the same time, provide widespread employment opportunities across the country, especially in rural states.

The SBIR program is truly America’s Seed Fund. But if we don’t build an explicit, secure path for companies to scale their technology with qualified partners and investors through and beyond SBIR, we’re leaving the door open for everyone else to take advantage of it. While the debate on ‘Phase III’ has endured for decades and left us with a patchwork of ineffective solutions across agencies and sectors, our adversaries continue to see opportunity – simply by providing the infrastructure (and capital) to scale that we are not.

A. Matt Francis, Ph.D., is the founder and President/CEO of Ozark Integrated Circuits, Inc (Fayetteville, AR). After graduating from Jenks High School near Tulsa, OK in 1998, he attained the BSEE, BS Physics, MS, and PhD degrees, all from the University of Arkansas, Fayetteville. At Ozark IC, he leads a team that develops high-temperature semiconductor computing solutions for energy, defense, aerospace, and space applications, and has served as a remote payload specialist for Ozark IC’s payloads on the International Space Station. He coordinates complex semiconductor (thin-film, thick-film, and packaging) supply chains, and serves in a number of advisory roles in industry. He served as a Region Director for IEEE, the Institute of Electrical and Electronics Engineers, from 2024-2025 (Region 5 USA Southwest), and is the current Vice Chair of the IEEE Industry Engagement Committee. He has served as a City Councilmember for the City of Elkins, Arkansas, for 8 years.

Congress of the United States

Washington, DC 20515

February 24, 2026

Honorable Kelly Loeffler
Administrator
U.S. Small Business Administration
409 3rd St., S.W.
Washington, D.C. 20416

Dear Administrator Loeffler:

Recent changes made by the U.S. Small Business Administration (“SBA” or “the Agency”) threaten to undermine local economies and job creation by impeding American small businesses. We write with deep concern regarding SBA’s issuance of Policy Notice 5000-876441 and Procedural Notice 5000-876626 and urge the SBA to return to commonsense standards in place for a quarter century prior to the Trump Administration.¹

Policy Notice 5000-876441 was released on February 2, 2026, and overturns previous SBA policy guidance that was only published a few weeks ago.² Policy Notice 5000-876441³ specifically requires that one hundred percent of all direct and/or indirect owners of a small business applicant be U.S. citizens or U.S. nationals who have their principal residence in the United States, its territories, or possessions to be eligible for participation in SBA’s 7(a) program or 504/Certified Development Companies (“CDC”) program. Procedural Notice 5000-876626 issued on February 11, 2026, further details the requirements of the Policy Notice in Standard Operating Procedure 50 10 8.

As you know, the SBA’s flagship 7(a) program encourages authorized private-sector lenders to provide loans by guaranteeing a significant portion. Loans are provided to small businesses that might not otherwise obtain financing on reasonable terms and conditions. Similarly, the SBA’s 504/CDC program is administered through nonprofit CDCs and provides long-term financing for major fixed assets, such as land, buildings, and equipment. Both the 7(a) and the 504/CDC program carry a maximum loan amount of \$5 million in most circumstances and have been instrumental in helping American small businesses access credit for decades.

By issuing this new policy, not only is the SBA stoking the flames of hate, but it is also barring all U.S. small businesses with any amount of ownership by non-citizens lawfully in the U.S. from participating in the SBA’s two primary lending programs.

At a time when President Donald Trump’s tariff and trade policies are putting immense pressure on America’s small businesses, the SBA should be focused on reducing barriers and helping more small businesses access these two important programs. Instead, the SBA is spreading fear and confusion among lenders, CDC partners, and small business owners. This is now the fourth time since March 2025, that SBA has changed their guidance

¹ OFF. OF CAP. ACCESS, [SBA Policy Notice: Update to SOP 50 10 8—Citizenship and Residency Requirements and Reversion of Procedural Notice 5000-872050](#), U.S. SMALL BUS. ADMIN. (FEB. 2, 2026).

OFF. OF CAP. ACCESS, [SBA Procedural Notice: Revised Applicant Ownership, Citizenship, and Residency Requirements for 7\(a\) and 504 Loans](#), U.S. SMALL BUS. ADMIN. (FEB. 11, 2026).

² OFF. OF CAP. ACCESS, [SBA Policy Notice: Update to SOP 50 10 8—Citizenship and Residency Requirements](#), U.S. SMALL BUS. ADMIN. (DEC. 19, 2025).

³ Hereinafter referred to as “the Policy Notice” or “the new policy”.

on this draconian policy.⁴ Rather than strengthening American small businesses, this policy limits access to capital, stifles entrepreneurship, and slows economic growth at a moment when our economy can least afford it. As such, we condemn the SBA's new policy and believe it will be devastating for America's small businesses, our economy, and directly breaks President Trump's campaign promise to "put America first".

We have never received any evidence, credible or otherwise, from the SBA or any other entity, that large numbers of individuals in the U.S. without legal authorization are receiving access to SBA financing and loan products. The SBA is doing nothing except making it harder for American-owned small businesses to access capital. This policy change is entirely self-defeating and limits the growth of our GDP over the long term.

SBA should focus on providing loans to businesses that are based in the U.S., creating jobs in local communities, and able to repay their loans. By issuing this new policy, the SBA is moving both the 7(a) and the 504/CDC program away from their original purposes and their use of prudent underwriting standards to evaluate loans. The main purpose of the 7(a) program is to provide creditworthy small businesses borrowers that demonstrate an ability to repay, and who cannot find credit elsewhere, with access to loans and loan guarantees. The legal status of a borrower has no bearing on their creditworthiness or their ability to repay and should not be used as a proxy for prudent underwriting determinations. Moreover, the credit elsewhere provision of the 7(a) program creates a situation where small businesses, either partially—or fully—owned by individuals already legally permitted to be in the U.S., with nowhere else to turn for their credit needs threatening the livelihoods of these small businesses and the communities they serve.

By the SBA issuing this new policy, it shows the hypocrisy of the entire Trump Administration. Under this new policy, banks, credit unions, and other SBA-lenders will need to create new compliance regimes to certify the citizenship or nationalization status of direct and/or indirect owners and comply with the 100 percent beneficial ownership requirement. Ironically, these compliance regimes are similar to the ones that the Trump Administration and the Congressional Republicans have argued for years are either too complex, too costly, or too invasive for lenders to comply with the CFPB's Section 1071 rule,⁵ in order to ensure institutions' compliance with fair lending requirements, and the Corporate Transparency Act's Beneficial Ownership requirement,⁶ to ensure anonymous shell companies in the US are not being used to facilitate terrorism, sex trafficking, money laundering, and other illicit schemes. However, unlike the SBA's Policy Notice, both the Section 1071 rule and the Beneficial Ownership rule had safe harbors, remedies for good faith mistakes, and, in some situations, opportunities for applicant borrowers to decline to provide their information altogether. Requiring lenders to verify citizenship status for all direct and indirect owners, and all employees creates significant liabilities for SBA lending partners and program participants.

The Policy Notice also raises constitutional concerns, creating challenges for program lenders and participants to carry out. The Fourteenth Amendment of U.S. Constitution provides that "[n]o State shall... deny any person within its jurisdiction the equal protection of the laws."^{7,8} The Equal Protection Clause requires the government

⁴ OFF. OF CAP. ACCESS. [SBA Policy Notice: Policy updates to comply with Executive Order 14159 regarding citizenship requirements for obtaining 7\(a\) and 504 loans](#). U.S. SMALL BUS. ADMIN. (March 7, 2025). OFF. OF CAP. ACCESS. [SBA Policy Notice: Update to SOP 50 10 8—Citizenship and Residency Requirements](#). U.S. SMALL BUS. ADMIN. (DEC. 19, 2025). OFF. OF CAP. ACCESS. [SBA Policy Notice: Update to SOP 50 10 8—Citizenship and Residency Requirements and Recession of Procedural Notice 5000-872050](#). U.S. SMALL BUS. ADMIN. (FEB. 2, 2026).

OFF. OF CAP. ACCESS. [SBA Procedural Notice: Revised Applicant Ownership, Citizenship, and Residency Requirements for 7\(a\) and 504 Loans](#). U.S. SMALL BUS. ADMIN. (FEB. 11, 2026).

⁵ 12 C.F.R Part 1002.

⁶ 15 U.S.C. §5336.

⁷ U.S. Const. amend. XIV, § 1.

⁸ The [Equal Protection Clause of the Fourteenth Amendment](#) applies to state governments. The Fifth Amendment's Due Process Clause imposes equal protection restrictions on the federal government. See: [Bolling v. Sharpe](#), 347 U.S. 497 (1954).

to have a valid reason for passing any law or taking any official action that treats similarly situated people or groups of people differently.⁹ And for certain immutable classifications, including national origin, the government's reason must be compelling, and the law or action must be narrowly tailored.¹⁰ Yet the SBA's Procedural Notice, specifically details Chinese citizens, citizens of the Special Administrative Region of Hong Kong, and other national origin groups as ineligible persons, with no further explanation or substantiation.¹¹ These specific categorical exclusions serve to further escalate suspicions of dual loyalty against Chinese Americans or those perceived to be of Chinese descent. In a moment where four in ten Americans see Asian Americans as more loyal to their countries of origin than the U.S., policies like these only reinforce these perceptions of Asian Americans as the "perpetual foreigner."¹²

Not only has the SBA failed to provide a compelling reason for prohibiting U.S. small businesses with an ownership percentage by a non-U.S. citizen or national from participating in the programs, the SBA has failed to present any evidence for why prohibiting these legitimate U.S. businesses from participation is necessary. The SBA has also repeatedly failed to answer questions from Congress on this issue.¹³ Moreover, the SBA has not even attempted to narrowly tailor its action, instead taking this action in the broadest way possible prohibiting participation by every U.S. small business in every location of the country with less than one hundred percent ownership by a U.S. citizen or national.

The SBA's new policy is also likely to expose lenders and program participants to legal violations under existing federal law. The Equal Credit Opportunity Act¹⁴ ("ECOA") prohibits creditors from discriminating against credit applicants on the basis of any protected class, including national origin.

While the Justice Department ("DoJ") and the Consumer Financial Protection Bureau ("CFPB") did recently issue a joint statement¹⁵ withdrawing interpretative guidance the agencies had previously issued pertaining to ECOA and Regulation B,¹⁶ seemingly permitting creditors to consider a borrower's immigration or citizenship status, the withdrawal of the joint statement does not change ECOA, Regulation B, or creditors' underlying fair lending obligations. Instead, it simply removes the agencies' prior, non-binding policy articulation. As such, the fair lending obligations of SBA lenders and program participants remain in place.

While Regulation B does permit a creditor to consider an applicant's immigration or permanent resident status, it does so in the context of the lender determining their rights and remedies regarding repayment. A blanket policy of refusing to consider applications from certain groups of noncitizens regardless of the credit qualifications of the individual borrower—like the SBA seems to have done here—is still a violation of ECOA

⁹ CONNECTICUT SUPREME COURT HISTORICAL SOCIETY. [The Right to Equal Protection under the United States Constitution and the Connecticut Constitution](#).

¹⁰ *Id.*

¹¹ OFF. OF CAP. ACCESS. [SBA Procedural Notice: Revised Applicant Ownership, Citizenship, and Residency Requirements for 7\(a\) and 504 Loans](#). U.S. SMALL BUS. ADMIN. (FEB. 11, 2026).

¹² SOCIAL TRACKING OF ASIAN AMERICANS IN THE U.S. (STAATUS) INDEX. <https://www.taaf.org/news/taatus-2025> THE ASIAN AMERICAN FOUNDATION. (FEB. 17, 2026)

¹³ U.S. SENATE COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP. [Ranking Member Markey Leads Senate Democrats Requesting Answers from SBA on Draconian Immigration Policies](#). (DEC. 18, 2025).

U.S. SENATE COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP. [Ranking Members Markey, Velázquez Decry Extreme SBA Policy Changes That Would Limit Economic Opportunity for American Entrepreneurs, Including Immigrants](#). (JULY 15, 2025).

¹⁴ 15 U.S.C. §1691.

¹⁵ OFF. OF PUB. AFFAIRS. [Department of Justice and Consumer Financial Protection Bureau Withdraw Joint Statement on Fair Lending and Credit Opportunities for Noncitizen Borrowers](#). U.S. DEPT. OF JUSTICE, U.S. CONSUMER FINANCIAL PROTECTION BUREAU. (JAN. 12, 2026).

¹⁶ 12 C.F.R Part 1002.

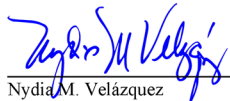
and Regulation B. In its Policy Notice, the SBA doesn't say it is implementing this new policy in order to ensure repayment for lenders or that lenders "may" consider a borrower's immigration status as a factor for determining their rights and remedies regarding repayment. In fact, the SBA does not even mention "repayment" anywhere in its Policy Notice. Instead, it makes a small business applicant's immigration status and nationalization a threshold requirement to qualify for a 7(a) or 504/CDC program loan. We are deeply concerned that the SBA's unclear and shifting guidance will drive lenders and program participants to halt new originations under both programs to avoid liability, cutting off access to capital and destabilizing communities and local economies across the country.

It's important for the SBA to recognize and acknowledge the practical challenges the SBA's changes to its citizenship and nationalization requirement have created for lenders and program partners since President Trump issued Executive Order 14159.¹⁷ For the SBA to ensure the citizenship status of each borrower individual with direct and/or indirect beneficial ownership, in the 7(a) program, the lender will be required to upload the citizenship information the borrower has certified to the lender in the SBA's electronic loan submission platform, E-Tran. SBA 7(a) lenders have already told us that the requirement to enter 100 percent of direct and indirect ownership has created issues completely unrelated to citizenship and has made deals with complex ownership structures or multiple minority owners very difficult to process. We remain concerned that the SBA's new policy will be very difficult for 7(a) lenders to implement and could cause lenders to avoid businesses with complex ownership structures, thereby decreasing 7(a) lending overall, in order to avoid legal exposure.

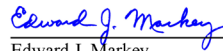
We fear the 504/CDC program will suffer a similar fate. Most 504 program loans are non-delegated loans and require additional processing and review by the SBA. Requiring the SBA to one hundred percent certify the business borrower's ownership by U.S. citizens or nationals is expected to result in additional processing times, delays, and costs, not only for the SBA, but for lenders and small business borrowers as well.

Small businesses are the backbone of our nation's economy. Access to capital has been a major challenge for American small businesses for decades and the SBA's capital access programs have tried to bridge the gap for the small businesses left behind by the conventional markets. Yet, the SBA's new citizenship policy creates operational challenges for lenders and program participants. Instead of denying more American small businesses access to necessary affordable capital, we should be working together to strengthen the SBA's capital access programs and increase financing opportunities for more small businesses in order to improve our local communities and national economy.

Sincerely,



Nydia M. Velázquez
Member of Congress
Ranking Member, Committee on
Small Business

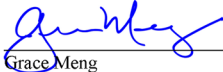


Edward J. Markey
Ranking Member, Committee on
Small Business and
Entrepreneurship

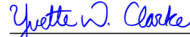
¹⁷ EXEC. Order. 14159, 90 Fed. Reg. 8443.



Adriano Espaillat
Chair
Congressional Hispanic Caucus



Grace Meng
Chair, Congressional Asian Pacific
American Caucus



Yvette D. Clarke
Chair
Congressional Black Caucus

THE DYING AMERICAN DREAM

and the Trump Administration

PART I: IMMIGRANT ENTREPRENEURS

*Prepared by the
House Committee on Small Business
Democratic Staff*



December 2025

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Executive Summary

Immigrants are a diverse group, composed of many national origins and legal statuses. They come to America in search of better lives, and ultimately enrich the nation with their work, creativity, and ambition.

America has welcomed immigrants and benefitted uniquely from them. This is especially so for Main Street America, where immigrants start businesses at greater rates than United States-born individuals. These entrepreneurs work in every industry, create jobs, and pay taxes. In particular, the industries experiencing the most immigrant entrepreneurial participation are transportation and warehousing, accommodations and food service, administrative support and waste management, construction, health care, and wholesale trade. With immigrants starting and operating small businesses in American neighborhoods, the nation has seen increased innovation, job creation, economic growth, tax revenue, and budget deficit reduction. Immigrants contribute immensely to America's prosperity.

However, President Trump's return to office has prompted an unprecedented campaign to prevent and reverse immigration to America. His administration's actions and policies have prompted U.S. Immigrations and Customs Enforcement (ICE) to pursue frequent and aggressive raids, arrests, and deportations in communities across the country. ICE's crackdown is so blunt and untargeted that it has even ensnared visa holders, green card holders, and U.S. citizens. ICE agents have also been accused of physically abusing and mistreating detainees.¹

The moral and ethical implications of the crackdown are clear, though an informational gap exists on the effects of the crackdown on America's main streets and economy. This report finds that the Trump administration's immigration enforcement is: (1) decapitating small business leadership; (2) cratering small business sales; (3) abducting Main Street workers; (4) lowering capital access; and (5) dangerously escalating petty and hate crime in America.

The Trump Administration's immigration campaign is also extraordinarily expensive, with costs at an estimated \$88 billion, about \$25 billion of which has already been allocated by the One Big Beautiful Bill Act.² These funds could have been allocated for more productive government activities, such as small business lending and counseling, health care assistance, education, and even public safety investments like crime prevention.

Despite these costs and consequences, the Trump Administration stubbornly presses on with its immigration agenda. In doing so, it will bleed small businesses of their owners, workers, sales, and innovation, rendering Main Street America a lifeless, colorless wasteland, devoid of vitality and creativity. America will lose its prosperity when it loses its immigrants.

¹ E.g., Cristian Benavides, *U.S. citizen told "you have no rights" during immigration arrest speaks out: "It hurts me"*, CBS NEWS (Jul. 28, 2025), <https://www.cbsnews.com/news/kenny-laynez-arrest-you-have-no-rights-interview/>; Gwynne Hogan & Haidee Chu, *"Like Dogs in Here" – Videos Expose ICE Lockup Inside 26 Federal Plaza*, THE CITY (Jul. 22, 2025), <https://www.thecity.nyc/2025/07/22/video-26-federal-plaza-immigration-ice-dhs-cells/>; Gisela Salomon & Kate Payne, *Detained immigrants at 'Alligator Alcatraz' say there are worms in food and wastewater on the floor*, ASSOCIATED PRESS (Jul. 11, 2025), <https://apnews.com/article/alligator-alcatraz-immigration-detainees-florida-cc2fb9e34e760a50e97f13fe59cbf075>.

² AM. IMMIGR. COUNCIL, MASS DEPORTATION: DEVASTATING COSTS TO AMERICA, ITS BUDGET AND ECONOMY (Oct. 2024); One Big Beautiful Bill Act, Pub. L. No. 119-21, §§ 90003-90007 (2025).

Introduction: Who Are America's Immigrant Entrepreneurs?

Throughout the nation's history, immigration has driven the growth of our economy and technological prowess. Yet, nearly 250 years since America's founding by its first immigrants, the idea of foreign-born persons living and working in society still holds immense controversy. In the last several months, Americans have heard intensely emotional, moral, and sometimes illogical arguments as to why immigration should or should not be promoted by the federal government. But what is lost in the noise and chaos of the debate – and recent presidential action – is the real, on-the-ground impact of immigrants on the success and prosperity of Main Street America. This report aims to address that informational gap by highlighting immigrant entrepreneurs, the role they play in America's business community, and how the nation's economy would fare without them.

An immigrant is a person living in the United States who was born in another country. Immigrants are a wide group consisting of lawful permanent residents (also known as green card holders), temporary visa holders, refugees, asylees, Deferred Action for Childhood Arrivals (DACA) recipients, and undocumented individuals. According to the U.S. Census Bureau, 47.8 million people are immigrants – which is 14.1 percent of the general populace.³ Phrased differently, one in every seven people in the U.S. was born in another country. Of these immigrants, about a quarter are undocumented and almost 5 percent are refugees⁴ with civil process rights.⁵ The immigrant population in America is also surging: the Congressional Budget Office (CBO) estimates that the U.S. has been experiencing far higher net immigration since 2021, with 8.7 million more people immigrating between that year and 2026 than baseline expectations set in 2020.⁶ Regardless of its diversity, immigration to the U.S. has always been motivated by the promise of better opportunity, a better life, and a better future for oneself and their family.



³ American Community Survey 1-Year Estimates: Selected Population Profiles, U.S. CENSUS BUREAU (2023), <https://data.census.gov/table?q=S0201>.

⁴ E.g., Karen Aho et al., *The Number of Immigrants in the US Increases Yearly – And That's a Good Thing*, AM. IMMIGR. COUNCIL (Feb. 28, 2025), <https://www.americanimmigrationcouncil.org/blog/number-of-immigrants-in-us-increases-yearly-and-thats-a-good-thing>; Julia Gelatt et al., *Changing Origins, Rising Numbers: Unauthorized Immigrants in the United States*, MIGRATION POLICY INST. (Oct. 2025), <https://www.migrationpolicy.org/research/unauthorized-immigrants-us-2025-fact-sheet>.

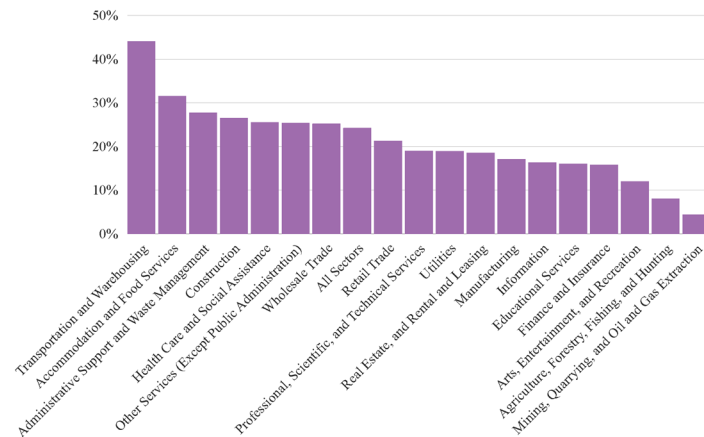
⁵ CONG. RSCH. SERV., R47399, *U.S. Refugee Admissions Program* (Jan. 20, 2023).

⁶ CONG. BUDGET OFF., *Effects of the Immigration Surge on the Federal Budget and the Economy* (Jul. 23, 2024).

The nation's immigrants have long had higher entrepreneurship and innovation rates than other Americans. According to an Office of Advocacy analysis, immigrants' monthly rate of new business formation was more than twice that of U.S.-born workers, and 10.5 percent of the immigrant work force were business owners, compared with 9.3 percent of the U.S.-born work force.⁷ In other words, immigrant entrepreneurs are a significant portion of American small businesses.

The largest portions of immigrant-owned firms exist in the transportation and warehousing, accommodation and food service, administrative support and waste management, construction, health care, and wholesale trade industries.⁸ Figure 1 is a bar chart displaying the percentage of immigrant-owned firms, broken down by major industry. Figure 1 is accompanied by Figure 2, an accompanying table with exact numbers and breakdowns by employer and non-employer firms.

Figure 1: Percentage of Immigrant-Owned Firms by Industry and Employer Status⁹



⁷ Robert W. Fairlie, *Immigrant Entrepreneurs and Small Business Owners, and their Access to Financial Capital*, OFF. OF ADVOC. (May 2012), <https://advocacy.sba.gov/wp-content/uploads/2012/05/Immigrant-Entrepreneurs-Financial-Capital-Full-Report.pdf> (on file with the H. COMM. ON SMALL BUS.).

⁸ AB2200CSCBO: *Annual Business Survey: Owner Characteristics of Respondent Employer Firms by Sector, Sex, Ethnicity, Race, and Veteran Status for the U.S., States, Metro Areas, Counties, and Places: 2022*, U.S. CENSUS BUREAU (2022), <https://data.census.gov/tables/ABSCBO2022.AB2200CSCBO> (on file with the H. Comm. on Small Bus.); AB2200NESD04: *Nonemployer Statistics by Demographics series (NES-D): Owner Characteristics of Nonemployer Firms by Industry, Sex, Ethnicity, Race, and Veteran Status for the U.S., States, Metro Areas, Counties, and Places: 2022*, U.S. CENSUS BUREAU (2022), <https://data.census.gov/tables/ABSNESD02022.AB2200NESD04> (on file with the H. COMM. ON SMALL BUS.).

⁹ *Id.*

Figure 2: Percentage of Immigrant-Owned Firms by Industry and Employer Status¹⁰

Industry	Percentage of firms that are immigrant-owned	Percentage of employer firms that are immigrant-owned	Percentage of non-employer firms that are immigrant-owned
Transportation and warehousing	44.1%	22.7%	44.8%
Accommodation and food services	31.5%	37.7%	28.2%
Administrative and support and waste management and remediation services	27.7%	14.5%	28.9%
Construction	26.5%	11.5%	29.2%
Health care and social assistance	25.5%	23.4%	25.9%
Other services (except public administration)	25.4%	22.5%	25.6%
Wholesale trade	25.2%	22.5%	26.3%
All sectors	24.2%	19.1%	24.8%
Retail trade	21.3%	24.8%	20.6%
Professional, scientific, and technical services	19.0%	15.8%	19.6%
Utilities	18.9%	8.3%	20.0%
Real estate, and rental and leasing	18.5%	13.7%	18.7%
Manufacturing	17.1%	12.2%	19.3%
Information	16.3%	17.2%	16.1%
Educational services	16.0%	20.0%	15.8%
Finance and insurance	15.8%	9.8%	17.0%
Arts, entertainment, and recreation	12.0%	9.7%	12.1%
Agriculture, forestry, fishing and hunting	8.0%	5.6%	8.1%
Mining, quarrying, and oil and gas extraction	4.4%	3.7%	4.6%

Among employer firms, the greatest share of immigrant-owned companies can be found in the accommodation and food services, health care, and retail trade industries. Meanwhile, the largest proportions of non-employer businesses that are immigrant-owned exist in the transportation and warehousing, construction, and administrative support and waste management industries.¹¹

¹⁰ *Id.*

¹¹ *Id.*

It is more than clear that immigrant entrepreneurs are an important segment of Main Street America. Hailing from origins around the globe, immigrant small business owners work and innovate in all sorts of fields but are all united by faith that their hard work will pay off, and they can earn a slice of the American Dream.

Immigrant Entrepreneurs' Contributions to America's Economy

Like all entrepreneurs, immigrants power and strengthen America's economy and neighborhoods. Growth in entrepreneurship has been on the decline since the early 1980s, reducing economic productivity by an estimated 3 to 4 percent as of 2020.¹² The CBO attributes this downturn to constraints on new business owners' capital access, as well as recessions and slower working-age population growth, and presents immigration expansion as one way to offset this trend.¹³ The previous administration saw a record high of over 21 million business starts,¹⁴ spurred by investments in small business assistance, including to immigrant entrepreneurs.

Innovation and Job Creation

Immigrants drive innovation and job creation because they start and own businesses at higher rates than non-immigrants. As stated above, immigrants' monthly rate of new business formation was more than twice that of U.S.-born workers, and 10.5 percent of the immigrant work force were business owners, compared with 9.3 percent of the U.S.-born work force.¹⁵ More importantly, immigrant-owned businesses are more likely than others to create jobs and hire employees.¹⁶

Higher rates of innovation and entrepreneurship among immigrants also spur technological innovation and economic expansion. Immigrants account for 24 percent of U.S. patents, twice their share in the population,¹⁷ and the patents that immigrants file tend to be of higher quality.¹⁸



¹² CONG. BUDGET OFF., *Federal Policies in Response to Declining Entrepreneurship* (Dec. 2020).

¹³ *Id.*

¹⁴ Press Release, THE WHITE HOUSE, *FACT SHEET: Biden-Harris Administration Announces that Americans have Filed a Record 21 Million New Business Applications Since Taking Office* (Jan. 10, 2025), <https://bidenwhitehouse.archives.gov/briefing-room/statements-releases/2025/01/10/fact-sheet-biden-harris-administration-announces-that-americans-have-filed-a-record-21-million-new-business-applications-since-taking-office>.

¹⁵ Fairlie, *supra* note 7.

¹⁶ *Id.*

¹⁷ Jennifer Hunt & Marjolaine Gauthier-Loiselle, *How much does immigration boost innovation?*, 2 AM. ECON. J.: MACROECONOMICS 31 (Apr. 2010), <https://pubs.acaweb.org/doi/10.1257/mac.2.2.31>.

¹⁸ Robert Krol, *Effects of Immigration on Entrepreneurship and Innovation*, 41 CATO J., 551 (2021), <https://www.cato.org/cato-journal/fall-2021/effects-immigration-entrepreneurship-innovation>.

Part of this elevated rate can be explained by immigrants' educational levels: since immigrant college graduates disproportionately hold degrees in science and engineering, a single percentage point increase in immigrant college graduates increases patents per capita by 6 percent.¹⁹ Additionally, according to the conservative Cato Institute, collaboration on patents with an immigrant increases the productivity of U.S.-born inventors more than that same collaboration increases the immigrant inventor's productivity.²⁰ In fact, over half of the Silicon Valley engineering and technology startups founded from 1995 to 2005 had one or more immigrants as a key founder.²¹ Innovative new firms like these often introduce new products and services, fostering technological change and productivity gains.²²

Exports help firms create jobs and attain long-term success while also improving the U.S.'s trade imbalance with the rest of the world. Immigrant firms are more likely to export their goods and services, possibly because their owners have business networks in their home countries, as well as linguistic and cultural skills. The Office of Advocacy found that 7.1 percent of immigrant firms export goods or services, compared to 4.4 percent of non-immigrant firms, and they tend to have higher shares of exports as a percentage of their total sales.²³ For 3.2 percent of immigrant firms, exports represented at least 20 percent of their total sales, while the same was true for less than 1 percent of non-immigrant firms.²⁴

Immigrants not only create jobs; statistics show they do not displace U.S.-born workers. As the nation's net immigration rate rose in the early 2020s, the average unemployment rate for U.S.-born workers reached the lowest rate on record, averaging 3.6 percent in 2023. Similarly, 2023 saw the labor force participation rate for U.S.-born workers ages 25 to 54 reach its highest point since 2002.²⁵ Furthermore, economists attribute worsening employment data in 2025 to the Trump Administration's immigration restrictions and a general slowdown in hiring related to the heightened uncertainty and increased costs that tariffs have imposed on the economy.²⁶

Instead of displacing U.S. workers, immigrants fill gaps in the U.S.'s labor market caused by demographic changes, helping compensate for the aging of the U.S. work force and contributing to strong economic growth.²⁷ The proportion of Americans over the age of 65 is expected to reach about 20 percent by 2040, nearly double the proportion in 1980.²⁸ In recent years, the U.S.-born working-age population declined from 61.7 percent in 2018 to 60.9 percent in 2023.²⁹

¹⁹ Hunt & Gauthier-Loiselle, *supra* note 17.

²⁰ Krol, *supra* note 18.

²¹ Vivek Wadhwa, et al., *America's New Immigrant Entrepreneurs: Part I*, SSRN J. (Jan. 4, 2007),

<http://dx.doi.org/10.2139/ssrn.990152>.

²² CONG. BUDGET OFF., *supra* note 12.

²³ Fairlie, *supra* note 7.

²⁴ *Id.*

²⁵ Daniel Costa & Heidi Shierholz, *Immigrants are not hurting U.S.-born workers*, ECON. POLICY INST. (Feb. 20, 2024),

<https://www.epi.org/blog/immigrants-are-not-hurting-u-s-born-workers-six-facts-to-set-the-record-straight>.

²⁶ Paul Wiseman & Christopher Rugaber, *US employers slash hiring as Trump advances a punishing trade agenda*, ASSOCIATED PRESS (Aug. 1, 2025), <https://apnews.com/article/jobs-unemployment-economy-trump-federal-reserve-68a15f89d68793a6cf88a522f33246c>.

²⁷ Costa & Shierholz, *supra* note 25.

²⁸ Aho et al., *supra* note 4.

²⁹ *Id.*

By contrast, in 2023, 77.1 percent of immigrants, or 36.9 million people, were between the ages of 16 and 64.³⁰ These immigrants, who make up 18.6 percent of the U.S. labor force, are employed in numerous industries and in a mix of lower, middle, and higher-wage jobs.³¹

Economic Growth and Tax Revenue

Immigrants – even the undocumented ones – pay taxes and accelerate economic growth. In fact, according to the CBO, the recent immigration surge will result in net increases in federal tax revenues and economic activity.³² This is because immigration contributes to positive economic forces, such as labor force growth, increased productivity for all workers due to innovation, the aforementioned job creation, and greater investment due to the expanded human capital and business formation.³³

As a result, the CBO projects an \$8.9 trillion increase in gross domestic product (GDP) between 2024 and 2034, attributed directly to the immigration surge.³⁴ Over the first few years of this period, up to half of the GDP growth was expected to come from new investments including additional housing for newcomers and their families, and equipment for these new workers.³⁵ Meanwhile, the new households' spending on goods and services would initially account for about half of the added GDP growth, rising to 70 percent by 2034.³⁶

Not much data exists on undocumented immigrant entrepreneurs. However, the American Immigration Council recently highlighted that undocumented small business owners generated \$27.1 billion in 2022,³⁷ and more broadly, immigrants contributed \$419.8 billion in federal taxes in 2023 alone. Of these taxes, undocumented immigrants paid \$55.8 billion.³⁸



³⁰ *Id.*

³¹ Costa & Shierholz, *supra* note 25.

³² CONG. BUDGET OFF., *supra* note 6.

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ AM. IMMIGR. COUNCIL, *supra* note 2.

³⁸ Aho et al., *supra* note 4.

Figure 3 is a bar chart depicting 2023 tax payments made by immigrants to the federal government, state and local governments, Social Security, and Medicare, as well as the segment of payments made by undocumented immigrants. The Figure is accompanied by Figure 4, a table with exact numbers.

Figure 3: Total Tax Contributions Made by Immigrants in 2023³⁹

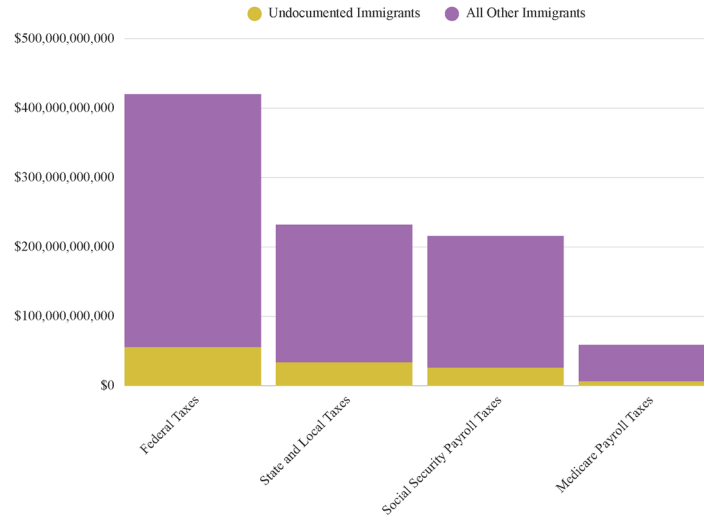


Figure 4: Total Tax Contributions Made by Immigrants in 2023⁴⁰

	Undocumented Immigrants	All Other Immigrants
Federal Taxes	\$55,800,000,000	\$364,000,000,000
State and Local Taxes	\$33,900,000,000	\$198,200,000,000
Social Security Payroll Taxes	\$26,200,000,000	\$189,600,000,000
Medicare Payroll Taxes	\$6,600,000,000	\$52,100,000,000

³⁹ *Id.*

⁴⁰ *Id.*

According to the CBO's estimates, the recent immigration surge would increase federal revenues by nearly \$1.2 trillion from 2024 through 2034.⁴¹ This increase in revenue would come primarily from individual income taxes and payroll taxes paid by these immigrants, with the remainder coming from the general increase in economic activity they create.⁴²

The CBO also projected a corresponding reduction in the federal deficit of \$897 billion in 2034 because the additional immigrants will contribute more federal revenue than they cost in government expenditures. Much of this is because most immigrants, including 65 percent from the surge, are already ineligible for federal benefits, which they therefore do not collect – and they still pay taxes.⁴³ Similarly, the Department of Health and Human Services has found that the net fiscal impact of refugees and asylees is positive, and that between 2005 and 2019, they contributed \$123.8 billion more in federal, state, and local tax revenues than the government spending necessitated by their presence.⁴⁴

In summary, higher levels of immigration increase economic growth and innovation-related activities.⁴⁵ However, in the wake of the Trump Administration's escalating efforts to detain and deport foreign-born residents, recent estimates predict that the U.S. will see zero or net negative immigration in 2025.⁴⁶ The U.S. has consistently seen positive net immigration since 1960, making the impact of these missing entrepreneurs and workers unpredictable—though the change certainly harms industries including agriculture and construction.⁴⁷ The Trump Administration's own Labor Department acknowledged these harms in a recent rulemaking document, finding that the immigration crackdown contributes to a “current and imminent” agricultural labor shortage, threatening the production and price stability of domestic food.⁴⁸



⁴¹ CONG. BUDGET OFF., *supra* note 6.

⁴² *Id.*

⁴³ *Id.*

⁴⁴ OFF. OF THE ASSISTANT SEC'T FOR PLAN. & EVALUATION, THE FISCAL IMPACT OF REFUGEES AND ASYLEES AT THE FEDERAL, STATE, AND LOCAL LEVELS FROM 2005-2019, U.S. DEP'T OF HEALTH & HUM. SERVS. (Feb. 15, 2024).

⁴⁵ Krol, *supra* note 18.

⁴⁶ Megan Leonhardt, *U.S. Migration Could Be Negative in 2025. That Has Economic Consequences.*, BARRONS (July 2, 2025), <https://www.barrons.com/articles/migration-employment-growth-inflation-01fdab43>.

⁴⁷ *Id.*; see Aho et al., *supra* note 4.

⁴⁸ Adverse Effect Wage Rate Methodology for the Temporary Employment of H-2A Nonimmigrants in Non-Range Occupations in the United States, 90 Fed. Reg. 47914 (Oct. 2, 2025); Lauren Kaori Gurley, *Trump administration says immigration enforcement threatens higher food prices*, WASH. POST (Oct. 11, 2025), <https://www.washingtonpost.com/business/2025/10/11/immigration-crackdown-food-prices>.

The Trump Administration's Crackdown on Immigrants Hurts America's Main Streets

Since returning to office in January 2025, President Trump's Administration has waged an unprecedented campaign to kidnap and expel immigrants from our nation. In May, the White House set a goal of 3,000 arrests by ICE daily – an unrealistically high expectation over triple the average number of arrests per day between January 20, 2025 and May 19, 2025.⁴⁹ This goal, justified in part by extremely racist and bigoted rhetoric targeted against immigrants of color,⁵⁰ has prompted ICE to expand its immigration detention activities and tactics.

In 2025 alone, ICE arrests have skyrocketed, with more and more people detained while in their homes, running errands, and at their workplaces.⁵¹ Immigration agents have detained individuals in far more diverse settings – including at routine immigration proceedings intended for undocumented immigrants to receive due process.⁵² ICE raids and arrests are increasingly warrantless and untargeted.⁵³ This means that ICE is arresting individuals regardless of status, entangling green card holders and applicants,⁵⁴ visa holders,⁵⁵ refugees and asylum seekers,⁵⁶ Deferred Action for Childhood Arrivals (DACA) status recipients,⁵⁷ and even U.S. citizens.⁵⁸ Furthermore, numerous reports have emerged of detainees being subjected to physical abuse, denial of constitutional rights, and squalid conditions, both upon arrest and in detention facilities.⁵⁹

⁴⁹ Rebecca Santana, *ICE, the agency central to Trump's mass deportation plans, undergoes a shakeup*, ASSOCIATED PRESS (May 30, 2025), <https://apnews.com/article/immigration-enforcement-border-trump-ice-6fcdcf2313788bd889b51adfb003ca7a>.

⁵⁰ AM. C.L. UNION, TRUMP ON IMMIGRATION (Jun. 6, 2024), <https://www.aclu.org/publications/trump-on-immigration>.

⁵¹ IMMIGR. RSCH. INITIATIVE, WHO IS ICE ARRESTING? (Jul. 23, 2025).

⁵² Todd Heisler et al., *Anatomy of an ICE Arrest*, N.Y. TIMES (Aug. 5, 2025),

<https://www.nytimes.com/2025/08/03/nyregion/immigrant-arrests-courthouse.html>; Emma Winger, *At Graduation Time, ICE Targets Young Dreamers*, AM. IMMIGR. COUNCIL (Jun. 12, 2025), <https://www.americanimmigrationcouncil.org/blog/graduation-ice-targets-young-dreamers>.

⁵³ E.g., José Olivares, *US immigration officers ordered to arrest more people even without warrants*, THE GUARDIAN (Jun. 4, 2025), <https://www.theguardian.com/us-news/2025/jun/04/immigration-officials-increased-detentions-collateral-arrests>.

⁵⁴ E.g., Joel Rose, *Green-card holders, travelers caught in Trump's immigration crackdown*, NPR (Apr. 1, 2025),

<https://www.npr.org/2025/04/01/nx-s1-5339698/green-card-holders-detained-border-crackdown> (on file with the H. COMM. ON SMALL BUS.); Billal Rahman, *Woman Detained During Birthday Trip Despite Pending Green Card Application*, NEWSWEEK (Jun. 2, 2025), <https://www.newsweek.com/maryia-vviadzenskaya-detained-birthday-green-card-2079700>.

⁵⁵ E.g., April Rubin, *Tracking the foreign nationals detained by ICE as tourists or U.S. residents*, AXIOS (Apr. 1, 2025),

<https://www.axios.com/2025/03/20/tourists-us-residents-detained-arrested-deported-ice-immigration-trump>.

⁵⁶ E.g., Ximena Bustillo & Juliana Kim, *Christian refugees caught in the crosshairs of U.S. immigration policy*, NPR (Jul. 31, 2025), <https://www.npr.org/2025/07/31/g-s1-80181/trump-christian-refugees-asylum-immigration> (on file with the H. COMM. ON SMALL BUS.); Tania Thorne, *Advocates say an Afghan refugee was detained at San Diego immigration court*, KPBS (Jun. 16, 2025), <https://www.kpbs.org/news/border-immigration/2025/06/16/advocates-say-an-afghan-refugee-was-detained-at-san-diego-immigration-court> (on file with the H. COMM. ON SMALL BUS.).

⁵⁷ E.g., Gretel Aguila, *DACA recipient detained at Alligator Alcatraz, attorney says: 'We don't know why'*, MIAMI HERALD (Jul. 10, 2025), <https://www.miamiherald.com/news/local/immigration/article310337645.html>.

⁵⁸ E.g., Maria Luisa Paul, *Here are the U.S. citizens caught in Trump's immigration crackdown*, WASH. POST (May 3, 2025),

<https://www.washingtonpost.com/immigration/2025/05/02/citizens-caught-trump-immigration-crackdown>.

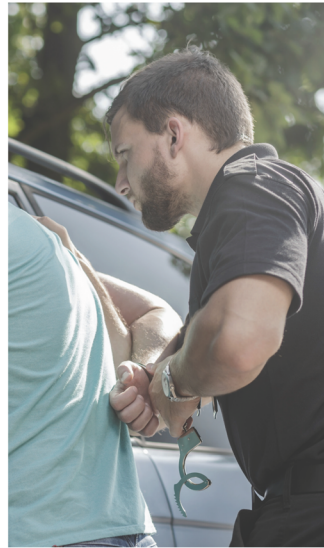
⁵⁹ E.g., Benavides, *supra* note 1; Hogan & Chu, *supra* note 1; Salomon & Payne, *supra* note 1.

Additionally, ICE agents have begun wearing masks and concealing their identities – undermining any accountability for abuses.⁶⁰ On top of that, the Trump Administration’s *One Big Beautiful Bill Act* imposes a new, onerous fee of at least \$5,000 per immigration arrest, among other burdensome fees thrust onto immigrant entrepreneurs and workers.⁶¹

ICE’s expansion of raids and arrests, wide scope of this campaign, poor treatment of detainees, and masking of officers – all under the Trump Administration – means that immigrant entrepreneurs are under threat, more than ever, by an increasingly abusive federal agency whose officers act with impunity, arbitrariness, and capriciousness. In other words, ICE’s crackdown is threatening the very fabric upon which Main Street thrives.

Decapitating Small Business Leadership

Because immigrants start small businesses at greater rates than U.S.-born individuals,⁶² ICE’s campaign will slow business creation, particularly in the industries where immigrant-owned businesses are more common.⁶³ With that said, the crackdown also impacts entrepreneurs who have already opened small businesses in America. When a small business owner is arrested or deported by ICE, their leadership of their business is incapacitated – they are inherently unable to make important decisions or oversee the day-to-day operations of their firm.⁶⁴ Similarly, when an entrepreneur’s relatives, such as a spouse or children, are detained, they often rightly prioritize locating them and acting to obtain the release of those relatives – drawing the entrepreneur’s attention away from their business. If ICE physically mistreats a small business owner, the injuries they sustain, and the resulting health impacts, can likewise hurt their ability to run their business.⁶⁵ All these effects can cause the temporary or permanent closure of a small business, especially if it is a sole proprietorship.



⁶⁰ Leila Fadel et al., *Masked immigration agents are spurring fear and confusion across the U.S.*, NPR (Jul. 10, 2025), <https://www.npr.org/2025/07/09/nx-s1-5440311/ice-raids-masked-agents> (on file with the H. COMM. ON SMALL BUS.).

⁶¹ *One Big Beautiful Bill Act*, Pub. L. No. 119-21, § 100017 (2025).

⁶² Fairlie, *supra* note 7.

⁶³ ECON. POLICY INST., *TRUMP’S DEPORTATION AGENDA WILL DESTROY MILLIONS OF JOBS* (Jul. 10, 2025).

⁶⁴ See, e.g., *The Devastating Impact of Deporting Business Owners on Our Economy and Communities*, ILL. HISPANIC CHAMBER OF COM., <https://ihccbuisness.net/cco-letter/the-devastating-impact-of-deporting-business-owners-on-our-economy-and-communities> (last visited Oct. 23, 2025).

⁶⁵ See, e.g., Doc Louallen, *79-year-old US citizen claims ICE agents body-slammed him at his business, seeks \$50M*, ABC NEWS (Sep. 27, 2025), <https://abcnews.go.com/US/79-year-us-citizen-claims-ice-agents-body/story?id=125978834>.

ICE's lack of transparency – and refusal to acknowledge Congressional oversight letters – has made it difficult for Congress to assess the breadth of this impact. However, the constant drumbeat of news reports from around the country, detailing the raids, arrests, and deportation of small business owners, indicate that the leadership incapacitation effect is not confined to any one state or region.⁶⁶ ICE's aggressive immigration enforcement is decapitating small businesses, rendering them unable to function and provide the benefits to local communities for which they are well known.

Cratering Small Business Sales

With fear of ICE raids and abuse rising, brick-and-mortar small businesses – particularly those operated and patronized by immigrants – have suffered cratering foot traffic and sales. This is because immigrant customers of small businesses are staying home regardless of status, for fear of detention and mistreatment by ICE, so there are fewer people to buy goods and services. Tourists are also far less likely to come to the U.S. and patronize businesses here.⁶⁷ These effects are particularly pronounced for immigrant-owned small businesses and small businesses located in predominantly immigrant communities.⁶⁸ Additionally, reports have surfaced that undocumented immigrants are spending less of their earnings, more generally, to hedge against any potential future apprehensions and expulsions.⁶⁹ America's main streets are losing valued customers because of ICE's campaign.



⁶⁶ ILL. HISPANIC CHAMBER OF COM., *supra* note 64; see, e.g., Eric Rosane, *ICE to deport Tri-Cities father, business owner after arrest at immigration interview*, TRI-CITY HERALD (Jun. 17, 2025), <https://www.tri-cityherald.com/news/local/article308777510.html>; Dan Snyder & Will Kenworthy, *New Jersey leaders rally around Haddon Township restaurant owners arrested by ICE*, CBS NEWS (Feb. 27, 2025), <https://www.cbsnews.com/philadelphia/news/new-jersey-haddon-township-kebab-ice>; Maria M. Silva, *'One of our own': Rhinebeck rallies for Honduran immigrant detained by ICE*, TIMES-UNION (Jul. 22, 2025), <https://www.timesunion.com/hudsonvalley/news/article/rhinebeck-locals-support-honduran-man-arrested-ice-20778778.php>; Sapna Bansil, *Hagerstown nail salon owner freed after 5 months in ICE custody*, BALTIMORE BANNER (Oct. 13, 2025) <https://www.thebanner.com/western-maryland/melissa-tran-hagerstown-ice-custody-ZZLUF4V2RNHY3OVQZGGKIMIZ3E>; Nick Mordowance, *ICE Detains Restaurant Owner Mom for Over Two Months After 21 Years in U.S.*, NEWSWEEK (Aug. 12, 2025), <https://www.newsweek.com/ice-illegal-immigration-detained-kelly-yu-2112371>; Ramon Antonio Vargas, *Trump Burger owner in Texas faces deportation after Ice arrest*, THE GUARDIAN (Aug. 9, 2025), <https://www.theguardian.com/us-news/2025/aug/09/trump-burger-ice-arrest>.

⁶⁷ ECON. POLICY INST., *supra* note 63; IMMIGR. RSCH. INITIATIVE, *supra* note 51.

⁶⁸ E.g., Patricia Caro, *Latino businesses collapse under deportation terror: 'What is happening now is worse than what we experienced during Covid'*, EL PAÍS (Mar. 30, 2025), <https://english.elpais.com/usa/2025-03-30/latino-businesses-collapse-under-deportation-terror-what-is-happening-now-is-worse-than-what-we-experienced-during-covid.html>; Alfonso Galvan, *'They feel targeted': Deportation threat chills business on Minneapolis' Lake Street corridor*, SAHAN J. (Feb. 12, 2025), <https://sahanjournal.com/business-work/minneapolis-lake-street-businesses-immigration-chill>; Joanna Hernandez, *Business Owners in Little Village, Back of the Yards Say Sales Declining Amid Fears of ICE Raids*, WTTW (Jan. 30, 2025), <https://news.wttw.com/2025/01/30/business-owners-little-village-back-yards-say-sales-declining-amid-fears-ice-raids> (on file with the H. COMM. ON SMALL BUS.).

⁶⁹ ECON. POLICY INST., *supra* note 63; reports on file with the H. COMM. ON SMALL BUS.

Abducting Main Street Workers

The fear and terror of ICE raids and arrests not only depress Main Street's customer base, but also its workforce.⁷⁰ This effect could be more intense for small employers owned by immigrants, particularly if they operate in immigrant communities. Committee Democrats have repeatedly highlighted this issue in previous proceedings,⁷¹ and intend to more fully explore the contributions and impacts immigrant small business employees have on America's economy in future work products and publications.

Lowering Capital Access

The incapacitation and expulsion of any entrepreneurs, by definition, decreases the number of individuals willing and able to invest in an American small business.⁷² With fewer people in America with the money and wherewithal to start and support businesses, and with potential investors investing less due to the uncertainty and chaos emanating from the crackdown, it will be harder for the small business owners that remain to find capital to sustain and expand their operations.

The Committee and stakeholders remain concerned that personally identifiable information submitted to the Small Business Administration (SBA) for small business lending program applications and shared with the so-called "Department of Government Efficiency" (DOGE) could be in use to flag immigrant entrepreneurs, their relatives, or their employees for ICE detention.⁷³ DOGE's access to the SBA's systems is occurring as part of a larger effort to spy on critical federal public services, including Social Security, federal employee payroll, and the Internal Revenue Service.⁷⁴ Due to these dynamics, and previous anxieties surrounding information-sharing between public service providers and immigration agents, immigrant entrepreneurs, regardless of status, have – and will be – discouraged from applying for SBA lending services for which they are lawfully eligible, unduly constraining their access to capital.⁷⁵

Given that capital access and lending discrimination are substantial barriers to the success of minority-owned businesses,⁷⁶ it is expected that the capital access impacts of these actions will be much worse for small businesses owned by immigrants of color rather than those owned by immigrants of European descent. The Administration's immigration policies have hurt investment and capital access for America's small businesses – especially those owned by immigrants.

⁷⁰ *Hope on the Horizon: Prioritizing Small Business Growth in the 119th Congress*: Hearing before the H. COMM. ON SMALL BUS., 119th Cong. (Feb. 5, 2025).

⁷¹ *Id.*

⁷² See ECON. POLICY INST., *supra* note 63.

⁷³ Vittoria Elliott, *How Edward 'Big Balls' Coristine and DOGE Got Access to a Federal Payroll System That Serves the FBI*, WIRED (Jul. 30, 2025), <https://www.wired.com/story/edward-coristine-big-balls-doge-federal-pay-roll-system>.

⁷⁴ *Id.*

⁷⁵ See Lyanne Melendez & Juan Carlos Guerrero, *Bay Area restaurant owners find huge success, but could Trump's deportation push end American dream?*, ABC7 NEWS (Mar. 15, 2025), <https://abc7news.com/post/business-owners-undocumented-bay-area-restauranters-chase-american-dream-despite-fear-deportation-trump-administration/16002617>.

⁷⁶ Fairlie, *supra* note 7.

Dangerously Escalating Petty and Hate Crime

The Trump administration's immigration crackdown has also emboldened petty criminals and violent racists across America. These activities encourage petty crime because immigration agents' new practice of refusing to identify themselves and show credentials creates opportunities for other criminals to impersonate ICE personnel, with little effort, and exploit openings to terrorize and steal from their communities. Numerous cases have been documented wherein individuals posing as ICE agents rob small businesses and falsely imprison their employees. For example, on June 8, 2025, one man allegedly entered a Northeast Philadelphia automobile repair shop, identified himself as an immigration officer, zip-tied an employee, and stole roughly \$1,000 in cash.⁷⁷ Similarly, on June 19, 2025, two men also reportedly targeted and mugged Latino residents of Anaheim by impersonating ICE agents.⁷⁸

Trump officials' uninged, cruel, and bigoted rhetoric⁷⁹ in justifying their immigration crackdown has empowered their supporters across the country, empowering them to escalate intimidation and hate crimes against immigrants, people of color, and small business owners from those groups.⁸⁰

With elevated petty and hate crime, brick-and-mortar businesses on America's main streets are forced to close early for safety reasons, made to spend more on security measures, and turned into less attractive destinations for both workers and customers. Committee Members on both sides of the aisle have acknowledged this dynamic and highlighted the threat it can pose to our nation's small businesses.⁸¹



⁷⁷ Jack Tomczuk, *Fake ICE agents exploiting fear, DA says after Mayfair robbery*, METRO PHILA. (Jun. 24, 2025), <https://metrophiladelphia.com/northeast-philly-ice-impersonator-robbery>.

⁷⁸ Jureh Deng, *Two men impersonated ICE agents to rob Latino residents, Anaheim police say*, L.A. TIMES (Jun. 24, 2025), <https://www.latimes.com/california/story/2024-06-24/two-men-impersonated-ice-agents-to-rob-latino-anaheim-residents-police-say>.

⁷⁹ AM. C.L. UNION, *supra* note 50; Benavides, *supra* note 1.

⁸⁰ BRIDGING DIVIDES INST., *Issue Brief: Mapping the Rise in Immigration-Related Demonstrations in Early 2025*, PRINCETON UNIV. (2025), <https://bridgingdivides.princeton.edu/issue-brief-mapping-rise-immigration-related-demonstrations-early-2025> (last visited Aug. 6, 2025).

⁸¹ *Crime On the Rise: How Lawlessness is Impacting Main Street America*: Hearing before the H. COMM. ON SMALL BUS., 118th Cong. (Jan. 11, 2024).

Where Else Could Agencies' Time and Resources Have Gone?

The American Immigration Council has warned that this administration's immigration crackdown would likely cost \$88 billion annually, with the bulk of the costs stemming from their construction of camps in which they can concentrate immigrants.⁸² That is over double the annual lending in the SBA's flagship 7(a) loan program, and more than 277 times the amount appropriated for all of the SBA's business counseling programs combined in the last fiscal year.⁸³ From the One Big Beautiful Bill Act alone, the Trump administration has already allocated nearly \$25 billion to so-called border security activities, including immigration enforcement.⁸⁴

This expansion of government spending, for the harassment and detention of hardworking immigrants, could be used elsewhere. For example, the federal government could be using these resources to protect and expand access to health care and education, and lower everyday costs for Americans. If the Trump Administration was serious about security and public safety, this money could have prioritized criminal investigations and crime prevention. Instead, the Administration is squandering billions of taxpayer dollars to terrorize and harm undeserving entrepreneurs, workers, and customers across the country.

Conclusion

America's main streets are in crisis. Amidst the immigration chaos, small business owners are losing capital, sales, workers, and safety upon which their businesses thrive. ICE is running rampant through American towns and cities, terrorizing, brutalizing, and kidnapping hardworking Americans – including citizens – who form the backbone of the economy. In the wake of this campaign of destruction, communities everywhere have been gripped by fear – hurting business creation, growth, and innovation like never before. Immigrants are more scared than ever to come to America, stay, and contribute to the nation. If these efforts continue or escalate, America will lose the immense benefits that come from the workforce and diversity immigration brings.



⁸² AM. IMMIGR. COUNCIL, *supra* note 2.

⁸³ U.S. SMALL BUS. ADMIN., FISCAL YEAR 2026 CONGRESSIONAL BUDGET JUSTIFICATION & FISCAL YEAR 2026 ANNUAL PERFORMANCE PLAN (May 29, 2025).

⁸⁴ One Big Beautiful Bill Act, Pub. L. No. 119-21, §§ 90003-90007 (2025).

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**Testimony of
John C. Yang
President and Executive Director
Asian Americans Advancing Justice | AAJC**

for

**Hearing on “*Defending Main Street: Combating CCP Threats to America’s
Small Businesses*”**

**United States House of Representatives
Committee on Small Business
March 25, 2026**

Asian American Advancing Justice | AAJC (“Advancing Justice | AAJC”)

submits this written testimony to the House Small Business Committee in conjunction with its March 25, 2026 hearing, “*Defending Main Street: Combating CCP Threats to America’s Small Businesses*.” We share the Committee’s goal of ensuring that America’s small businesses remain secure, competitive, and resilient.

I. Organizational Information

Advancing Justice | AAJC is a national 501(c)(3) non-profit organization founded in 1991 dedicated to advancing civil and human rights for Asian Americans, and to promoting a fair and equitable society for all. Advancing Justice | AAJC fights for our civil rights through education, litigation, and public policy advocacy and serves to empower our communities by bringing local and national constituencies together and ensuring that Asian Americans are able to participate fully in our democracy and the economic life of our nation.

We work closely with our Community Partners Network, a national collaboration of nearly 250 AAPI-serving community-based organizations (CBOs) in 37 states and the District of Columbia to increase regional and local capacity to elevate community voices nationwide.

As a founding member of the Asian Americans Advancing Justice (Advancing Justice) national affiliation, we partner with our affiliates — Advancing Justice | Asian Law Caucus, Advancing Justice | Atlanta, Advancing Justice | Chicago, and Advancing Justice | Southern California — to extend the reach of our programming and enhance the impact of our collective work. Advancing Justice | AAJC a member of the National Council for Asian Pacific Americans, a coalition of 37 Asian American & Pacific Islander national advocacy organizations. We are also a member of the Board of Directors of the Leadership Conference on Civil and Human Rights, comprised of over 200 national organizations working together to promote and protect the civil and human rights of all Americans.

II. Introduction

Asian American entrepreneurs represent one of the fastest-growing segments of small business ownership in the United States. They operate restaurants, retail shops, nail salons, logistics firms, technology startups, and more in communities across the country. Yet, in recent years, many of these business owners have faced heightened scrutiny not because of any wrongdoing, but because of who they are

or how they are perceived. From increased inspections and enforcement actions that impact Asian-owned establishments, to financial de-risking and barriers to capital access, to harassment and violence fueled by xenophobic narratives, the intersection of national security concerns and racial bias has created real and lasting harm.

Recent changes to U.S. Small Business Administration lending policies raise serious concern in the Asian American community. On December 19, 2025 SBA announced new loan eligibility criteria that it would allow up to 5% of a business to be owned by foreign nationals but singled out Chinese citizens as ineligible individuals with little explanation.¹ SBA's new policy notice rescinds SBA's December notice and specifies that all direct and indirect owners of a small business must be U.S. citizens or nationals with principal residence in the United States to be eligible for the 7(a) and 504 programs.² This went into effect March 1, 2026.

While we recognize the intent to prevent undue foreign influence, such policies risk sweeping too broadly if not carefully implemented. Many AAPI-owned small businesses operate within transnational family and investment networks that are both lawful and commonplace in an immigrant-driven economy. Without clear guidance and safeguards, these rules may unintentionally restrict access to critical capital for eligible entrepreneurs based on perceived foreign ties, rather than actual risk.

These concerns must be understood within a broader historical and structural context. Like many communities of color, Asian Americans have faced a long history of explicit, government-sponsored discrimination—from exclusionary immigration laws and restrictions on land ownership, to the incarceration of Japanese Americans and the systematic exclusion of Asian Americans from

¹ SBA Procedural Notice 5000-872050, *Update to SOP 50 10 8 – Citizenship and Residency Requirements* (Dec. 19, 2025), available at <https://www.sba.gov/sites/default/files/2025-12/SBA%20Procedural%20Notice%205000-872050%20-%20SOP%2050%2010%208%20Updates%20for%20Citizenship%20and%20Residency%20Requirement%20%288892ed62-265a-41b6-9e34-f71a94edbe69%29.pdf>

² SBA Policy Notice 5000-876441, *Update to SOP 50 10 8 – Citizenship and Residency Requirements and Recission of Procedural Notice 5000-872050* (Feb. 2, 2026), available at <https://www.sba.gov/document/policy-notice-5000-876441-update-sop-50-10-8-citizenship-residency-requirements-recission-procedural-notice-5000-872050>

economic opportunities and federal programs. These policies disrupted pathways to entrepreneurship and wealth-building, denying equal participation in both American democracy and the nation's economic life. Their effects endure today, reflected in persistent disparities in access to capital, barriers to participation in government programs, and ongoing vulnerability to discriminatory treatment.

Recognizing this history is essential to ensuring that present-day policies do not replicate past harms. As this Committee evaluates responses to concerns involving foreign adversaries, including the People's Republic of China, we urge a balanced approach that safeguards national security while upholding civil rights and economic inclusion. The testimony that follows situates current challenges within this broader context and examines how contemporary national security-driven measures, if not carefully tailored, can contribute to patterns of exclusion affecting AAPI small business owners. As Ranking Member Velázquez emphasized in her opening remarks, efforts to protect small businesses must not inadvertently harm the very entrepreneurs who sustain strong economic growth. AAJC believes that national security and civil rights are mutually reinforcing priorities, and we look forward to working with the Committee to ensure that efforts to defend Main Street are both effective and equitable.

III. History of Discrimination Against Asian Americans in the U.S.

Present-day discrimination against Asian Americans must be understood within the context of the long history of anti-Asian discrimination in the United States. Discrimination against Asian Americans has historically been rooted in the false stereotype of Asian Americans as “outsiders,” “aliens,” and “perpetual foreigners.”³

³ See, e.g., Beth Lew-Williams, *THE CHINESE MUST GO: VIOLENCE, EXCLUSION, AND THE MAKING OF THE ALIEN IN AMERICA* (Harvard University Press, 2021); Claire Jean Kim, “Exclusion/Belonging” in *ASIAN AMERICANS IN AN ANTI-BLACK WORLD*, (Cambridge University Press, 2023), 17-122. Racial stereotyping of Asian Americans reinforces an image of Asian Americans as “different,” “foreign,” and the “enemy,” leading to stigmatization of Asian Americans, heightened racial tension, and increased discrimination. Spencer K. Turnbull, Comment, *Wen Ho Lee and the Consequences of Enduring Asian American Stereotypes*, 7 UCLA ASIAN PAC. AM. L.J. 72, 75 (2001); Terri Yuh-lin Chen, Comment, *Hate Violence as Border Patrol: An Asian American Theory of Hate Violence*, 7 ASIAN L.J. 69, 72, 74-75 (2000); Cynthia Kwei Yung Lee, *Beyond Black and White: Racializing Asian Americans in a Society Obsessed with O.J.*,

Based on this perception, Asian Americans were denied rights held by U.S. citizens and the ability to participate fully as equal participants in American democracy and the economic life of the country.

As early as the mid-19th century, Asian Americans faced discrimination. Chinese workers initially migrated to the United States to work in the gold mines, the agricultural and garment industries, and as laborers building railroads on the west coast.⁴ The latter half of the 19th century marked a rise in anti-Chinese sentiment as Chinese immigrants were scapegoated for the lack of economic opportunity.⁵ Asian immigrants faced significant race-based violence, such as the 1871 massacre of around twenty Chinese residents of Los Angeles.⁶ Yet they often had little recourse, as some states would not allow Asian witnesses to testify against white defendants.⁷ Anti-Asian scapegoating and prejudice resulted in the 1875 Page Act, which barred immigrants deemed as “undesirable” and primarily targeted Asians.⁸ Rooted in anti-Asian sentiment, the bill intended “to stop the flow of the ‘yellow peril’ to American shores.”⁹

6 HASTINGS WOMEN’S L.J. 165, 181 (1995); Note, *Racial Violence Against Asian Americans*, 106 HARV. L. REV. 1926, 1930-32 (1993); see also Thierry Devos & Mahzarin R. Banaji, *American = White?*, 88 J. PERSONALITY & SOC. PSYCHOL. 447 (2005) (documenting empirical evidence of implicit beliefs that Asian Americans are not “American”).

⁴ See Office of the Historian, *Chinese Immigration and the Chinese Exclusion Acts*, <https://history.state.gov/milestones/1866-1898/chinese-immigration> (“Office of the Historian”).

⁵ Chinese immigrants faced a number of discriminatory laws ranging from foreign miner taxes, directed at Chinese gold miners, to anti-Asian business regulations. See Sucheng Chan, *Asian Americans: An Interpretive History*, TWAYNE’S IMMIGRANT HERITAGE OF AMERICA SERIES 46–47 (1991); Gordon H. Chang, *GHOSTS OF GOLD MOUNTAIN: THE EPIC STORY OF THE CHINESE WHO BUILT THE TRANSCONTINENTAL RAILROAD* 38–54 (2019); George Anthony Pfeffer, *Forbidden Families: Emigration Experiences of Chinese Women Under the Page Law, 1875-1882*, AM. ETHNIC HIST. J. 28, 28–46 (1986), <https://www.jstor.org/stable/27500484>.

⁶ John Johnson, Jr., *How Los Angeles Covered Up the Massacre of 17 Chinese*, LA WEEKLY (Mar. 10, 2011), available at <https://www.laweekly.com/how-los-angeles-covered-up-the-massacre-of-17-chinese/>. See generally, Jean Pfaelzer, *DRIVEN OUT: THE FORGOTTEN WAR AGAINST CHINESE AMERICANS* (2008).

⁷ E.g., *People v. Hall*, 4 Cal. 399, 405 (Cal. 1854) (barring testimony from Asian witnesses on ground that they were “a race of people whom nature has marked as inferior, and who are incapable of progress or intellectual development”).

⁸ 18 Stat. 477, 43 Cong. Ch. 141.

⁹ See Pfeffer, *supra* n.3 at 29, 28–46.

Congress then passed the Chinese Exclusion Act and its progeny to deter immigration not only from “undesirables,” but from all new Chinese immigrants. The Chinese Exclusion Act—the first U.S. immigration law to bar a specific ethnic group—effectively prohibited Chinese immigrants from coming to the U.S. for nearly 60 years.¹⁰ The Act also barred all Chinese immigrants from becoming naturalized citizens.¹¹

The Geary Act of 1892 extended the Chinese Exclusion Act of 1882 for another ten years.¹² This bill singled out Chinese individuals, requiring them to obtain “certificates of residence,” and denied them the right to be released on bail upon application for a writ of habeas corpus. Chinese immigrants also could not bear witness in court.¹³ Instead, only a “credible white witness” could testify for them.¹⁴

Although economic security was touted as a reason for the Chinese Exclusion Act, the Act fit within a larger anti-Chinese movement intended to advance a racist agenda for white purity threatened by Chinese immigration.¹⁵ Only in 2011 did the Senate introduce and pass a resolution recognizing the discriminatory nature of the Chinese Exclusion Act and other laws against those of Chinese descent in America.¹⁶ Chinese exclusionary laws paved the way for future immigration laws rooted in anti-Asian sentiment, and the Supreme Court issued harmful precedents by repeatedly upholding challenges to discriminatory laws and its progeny against Asian immigrants, establishing Congress’ plenary power on immigration matters.¹⁷ Later legislation such as the Naturalization Act of 1906,¹⁸ which allowed only “free white persons” and “persons of African nativity or persons of African descent” to naturalize, also survived constitutional challenges from immigrants seeking to overturn discriminatory policies against Asian immigrants. Two key U.S. Supreme

¹⁰ 22 Stat. 58, 47 Cong. Ch. 126.

¹¹ *Id.*

¹² Pub. L. No. 52-60, 27 Stat. 25.

¹³ Maureen Fan, *An Immigrant’s Story: Against a Wall of Exclusion*, S.F. CHRON. (Oct. 4, 2019), <https://www.sfchronicle.com/opinion/article/An-immigrant-s-story-Against-a-wall-of-14494875.php>.

¹⁴ *Id.*

¹⁵ Office of the Historian, *supra* n.2.

¹⁶ S. Res. 201, 112th Cong. (2011) (enacted), *available at* <https://www.congress.gov/bills/112th-congress/senate-resolution/201/text>.

¹⁷ *See, e.g., Chae Chan Ping v. United States*, 130 U.S. 581 (1889).

¹⁸ 4 Pub. L. 59-338, 34 Stat. 596.

Court cases – *Ozawa v. U.S.* (1922) and *U.S. v. Thind* (1923) – held that Asian immigrants were not free white people and therefore, ineligible for naturalized citizenship.¹⁹ The Immigration Act of 1924²⁰ expanded the reach of the Chinese Exclusion Act to prevent citizens from all Asian nations from immigrating to the United States, and these exclusionary laws remained in effect until they were repealed by the Magnuson Act in 1943.²¹ Exclusionary laws changed the face of America. As a result, by 1960, only 877,934 Asian Americans lived in the United States.²² That figure represented a mere half of one percent of the American population.²³

Relying on these discriminatory federal citizenship laws, and invoking the same racist rationales, states began imposing severe restrictions on the ability of Asian Americans and Asian immigrants to purchase real property, often called “alien land laws.” To clothe these laws with a patina of legitimacy, they did not mention Asian immigrants or residents specifically. Instead, they excluded persons “ineligible for citizenship”—as determined by federal law—from property ownership, which encompassed primarily Asian immigrants, who were excluded from citizenship under the discriminatory federal statutes discussed above.²⁴

California enacted the first such law in 1913, which restricted Asian immigrants from owning or leasing farmland. It then tightened these restrictions further in 1920 and 1923, prohibiting even American-born children of Asian immigrant parents or by corporations controlled by Asian immigrants.²⁵ As the California Supreme Court recognized in 1952, “the real purpose [of the alien land law] was the elimination of competition by alien Japanese [sic] in farming California land.”²⁶

¹⁹ See, e.g., *Ozawa v. United States*, 260 U.S. 178, 198 (1922) (Ozawa, a Japanese immigrant who had lived in the U.S. for over 20 years was “clearly ineligible for citizenship” because he “is clearly of a race which is not Caucasian”); *U.S. v. Thind*, 261 U.S. 204 (1923) (affirming cancellation of Indian national’s U.S. citizenship due to fact he was not “free white person”).

²⁰ Pub. L. 68-139, 43 Stat. 153.

²¹ Pub. L. 78-199, 57 Stat. 600.

²² Asian Americans Advancing Justice, Inside the Numbers: How Immigration Shapes Asian American and Pacific Islander communities 20 (2019), https://www.advancingjustice-aajc.org/sites/default/files/2019-06/1153_AAJC_Immigration_Final_Pages_LR-compressed.pdf.

²³ *Id.*

²⁴ *In re Admin. Order 2017-05-17*, 217 Cal. Rptr. 3d 730 (Cal. 2017).

²⁵ *Id.*

²⁶ *Fujii v. California*, 38 Cal.2d 718, 735 (1952)

Many other states followed suit, all of them motivated by anti-Asian animus, including Arizona (1917), Louisiana (1921), New Mexico (1922), Idaho (1923), Montana (1923), Oregon (1923), Kansas (1925), Utah (1943), Wyoming (1943), and Arkansas (1925 and 1943).²⁷ Though Arkansas' 1925 law restricted ineligible aliens, its 1943 law went even further, barring any "Japanese or a descendent of a Japanese [sic]"—including citizens—from "ever purchas[ing] or hold[ing] title to any lands" in the state.²⁸

In 1925, Florida went so far as to amend its constitution to empower the legislature to exclude "ineligible aliens" from the right to "own[], inherit[], dispos[e] [of], possess[], [or] enjoy[] real estate." It was explicitly targeted at Asian—and specifically Japanese—immigrants,²⁹ though both legislators and state newspapers acknowledged there was no need for it.³⁰ The provision was "readopted during the 1968 revision of the Florida constitution."³¹ This provision was not repealed until 2018, when the Florida Constitution Revision Commission proposed a successful referendum to remove the "discriminatory" language.³²

These alien land laws had a tangible economic impact on Asian immigrants in the United States. In California, for example, Japanese immigrants saw a 47% decrease in total acres farmed in 1922 – 1924 as compared to 1918 – 1920, and a 23% decrease in the total number of farms owned by Japanese immigrants living in California during that period.³³ Though these laws were eventually repealed, history now echoes in a slew of alien land laws sweeping through the country, recently enacted

²⁷ Dudley O. McGovney, *The Anti-Japanese Land Laws of California and Ten Other States*, 35 CAL. L. REV. 7, 7-8 (1947), available at <https://www.jstor.org/stable/3477374?origin=crossref>.

²⁸ *Id.* at 8-9; see also *Applegate v. Lum Jung Luke*, 173 Ark. 93, 95 (1927) (invalidating 1925 law as inconsistent with state constitution).

²⁹ *Florida to Vote on Alien Land Law*, THE NEW YORK TIMES 3 (Oct. 30, 1926) ("Its sponsors said the proposed amendment is aimed specifically at Japanese subjects."), available at <https://timesmachine.nytimes.com/timesmachine/1926/10/30/104213831.html?pageNumber=3>.

³⁰ Declaration of Rights Committee, Constitution Revision Commission, *Proposal Analysis* 4 (Dec. 20, 2017), available at <https://library.law.fsu.edu/Digital-Collections/CRC/CRC-2018/Proposals/Commissioner/2017/0003/Analyses/2017p0003.dr.pdf>.

³¹ *Id.*

³² *Detzner v. Anstead*, 256 So. 3d 820, 824 (Fla. 2018).

³³ Masao Suzuki, *Important or Impotent? Taking Another Look at the 1920 California Alien Land Law*, 64 J. OF ECONOMIC HISTORY 125, 130-131 (2004), available at <https://www.jstor.org/stable/3874944>.

or considered in California, New York, Texas, Louisiana, South Carolina, Alabama, and Florida, among others.³⁴

At the same time, states and municipalities targeted other Asian-owned businesses. For example, many states excluded “foreign-born persons from practicing law unless they were eligible for citizenship.”³⁵ As was the case with alien land laws, this restriction disproportionately affected Asian immigrants because federal law barred them from naturalization.

Other efforts were more explicitly racialized. Officials in San Francisco used an 1880 ordinance to shut down Chinese-owned laundry businesses in the city by denying such businesses licenses while granting them to others.³⁶ Around the same time, state and local legislators sought to “eliminate Chinese restaurants from the United States.”³⁷ This “war”—as its proponents described it³⁸—was driven by racism and xenophobia, including moral panics over opium, interracial marriage, and various other “threats” to the morality of white women.³⁹ A variety of states and cities “considered legislation or decrees banning white women from patronizing Chinese restaurants or being employed there.”⁴⁰ Police targeted Chinese restaurants for raids and in some jurisdictions issued decrees barring “young white girls” from entering such establishments.⁴¹ And municipal government officials discriminated against Chinese restaurants in licensing, zoning, and other regulatory enforcement.⁴² Not until the mid-20th century approached did the effort to stamp out Chinese restaurants conclude.⁴³

³⁴ Edgar Chen, *With New “Alien Land Laws” Asian Immigrants Are Once Again Targeted by Real Estate Bans*, JUST SECURITY (May 26, 2023), <https://www.justsecurity.org/86722/with-new-alien-land-laws-asian-immigrants-are-once-again-targeted-by-real-estate-bans/>.

³⁵ *In re Admin. Order 2017-05-17*, 217 Cal. Rptr. 3d 730 (Cal. 2017) (citing *Raffaelli v. Committee of Bar Examiners*, 7 Cal.3d 288, 291 (1972)); see also *Large v. State Bar*, 218 Cal. 334, 335 (1933) (rejecting constitutional challenge to rule and collecting cases); *In re Hong Yen Chang*, 84 Cal. 163 (Cal. 1890) (rejecting admission of Asian immigrant to state bar).

³⁶ *Yick Wo v. Hopkins*, 118 U.S. 356, 359 (1886)

³⁷ Gabriel J. Chin & John Ormonde, *The War Against Chinese Restaurants*, 67 DUKE L. J. 681, 683 (2018), available at <https://scholarship.law.duke.edu/dlj/vol67/iss4/1/>.

³⁸ *Id.* at 683.

³⁹ *Id.* at 698-707.

⁴⁰ *Id.* at 707-13.

⁴¹ *Id.* at 713-16, 723-26.

⁴² *Id.* at 716-23, 726-30.

⁴³ *Id.* at 682-83, 733.

Amidst rising anti-Japanese hysteria during World War II, President Franklin D. Roosevelt issued Executive Order 9066, which authorized the forcible removal of people of Japanese ancestry from their homes and communities in the interest of “national security.” As a result, approximately 120,000 U.S. residents of Japanese ancestry, half of whom were children, were incarcerated in federal detention. This constituted nearly the entire Japanese populations of California (99%), Oregon (87%), and Washington (88%).⁴⁴ About 2,000 people died in incarceration from a series of causes, including infectious diseases, bad sanitation, or even shooting by guards.⁴⁵

Though never accused of any offense, and incarcerated without due process, the Supreme Court nevertheless upheld the laws and curfews implementing Executive Order 9066 against U.S. citizens of Japanese descent in a shameful series of opinions. See, e.g., *Korematsu v. United States*, 323 U.S. 214 (1944); *Hirabayashi v. United States*, 320 U.S. 81 (1943); *Yasui v. United States*, 320 U.S. 115 (1943). Even after incarceration ended, Japanese Americans struggled to recover due to the “very substantial economic losses” they suffered:

Owners and operators of farms and businesses either sold their income-producing assets under distress-sale circumstances on very short notice or attempted, with or without government help, to place their property in the custody of people remaining on the Coast. . . . Homes had to be sold or left without the personal attention that owners would devote to them. Businesses lost their good will, their reputation, their customers. Professionals had their careers disrupted. Not only did many suffer major losses during evacuation, but their economic circumstances deteriorated further while they were in camp. The years of exclusion were frequently punctuated by financial troubles: trying to look after property without being on the scene when difficulties arose; lacking a source of income to meet tax, mortgage, and insurance payments. Goods were lost or stolen. Income and earning capacity were reduced

⁴⁴ Aimee Chin, *Long-Run Labor Market Effects of Japanese American Internment during World War II on Working-Age Male Internees*, 23 J. OF LABOR ECONOMICS 491, 496 (2005), available at <https://doi.org/10.1086/430285>.

⁴⁵ Gisela Perez Kusakawa, *The Korematsu Legacy: “Stand up for what is right!”*, AAJC (Jan. 30, 2020), <https://medium.com/advancing-justice-ajc/the-korematsu-legacy-stand-up-for-what-is-right-4a19c5af491d>.

to almost nothing during the long detention in the relocation centers, and after the war life had to be started anew on meager resources.⁴⁶

Small businesses—one of the “major occupations” of those subject to incarceration—were especially affected. For example, “Seattle evacuees had two hundred hotels which were typically run as family enterprises.” Facing incarceration, however, small business owners were “forced by circumstances to accept low prices or abandon property or . . . to place the property in insecure storage.”⁴⁷

Subsequent research supports the conclusion that incarceration had substantial long-term adverse economic effects. One study concluded that Japanese incarceration “reduced the annual earnings of males by as much as 9%-13% 25 years afterwards.”⁴⁸ Though the federal government eventually—in 1988—paid each survivor of incarceration a modest reparation, the amount provided fell “considerably short of compensating working-age male internees for lifetime earnings losses resulting from the labor market withdrawal induced by the internment [sic].”⁴⁹ Moreover, this did not take into account other financial losses incurred. Though the total value of economic losses is hard to quantify 80 years later, it is almost certainly staggering.

While the United States government incarcerated Japanese immigrants and Japanese Americans, it also excluded most Asians in the United States from the benefits of New Deal programs. For example, most work-relief jobs under the New Deal required U.S. citizenship; yet at the time, Asian immigrants were unable to naturalize and as a result could not participate.⁵⁰ Likewise, the Home Owners’ Loan Corporation (“HOLC”)—a New Deal entity created to refinance home mortgages, promote home purchases, and limit foreclosures—subjected Asian Americans to the

⁴⁶ Comm’n on Wartime Relocation & Internment of Civilians, *PERSONAL JUSTICE DENIED* 117-18 (1982), available at <https://www.archives.gov/files/research/japanese-americans/justice-denied/chapter-4.pdf>.

⁴⁷ *Id.* at 127-28.

⁴⁸ Aimee Chin, *Long-Run Labor Market Effects of Japanese American Internment during World War II on Working-Age Male Internees*, 23 *J. of Labor Economics* 491, 512-515 (2005), available at <https://doi.org/10.1086/430285>.

⁴⁹ *Id.*

⁵⁰ Judy Yung, *UNBOUND FEET: A SOCIAL HISTORY OF CHINESE WOMEN IN SAN FRANCISCO* 185 (1995).

discriminatory practice of redlining, along with Black and Latinx Americans.⁵¹ “Redlining” involved “grad[ing] neighborhoods based on their perceived mortgage-lending risk”⁵²—if someone lived in a neighborhood designated as “high risk,” they could not obtain a mortgage loan, even if they were otherwise qualified.⁵³ The risk assessments were driven in significant part by the racial composition of neighborhoods.⁵⁴ In California, for example, HOLC appraisers marked down neighborhoods with large numbers of Asian Americans, classifying them as “subversive racial elements.”⁵⁵

Asian Americans and Asian American-owned businesses continued to face overt, government-sponsored discrimination well into the late 20th century. For example, a 1970 study by the United States Commission on Civil Rights described the “negative and sometimes hostile attitudes” of government contracting specialists toward minority-owned businesses—including Asian-owned businesses: that they were “inefficient, sloppy, lacking in business acumen and knowledge of government processes, or [were] ‘just a lot of extra bother.’”⁵⁶ One procurement officer even referred to “minority firms” as “leeches.”⁵⁷

IV. Contemporary Anti-Asian Discrimination in Business and Economic Opportunity

Unfortunately, anti-Asian discrimination is still with us today, including specifically in the arena of business and economic opportunity. For example, Asian Americans are less able to obtain business loans, and, when they are able to obtain a loan it tends

⁵¹ See generally Richard Rothstein, *THE COLOR OF LAW: A FORGOTTEN HISTORY OF HOW OUR GOVERNMENT SEGREGATED AMERICA* (2017).

⁵² Ryan Best & Elena Mejia, *The Lasting Legacy of Redlining*, FIVE THIRTY EIGHT (Feb. 9, 2022), <https://projects.fivethirtyeight.com/redlining/>.

⁵³ See Candace Jackson, *What Is Redlining?*, THE NEW YORK TIMES (Aug. 17, 2021), <https://www.nytimes.com/2021/08/17/realestate/what-is-redlining.html>.

⁵⁴ *Id.*

⁵⁵ Ryan Best & Elena Mejia, *The Lasting Legacy of Redlining*, FIVE THIRTY EIGHT (Feb. 9, 2022), <https://projects.fivethirtyeight.com/redlining/>.

⁵⁶ U.S. Comm’n on Civil Rights, *Minorities and Women as Government Contractors* (“The Commission Report”), 20 (1975), available at https://books.google.com/books?id=c8V-h3gRrkC&pg=RA1-PA111&source=gbs_toc_r&cad=2#v=onepage&q&f=false.

⁵⁷ *Id.* at 20-21.

to be on less favorable terms than firms owned by white business-owners.⁵⁸ As a result, Asian American business owners are substantially more likely than white business owners to rely on “personal funds as the primary funding source for their businesses.”⁵⁹

V. Government Contracting

As a 2022 Department of Justice report observed, “discrimination hinders the ability of minority- and women-owned businesses to compete equitably for government contracts,” such as through “(1) discrimination by procurement agencies and prime contractors, (2) exclusion from business networks, and (3) discrimination by bonding companies and suppliers.”⁶⁰

This conclusion finds support not only in numerous studies and reports,⁶¹ but in the lived experiences of Asian American small business owners. A Korean immigrant business owner, for example, reported that his business has had more difficulty obtaining government contracts because “[c]ompared to the majority of white Americans who have had relatives and friends in the government sector and professional fields, we [Asian Americans] don’t have those kinds of relationships.”⁶² He added “language barriers and cultural differences” also make fostering those kinds of relationships more difficult for him.⁶³ Others have encountered discrimination from prime contractors,⁶⁴ language and cultural discrimination,⁶⁵ and double standards.⁶⁶

It is hardly a surprise, then, that Asian American-owned small businesses have long been underrepresented among recipients of government contracts. In 1997, an Urban Institute report concluded that Asian American-owned businesses, like other

⁵⁸ U.S. Dep’t of Justice, THE COMPELLING INTEREST TO REMEDY THE EFFECTS OF DISCRIMINATION IN FEDERAL CONTRACTING: A SURVEY OF RECENT EVIDENCE 30-34 (2022), *available at* <https://www.justice.gov/crt/page/file/1463921/dl>

⁵⁹ *Id.* at 33-34.

⁶⁰ *Id.* at 21.

⁶¹ *Id.* at 21-26 (discussing quantitative research).

⁶² Asian American Institute & Asian American Justice Center, OVERLOOKED: THE ASIAN AMERICAN CONTRACTOR EXPERIENCE 12 (2012).

⁶³ *Id.* at 13.

⁶⁴ *Id.* at 17-18.

⁶⁵ *Id.* at 3.

⁶⁶ *Id.* at 25.

minority population groups, “receive a substantially lower proportion of government contracting dollars than would be expected, given their availability.”⁶⁷ A 2016 meta-analysis by the MBDA observed that minority business enterprises (MBEs) “typically secure a lower number and dollar amount of contracts in proportion to the number of available MBEs in a relevant market.”⁶⁸ Other research, including reports by the Department of Justice, studies conducted by states and municipalities, and other subsequent findings, supports these conclusions.⁶⁹

Another way that government-sponsored discrimination against Asian Americans manifests in contracting and grants is under the guise of “national security.” For example, DOJ’s now-defunct “China Initiative,” spurred federal authorities to profile Chinese-American and immigrant scientists and researchers. In February 2020, FBI Director Christopher Wray called for a “whole-of-society” response to Chinese economic espionage and the threat of so-called “non-traditional collectors” (a euphemism for “spies”) to encompass individuals of Chinese descent, but more specifically, graduate students and researchers.⁷⁰ In a Senate Intelligence hearing on world threats, Chinese students and academics, in particular, were painted as national security threats regardless of any wrongdoing.⁷¹ This rhetoric, and the fixation on “non-traditional collectors” has the effect of focusing on people of Chinese descent, rather than on those committing State-sponsored acts of espionage.⁷² Indeed,

⁶⁷ Maria E. Enchautegui et al., The Urban Institute, DO MINORITY-OWNED BUSINESSES GET A FAIR SHARE OF GOVERNMENT CONTRACTS? x, xi, 14 (1997), available at <https://www.urban.org/sites/default/files/publication/67046/307416-Do-Minority-Owned-Businesses-Get-a-Fair-Share-of-Government-Contracts-.PDF>.

⁶⁸ Minority Business Development Agency, CONTRACTING BARRIERS AND FACTORS AFFECTING MINORITY BUSINESS ENTERPRISES: A REVIEW OF EXISTING DISPARITY STUDIES iii (Dec. 2016).

⁶⁹ U.S. Dep’t of Justice, *supra* n.56 at 16-19.

⁷⁰ Dir. Christopher Wray, Federal Bureau of Investigation, *Responding Effectively to the Chinese Economic Espionage Threat, Remarks at the Department of Justice China Initiative Conference* (Feb. 6, 2020), <https://www.fbi.gov/news/speeches/responding-effectively-to-the-chinese-economic-espionage-threat> (testifying that “I would just say that the use of nontraditional collectors, especially in the academic setting, whether it’s professors, scientists, students, we see in almost every field office that the FBI has around the country... So one of the things we’re trying to do is view the China threat as not just a whole-of-government threat but a whole-of-society threat on their end.”).

⁷¹ Elizabeth Redden, *The Chinese Student Threat?*, INSIDE HIGHER ED (Feb. 15, 2019), <https://www.insidehighered.com/news/2018/02/15/fbi-director-testifies-chinese-students-and-intelligence-threats>.

⁷² George Koo, *Fear of Chinese ‘non-traditional collectors’ strikes again*, ASIA TIMES (Feb. 15, 2019), <https://asiatimes.com/2018/02/fear-chinese-non-traditional-collectors-strikes/>.

economic espionage or trade secret theft prosecutions have declined⁷³ and one in five people of Asian or Chinese descent charged are never convicted of any crime,⁷⁴ lending credence to concerns of “pretextual prosecutions” based on weak evidence and stereotypes that Asians are spies.⁷⁵

According to a recent study of over a dozen former federal investigators, “distrust of people of Chinese heritage [too often] drives decision-making at the FBI and other U.S. security agencies.”⁷⁶ In fact, the now-dissolved Investigations and Threat Management Service (ITMS) of the Department of Commerce (DOC) even engaged in investigations without proper authorization and with little oversight, disproportionately targeting Chinese or Southeast Asian individuals.⁷⁷ And Chinese scientists who work as federal employees and contractors appear to receive disproportionate scrutiny, and innocent familial or financial ties to China result in more denials of security clearances than is the case with respect to ties to any other country.⁷⁸

These investigations have deprived scientists of Chinese descent of funding opportunities by casting a pall of suspicion over them. For example, Mr. Xi, a Chinese American professor wrongfully accused of being a spy due to the FBI’s failure to understand the technology on which he was working,⁷⁹ lost federal grants

⁷³ Eileen Guo, *In a further blow to the China Initiative, prosecutors move to dismiss a high-profile case*, MIT TECH. REV. (Jan. 15, 2022), <https://www.technologyreview.com/2022/01/15/1043319/china-initiative-gang-chen-mit/>.

⁷⁴ *Id.*

⁷⁵ See Andrew Chongseh Kim, *Prosecuting Chinese “Spies”: An Empirical Analysis of the Economic Espionage Act*, 40 CARDOZO L. REV. 749, 755 (2018); see also *Testimony of John C. Yang for Hearing on “Exposing the Dangers of the Influence of Foreign Adversaries on College Campuses,”* U.S. House of Representatives Committee on Education & the Workforce (July 13, 2023), [available at https://edworkforce.house.gov/uploadedfiles/john_yang_testimony_for_house_subcommittee_on_higher_education_and_workforce_development.pdf](https://edworkforce.house.gov/uploadedfiles/john_yang_testimony_for_house_subcommittee_on_higher_education_and_workforce_development.pdf).

⁷⁶ Kim, *supra* n.73 at 755.

⁷⁷ Daniella Diaz, *Report Finds Little-Known Security Unit in Commerce Abused and Investigated Employees of Chinese or Southeast Asian Ancestry for Years*, CNN (July 17, 2021), <https://www.cnn.com/2021/07/17/politics/commerce-department-senate-report/index.html>.

⁷⁸ *Id.*

⁷⁹ Matt Apuzzo, *U.S. Drops Charges That Professor Shared Technology with China*, N.Y. Times (Sept. 11, 2015), <https://www.nytimes.com/2015/09/12/us/politics/us-drops-charges-that-professor-shared-technology-with-china.html>.

because he was under investigation. Prior to his improper arrest and prosecution, Mr. Xi had received nine federal grants—afterwards, in 2019, he had only two.⁸⁰ This is the reality for many Chinese scientists who are forced to tread carefully, wary of the government’s broad scrutiny and easy conclusions of culpability.⁸¹

These policies demonstrate that anti-Asian racism still permeates government decision-making and result in ongoing discrimination in contracting decisions and awarding federal grants.

VI. Discrimination in Government Responses to COVID-19

The federal government’s response to the COVID-19 pandemic exacerbated matters for Asian American-owned small businesses. Asian American small business owners not only had to face the exigencies of the pandemic itself, but did so in the face of preexisting inequities, anti-Asian prejudice and disinformation, and barriers to accessing government assistance. These difficulties led to the failure of many Asian American-owned businesses: Within the first three months of the pandemic, the number of Asian American business owners dropped by 26%—higher than the national average of 22%.⁸²

At the start of the pandemic, Asian American-owned small businesses were especially precarious, and therefore in particular need of government assistance.⁸³ As a Brookings Institution report in April 2020 observed, businesses owned by people of color—including by Asian Americans—were far more likely to face

⁸⁰ Bloomberg Markets & Finance, *How the U.S. is Purging Chinese Americans from Cancer Research* (Jul. 12, 2019), <https://www.youtube.com/watch?v=SBTroGMS-2w>.

⁸¹ *Id.*

⁸² U.S. Dep’t of Justice, *supra* n.56 at 34-35 (citing Robert Fairlie, *The impact of COVID-19 on small business owners: Evidence from the first three months after widespread social-distancing restrictions*, 29 J. ECON. MANAG. STRATEGY 727 (2020), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7461311/>).

⁸³ Sifan Liu & Joseph Parilla, *Businesses owned by women and minorities have grown. Will COVID-19 undo that?*, BROOKINGS INSTITUTION (Apr. 2020), <https://www.brookings.edu/articles/businesses-owned-by-women-and-minorities-have-grown-will-covid-19-undo-that/>; see also U.S. Dep’t of Justice, *supra* n.56 at 26-27 (noting that “minority- and women-owned businesses are . . . less profitable” than “businesses owned by White men,” and that “Asian-American owned firm[s]” specifically were generally less profitable than “a White-owned firm”).

“immediate risk” from the pandemic, as opposed to “near term” or “long term” risk.⁸⁴

Compounding these difficulties was the rise in anti-Asian hate, driven in substantial part by federal officials, including the President of the United States. These officials promoted the conspiracy theory that China intentionally released the virus and that Chinese Americans—and by extension Asian Americans more generally—were responsible for the pandemic. Over the course of months, then-President Donald Trump repeatedly referred to COVID-19—the World Health Organization’s official designation—as the “Chinese virus,” “China virus,” or “Kung Flu,” both on social media and at White House press conferences.⁸⁵ Other federal officials soon joined in. Senator John Cornyn, for example, assigned “blame” to China because it is home to a “culture where people eat bats and snakes and dogs and things like that.”⁸⁶ Statements like these created—according to one paper—“an atmosphere where it [was] socially acceptable to express and act on anti-Asian sentiment.”⁸⁷

As federal officials stoked anti-Asian attitudes, Asian Americans continued to face discrimination in virtually every area of life. A Pew Report published in July 2020 revealed that a majority of Asian adults (58%) felt it was more common for people to express racist or racially insensitive views about people who are Asian than it had been before the COVID-19 outbreak.⁸⁸ And a June 2021 survey found that around 40% of Asian American and Pacific Islander⁸⁹ small business owners had been “blamed for the COVID-19 pandemic.”⁹⁰

⁸⁴ Liu & Parilla, *supra* n.81.

⁸⁵ Angela R. Gover, et al., *Anti-Asian Hate Crime During the COVID-19 Pandemic: Exploring the Reproduction of Inequality*, 45 AM. J. OF CRIMINAL JUSTICE 647 (2020), available at <https://link.springer.com/article/10.1007/s12103-020-09545-1>.

⁸⁶ *Id.*

⁸⁷ Nathan Kar Ming Chan, et al., *COVID-19 and Asian Americans: How Elite Messaging and Social Exclusion Shape Partisan Attitudes*, 20 PERSPECTIVES ON POLITICS 618 (2022).

⁸⁸ Pew Research Center, *Many Black and Asian Americans Say They Have Experienced Discrimination Amid the COVID19 Outbreak* (July 1, 2020), <https://www.pewresearch.org/social-trends/2020/07/01/many-black-and-asian-americans-say-they-have-experienced-discrimination-amid-the-covid-19-outbreak/>.

⁸⁹ We refer to Asian Americans and Pacific Islanders collectively here in the context of data that do not disaggregate these communities, though recognize the myriad diversities among them.

⁹⁰ Asian/Pacific Islander American Chamber of Commerce and Entrepreneurship, *BACK TO BUSINESS: ARE AAPI SMALL BUSINESSES REBOUNDING FROM COVID-19?* (Jun. 2021), available at <https://www.nationalace.org/2021survey>.

Anti-Asian attitudes contributed to economic losses for Asian American-owned small businesses. According to a 2021 survey, 60% of Asian American small business owners expressed worry about “anti-Asian bias or hate crime happening to them, their business establishment or their staff.”⁹¹ Another study concluded that in 2020, “Asian restaurants experienced an 18.4% decrease in traffic (estimated US\$7.42 billion lost revenue . . .) relative to comparable non-Asian restaurants[.]”⁹²

Despite the urgent need for government assistance, access to it remained out of reach for Asian American small businesses.⁹³ One barrier, identified in a study of the greater New York City region, was the lack of available information about government programs in the business owner’s primary language.⁹⁴ Even beyond the New York City region, in-language information is essential for Asian Americans, many of whom have limited English proficiency (“LEP”): as of 2019, over 30% of Asian American adults were LEP, compared to only 1.4% of white adults.⁹⁵ The same study of the greater New York City region found LEP is even more common among Asian American small business owners, such as those self-employed in “taxi and ridesharing, food services, laundry services, nail and beauty salons,” among whom LEP rates range between 66% (taxi and ridesharing) and 79% (laundry services).⁹⁶ The result was that nearly two-thirds (64%) of Asian American small business owners reported that “they did not have enough information about COVID-19 in a language they could understand.”⁹⁷

Government outreach also fell short because its reliance on “traditional communication chains such as Business Improvement Districts or Chambers of

⁹¹ Ahyoung Kim, et al., Asian American Federation, SMALL BUSINESS, BIG LOSSES 17 (2021), available at https://www.aafederation.org/wp-content/uploads/2021/05/Small_Biz_Survey.pdf.

⁹² Justin T. Huang et al., *The cost of anti-Asian racism during the COVID-19 pandemic*, 7 Nature Human Behaviour 682 (2023), available at <https://www.nature.com/articles/s41562-022-01493-6>.

⁹³ Kim et al., *supra* n.89 at 10.

⁹⁴ *Id.* at 11.

⁹⁵ Jennifer M. Haley, et al., Urban Institute, MANY ASIAN AMERICANS AND NATIVE HAWAIIAN/PACIFIC ISLANDER ADULTS MAY FACE HEALTH CARE ACCESS CHALLENGES RELATED TO LIMITED ENGLISH PROFICIENCY 1 (Dec. 2022), available at <https://www.urban.org/sites/default/files/2022-12/Many%20AANHPI%20Adults%20May%20Face%20Health%20Care%20Access%20Challenges%20Related%20to%20Limited%20English%20Proficiency.pdf>.

⁹⁶ Kim et al., *supra* n.89.

⁹⁷ *Id.* at 11.

Commerce” failed to reach many Asian American business owners. According to one survey, 93% of Asian American small business owners “were not members of either a BID or Chamber of Commerce.”⁹⁸ For example, in Philadelphia, one Cambodian restaurant owner said that “[i]nformation that is needed for survival, or information that is needed for economic stability, comes to our community too late.”⁹⁹

As a result, Asian American small businesses were significantly underrepresented among those receiving federal assistance, including via the Paycheck Protection Program (“PPP”). One analysis of PPP data found that “businesses located in majority-Asian American neighborhoods were less likely to receive PPP loans”: in ZIP codes with “40 percent or more Asian American residents,” around 57% of businesses received PPP loans; in ZIP codes with 40 percent or fewer Asian American residents, 68% of businesses received PPP loans.¹⁰⁰ Another analysis observed that in New York City, the ZIP codes where Asians constituted the largest share of the population received fewer PPP loans in 2020 than did other parts of the city; those same ZIP codes also saw relatively little assistance from the second round of PPP loans in 2021.¹⁰¹ Moreover, “businesses in heavily-Asian zip codes—such as taxi services, restaurants, and beauty salons—tended to get less money” from PPP as compared to other areas.¹⁰²

VII. Conclusion

American democracy and the American economy work best when all can participate, both legally and practically. Unfortunately, Asian Americans have faced two centuries of exclusion from these pillars of American life. The severity of that discrimination has ameliorated over time, but continues to this day, as do the effects of the harm already done.

⁹⁸ *Id.*

⁹⁹ Jack Tomczuk, *How PPP loans missed the mark with Philly’s Southeast Asian business owners*, METRO PHILADELPHIA (Oct. 27, 2022), <https://metrophiladelphia.com/ppp-loans-philadelphia-southeast-asian-business-owners/>.

¹⁰⁰ Kim et al., *supra* n.89.

¹⁰¹ Amy Yee et al., *New York’s Once-Thriving Asian Businesses Struggle to Recover from 4,000% Unemployment Spike*, Bloomberg (Oct. 28, 2021), <https://www.bloomberg.com/graphics/2021-nyc-asian-american-recovery/>.

¹⁰² *Id.*

To properly remedy past harms and to ensure an end to present discrimination, there must be a full accounting of, and conscious effort to address, both. The Small Business Administration's 7(a) and 504 programs are important steps to that end, providing essential assistance to Asian American and other minority-owned businesses.

Statement of Rep. Derek Tran
House Committee on Small Business
“Defending Main Street: Combatting CCP Threats to America’s Small Businesses”
Wednesday, March 25, 2026 at 10:00 A.M.
2360 Rayburn House Office Building

Thank you, Mr. Chairman and Madam Ranking Member, for holding today’s important hearing, and thank you to our witnesses for being here today.

As a member who represents Southern California—home to one of the most diverse and globally connected economies in the country—I hear directly from small businesses that are navigating real challenges tied to our economic relationship with China. They are facing growing challenges related to intellectual property theft, unfair trade practices, and an overreliance on supply chains that can be disrupted or leveraged for strategic advantage.

For example, China has created several chokepoints in the pharmaceutical supply chain. They export one-fifth of the world’s antibiotic exports and half of the antibiotic ingredients. If a natural disaster struck, or if the Chinese Communist Party (CCP) decided to withhold ingredients for geopolitical reasons, the effects would ripple through every U.S. hospital, pharmacy, and pediatric practice within weeks - including many small businesses. Large corporations may be able to stockpile or invest elsewhere, but small businesses have a harder time mitigating the risks posed by the CCP. It is harder for them to diversify production, or to access sophisticated legal resources to combat IP theft.

That is why I have worked to find bipartisan solutions. Just last week, I introduced the bipartisan *Combating CCP Influence Act*, which would give Congress a better look at the CCP’s foreign malign influence and its implications for our national and economic security. Another bill I led would help small businesses protect against intellectual property theft by foreign entities like the CCP. These bills will help us both understand the full scale of the risks and give our entrepreneurs the resources to navigate around them.

As we talk about protecting Main Street America, we must stay focused on the actions of the communist Chinese government, not on people, not on ethnicity, and not on the Asian American community which is deeply woven into the fabric of this country.

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