

NO MAN'S LAND: MIDDLE-MARKET CHALLENGES FOR SMALL BUSINESS GRADUATES

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WORKFORCE
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THURSDAY, APRIL 26, 2018

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,
SUBCOMMITTEE ON CONTRACTING AND WORKFORCE,
Washington, DC.

The Subcommittee met, pursuant to call, at 10:22 a.m., in Room 2360, Rayburn House Office Building, Hon. Steve Knight [chairman of the Subcommittee] presiding.

Present: Representatives Knight, Comer, Norman, Evans, Murphy, and Lawson.

Chairman KNIGHT. This hearing is called to order.

Again, I thank our witnesses. I look forward to your testimony.

We are here today to continue examining the challenges facing advanced small or midsize businesses. To start, it is important to recognize the critical, yet undervalued, role midsize firms play in the national economy. Midsize firms are significant job creators and foster much needed competition for industry leaders. The benefits they bring to the economy are similarly applicable to Federal procurement systems.

Unfortunately, midsize contractors, particularly emergent or newly graduated firms face a dilemma. They are no longer eligible to compete for small business government contracts, yet must compete against companies across the entire middle-market spectrum, which can consist of companies many times their size, up to and including the titans of industry.

Firms facing this daunting prospect end up considering the following choices: First, to compete in the open market against competitors in a different weight class. Secondly, to sell their companies to large firms, resulting in net job losses to the economy. Or third, to reiterate their business models to focus on subcontracting which inhibits growth. Or deliberately limit their progress so they remain small, and therefore, eligible for small business set-aside contracts.

None of these options promote economic growth, spur job creation, or foster competition.

Part of the problem that we have is little information about what happens after these companies are no longer considered small. Because there is no requirement to track the path of these formerly small firms, Congress cannot fully assess how effective the Small Business Administration's contracting programs have been in preparing small business to engage in the open marketplace.

In addition, Federal procurement strategies are evolving in ways that make competition increasingly difficult for small and emergent midsize firms. However, we begin this conversation with a clear understanding that our primary responsibility is to small businesses. We must take the greatest care to uphold and protect small businesses' ability to compete and succeed.

I hope through the testimony of our witnesses that we discover ways to ensure the sustainability of small firms as they continue to mature without unduly harming existing small businesses.

I now yield to the Ranking Member, Ms. Murphy, for her opening statement.

Ms. MURPHY. Chairman Knight, thank you. Thank you for holding today's important hearing.

You know, Congress has created numerous Federal lending programs, set asides, and tax preferences designed to help small businesses succeed. However, the advantages conferred by these programs have led to an ongoing debate about the proper definition of a small business and what small business size standards should be used to determine eligibility for these initiatives.

Size classification is especially important for firms that seek SBA loans, technical assistance, and Federal contracts. And defining a small business has proven to be a challenging endeavor. While one definition may work for a business in one context, it may be unsuitable in another. For instance, what works for a manufacturing company in California might not be appropriate for a tech startup in Florida.

On numerous occasions, the SBA has proposed a comprehensive revision of its size standards. However, it remains critical for policymakers to engage directly with stakeholders about any potential revisions and their impact on middle market businesses. That is, firms that have grown out of their small size status but are not considered large, billion dollar enterprises.

This hearing gives us an opportunity to better understand how well small business size standards are working in practice, and the challenges that advanced small and midsize businesses are currently facing, especially as it relates to Federal procurement. For example, midsize businesses are too large to qualify for small business set-aside contracts; yet, they must compete on the full and open marketplace against billion dollar firms.

Reports suggest that midsize firms have limited options. Those that forego in competing in full and open markets often settle for subcontracting opportunities or decide to sell their company at a devalued rate. Access to Federal contracting opportunities is critical for small and midsize firms and essential to job creation and economic growth.

While increasing competition for Federal contracts is a bipartisan goal on this Committee, we must consider whether revisions to the small business definition will prove to be insufficiently inclusive or overly inclusive of midsize firms to the detriment of small businesses.

On the one hand, advanced small and midsize firms that are excluded from the small business definition are often barred from participating in some small business contracting programs. On the other hand, if a size standard were to become overly inclusive,

businesses that would otherwise be considered large would be able to compete in these programs, depriving small businesses of contracting opportunities.

So today, we will hear from multiple industries that have been affected by the standards in place as of October 2017. I want to be clear that the purpose of today's hearing is not to advocate for one size standard over another, but rather to better understand the industry perspectives and ways in which we can encourage as much competition in the Federal marketplace as possible.

I thank all the witnesses for their attendance and look forward to hearing your insight on this issue.

Thank you, and I yield back.

Chairman KNIGHT. Okay. Thank you very much.

If Committee members have an opening statement prepared, I ask that they be submitted for the record.

Now, I would like to take a moment to explain the timing. You have 5 minutes for your opening statement. When it goes yellow, that means you have got a minute, and when it gets red, start to round it up. Again, my apologies for being late.

I would like to now formally introduce our witnesses.

Our first witness is Mr. Stephen Ramaley. He is an experienced government contracts lawyer and a subject matter expert on Federal procurement matters. Mr. Ramaley has prosecuted and defended bid protests before the U.S. Court of Federal Claims, Executive Branch agencies, and the Government Accountability Office. We welcome you and look forward to your testimony.

Our second witness is Ms. Lisa Firestone. Ms. Firestone is president owner of Managed Care Advisors, Inc., a woman-owned small business based in Bethesda, Maryland. Managed Care Advisors, or MCA, provides an array of healthcare consulting services to various public and private customers. Both the customer and Ms. Firestone have won a number of distinguished accolades in the past several years. Ms. Firestone is also the chair of the Board of Directors of Women Impacting Public Policy and will be testifying in that capacity today. Thank you very much for being here.

Our third witness is Mr. Mehul Sanghani. I got it. Mr. Sanghani is the chief executive officer and founder of Octo Consulting Group based in Reston, Virginia. Octo Consulting delivers complex IT strategies and business transformation engagements for global 100 corporations and Federal Government agencies. Over the last decade, Mr. Sanghani has grown the firm from an 8(a) certified small business into a successful midsize IT consulting firm. We welcome you and look forward to your testimony.

Now, I would like to yield to the Ranking Member to introduce Ms. Griffin.

Ms. MURPHY. Thank you.

It is my pleasure to introduce Ms. Eminence Northcutt Griffin. Ms. Griffin serves as the director of Federal Procurement and Counsel for the Information Technology Alliance for the Public Sector (ITAPS), a division of the Information Technology Industry Council where she works to develop policy and advance the interests of the IT sector as it relates to Federal procurement. Prior to joining ITAPS, Eminence spent more than 6 years as the procurement counsel on the House Small Business Committee, so welcome

home. A proud Red Raider, Eminence, earned a Bachelor of Arts in History and Political Science from Texas Tech University and a JD from St. Mary's University School of Law. Welcome, Ms. Griffin, and thank you for testifying today.

Chairman KNIGHT. Thank you very much.

And now, Mr. Ramaley, you are recognized for 5 minutes.

STATEMENTS OF STEPHEN P. RAMALEY, ASSOCIATE MILES & STOCKBRIDGE; LISA FIRESTONE, PRESIDENT & CHIEF EXECUTIVE OFFICER, MANAGED CARE ADVISORS INC.; MEHUL SANGHANI, CHIEF EXECUTIVE OFFICER; OCTO CONSULTING GROUP; EMINENCE N. GRIFFIN, COUNSEL AND DIRECTOR OF FEDERAL PROCUREMENT INFORMATION TECHNOLOGY ALLIANCE FOR PUBLIC SECTOR (ITAPS); INFORMATION TECHNOLOGY INDUSTRY COUNCIL

STATEMENT OF STEPHEN P. RAMALEY

Mr. RAMALEY. Good morning, Chair Knight, and Ranking Member Murphy. I want to thank you for the opportunity to testify on this important topic.

My name, as Chair Knight indicated, is Steve Ramaley. I am an associate attorney in the Government Contracts Law practice group at Miles and Stockbridge, P.C. However, today I am not testifying on behalf of the firm or any of our clients; I am here on behalf of the 800-member Montgomery County, Maryland, Chamber of Commerce, and as an active member of its GovConNet Council. The council meets monthly to tackle Federal contracting issues.

In the Federal contracting marketplace, as of 2018, there are approximately 1,700 medium or midsize companies denied by Bloomberg as firms with \$25 million to \$500 million in annual revenue. That compares to roughly \$118,000 small businesses, and 110 vendors who are large with annual revenues in excess of \$500 million. So midsize vendors account for only 1.5 percent of all vendors to the Federal Government. And actually, if you take that number down to exclude any midsizes that receive set-aside dollars, that number shrinks to about 325 total vendors, which is only approximately 0.3 percent of all Federal contractors.

So you stated the problem quite succinctly. As a small business becomes larger, it is inevitable that the business owners will face a choice—grow beyond the small business programs to compete with large companies, stay small, sell the business, or go out of business. Unfortunately, the Chamber's experience is that more and more firms are being forced to make those latter choices—stay small, sell, or go out of business. Graduated firms are having trouble competing against established larger companies.

The SBA's size standards define a company's edibility for the small business programs. Currently, the highest revenue standard is \$38.5 million, and is applicable to firms in industries such as financial services and aerospace engineering. A business in those industries cannot have more than \$38.5 million in annual receipts averaged over the previous 3 years to qualify as small.

In brainstorming how to help midsize companies compete, the Chamber's GovConNet Council, which is comprised of practitioners and business owners involved in government contracting, concluded

that a major cause of the “no man’s land” is that small firms are becoming large too quickly.

Government contractors experience a unique pattern in their growth. Revenue growth can be mercurial, sometimes hovering in the single digits and then exploding over 2 or 3 years. This pattern of sudden growth is increasingly common because of the government’s more frequent use of large contract vehicles under which contractors can be awarded huge task orders. It is not unusual for a contractor to win a single task order that on its own bumps the contractor out of the small business programs.

So this leads me to the Chamber’s first recommendation: change the SBA formula for small business eligibility. Our proposal is to allow companies to look back 5 years rather than 3, and choose their lowest 3 years for purposes of calculating size eligibility. The Chamber’s GovConNet Council believes that this change would give larger small businesses more runway to adjust to their rapid growth but would still protect the smaller businesses under the various SBA programs.

So the rationale behind this proposed change can be stated pretty simply: competitiveness takes time to build. Revenue is not an indicator of present competitiveness; it is an indicator of future competitiveness. Firms need time to recruit talented employees, develop their intellectual property, and build infrastructure and past performance to compete at the next level. Moving from a 3-year lookback to the lowest 3 in the last 5 would allow more time to adjust to the full and open marketplace.

In addition to our lowest 3 in the last 5 proposal, the Chamber is offering another measure. We propose allowing companies to subtract independent research and development expenses from total revenue for size determination purposes. This change would support the government’s initiative to stimulate technological and biomedical innovation and would allow companies to continue to pursue and develop new products and processes without penalty. Currently, firms who invest in R&D often do so at the expense of their present competitiveness. For firms that the costs were becoming large, every revenue dollar counts and must be brought to bear to help win the next contract award, which will maximize revenue streams to support that company while it transitions to full and open.

This dynamic effectively discourages R&D investment. Allowing a firm to subtract its R&D expenses as defined by the IRS from its size receipts would not only support innovation, but it would also remove one barrier to small business contractors investing in their own futures.

Let me wrap up this testimony by summarizing what the Chamber believes to be at stake here. Small businesses programs exist to ensure supplier diversity that spurs innovation and guards against supplier consolidation and noncompetitive pricing. And of course, as Chair Knight indicated, small businesses produce a lot of jobs. Perhaps the majority of American jobs. With our proposals, we want to facilitate success, however, not cause it. We recognize that each company must succeed on its own merit. However, without a greater number of firms crossing the “no man’s land” to com-

pete with large businesses, the Federal contractor ecosystem will suffer.

We believe our proposals move us in the right direction, but no doubt, there are even more measures that could be taken. We look forward to working with this Subcommittee, and I sincerely thank you for your time, your attention to this matter, and for your invitation to participate today.

Chairman KNIGHT. Thank you very much.

Ms. Firestone, you are recognized for 5 minutes.

STATEMENT OF LISA FIRESTONE

Ms. FIRESTONE. Good morning, Chair Knight, and Ranking Member Murphy.

As you introduced me, I am Lisa Firestone, president and CEO of Managed Care Advisors. We are a health services company located in Bethesda, Maryland, and Lake Mary, Florida. I am testifying today as you said on behalf of Women Impacting Public Policy (WIPP), as chair of their Board of Directors. WIPP is a non-partisan, public policy organization that advocates on behalf of women entrepreneurs.

Let me give you a little bit of background on my company. We were established in 1997 and began as a boutique healthcare consulting company specializing in employee health benefits, managed care, and workers' compensation. Today, we are the leading provider of Federal workers' compensation case management services, currently operating in all 50 states and all U.S. territories. How we transformed from a four-person consulting company to a thriving Federal contractor with more than 120 employees has been long, difficult, and very fulfilling.

In 2003, my company was asked to come and work on a congressionally-mandated study to assess the feasibility of applying industry best practices for managing work-related injuries and illnesses for employees who were covered under FECA. This initial introduction to Federal contracting was a turning point for my company. We identified a market with unmet demand, we designed a path forward for meeting that demand, and learned very quickly that we had a lot to learn about government contracting.

In 2005, we were awarded our first government contract as part of a joint venture. Since winning our largest contract to date in 2007, which was \$53 million, we have experienced double-digit growth year over year. Where double-digit growth has always been a source of pride, we are now facing the reality that if we have a year that exceeds 36 percent growth, that will take us from small to midsize, requiring us to reinvent ourselves in order to continue to grow and remain relevant in the Federal market.

With that said, I feel my company is a poster child for the issue that we are discussing today. The size standard for our company is \$15 million. We currently represent 16 Federal agencies with the average size of our contracts ranging from \$1.5 million to \$53 million, with annual task orders averaging about \$1.2 million. It is not hard to see how a company like mine will, and can exceed the size standard relatively quickly.

We are now at a crossroads. Our executive team has spent significant resources putting together a plan to survive in the Federal

midsize world. I am loathe to restrict my growth to stay in the small business program. It runs counter to my entrepreneurial instincts, and it certainly is not good for the economy or the thousands of injured Federal employees who count on us every day to support their recovery and return to work.

The reality is that there is, as everybody has said, there are limited choices for companies like mine. I acquire or I get acquired. I join forces with a large contractor as a subcontractor when they have existing contracting vehicles. Or I revamp my marketing sales strategy, including one important point—how am I going to maintain contracts that have been small business set asides in the past?

It seems to me that the Federal government should seek to keep businesses like mine as contractors. We pound our technical and contracting expertise to fit the needs of Federal Government. We have the infrastructure and resources in place to support it, and we have very successful past performance.

The topic of size standards and the great abyss between small and large is frequent discussion among the members of WIPP. On one hand, the Federal Government encourages us to grow, but on the other, policies restrict that growth. WIPP is a partner in the Montgomery County Chamber of Commerce Pathway to Growth Initiative as described by Mr. Ramaley, and as they said, these two modest proposals will give companies like mine greater opportunities for successful and sustained transition to midsize firms. WIPP represents companies of all sizes who are competing in the Federal market, and I do not believe that these changes we are proposing today will take away any opportunities from the smaller companies. If anything, these changes will provide great growth potential.

I hope the Committee will also look at the NAICS code size review that the SBA is about to embark on. As I said, I have a \$15 million size standard. While that might sound like a big number, it is not keeping up with the size of government contracts and task orders. I urge you to examine whether these SBA size standards will allow small businesses to compete for single and/or multiple award contracts (MACs) and become midsize contractors.

Last year, Senators Ernst and Gillibrand championed a study that required SBA to analyze small business participation in multiple award contracts, and we look forward to seeing that.

To conclude, women-owned businesses like mine have continued to grow and post impressive numbers. We are a strong economic force in the United States and increasingly in the world. More than 36 percent of all businesses are women-owned and are growing at 4 times the rate of male-owned businesses. In 2016, we created 8.9 million jobs and generated \$1.6 trillion in revenue. Despite this contribution, these businesses are still 21 percent less likely to get government contracts. Let's work together to make sure we reward growth and not stifle it. If we solve this problem, we will continue to create jobs, increase our contribution to the economy, and maintain a strong industrial base.

Thank you so much for having me here and letting me represent women-owned businesses who have a voice in this important hearing.

Chairman KNIGHT. Thank you very much.

And Mr. Sanghani, you are recognized for 5 minutes.

STATEMENT OF MEHUL SANGHANI

Mr. SANGHANI. Terrific. Good morning, Chairman Knight, Ranking Member Murphy, and members of the Subcommittee. Thank you for the invitation to appear today.

My name is Mehul Sanghani, and I am the founder and chief executive officer of Octo Consulting Group, a nationally recognized and award-winning technology solutions and management consulting firm located in Northern Virginia. It is a privilege and an honor for me to share my views on how we can encourage entrepreneurship and growth amongst small and midsize contractors.

Before I begin, let me state that my comments are my own and I am not speaking formally on behalf of my company.

I founded Octo Consulting Group in 2006 with a focus on providing cutting-edge technology solutions and consulting services to the Federal Government. We grew from being a subcontractor to large prime contractor in our early days, to now what we feel is an award-winning firm that today employs over 400 employees and performs as a prime contractor on 90 percent of its work for agencies all over the Federal Government.

Aside from our hard work in innovation and technology, this growth was made possible by Octo's participation in set-aside programs like the 8(a) program. Now we are beginning to try to pass on what we have learned through the SBA Mentor-Protégé program. Through these programs, I am acutely aware that many small businesses struggle to compete with large, multi-billion dollar companies once they outgrow their size status and lose small business protections. Once a small business has exceeded its primary size standard, which can be as low as \$15 million in annual revenue for consulting services, it is no longer entitled to participate in small business programs and is then considered a mid-tier company competing against the largest businesses in the government contracting market. Mid-tier companies are no longer afforded the preferential protections enjoyed by small business government contractors. They instead must directly compete for prime contracts with these multi-billion dollar firms, such as Lockheed Martin and General Dynamics. Worse still, mid-tier businesses are no longer attractive subcontracting partners because they cannot help these large, oftentimes billion dollar contractors meet their subcontracting quotes and targets for small business participation.

Small businesses is on the verge of graduating from the program often choose between two choices—be acquired by a large business or attempt to compete with those large businesses. Should a small business choose to try to continue to grow and compete with those large businesses, certain policy changes would aid them in this endeavor.

One, eliminate the trend towards quantitative competition's self-scoring based on the number or size of contracts a firm has been awarded. And you have seen that in a number of recent GWACs that have been awarded across the government.

Incentivize mid-tier businesses to work together by requiring consideration of each team member's past performance.

And, three, in multiple war contracts, require that small and recently graduated small businesses be able to compete for unrestricted task orders.

In addition to these simple policy changes, I would urge you to reconsider a pilot program that was suggested in a bill called the Small Business Growth Act that created a program for set-aside contractors with fewer than 1,500 employees who otherwise do not qualify as a small business. The GSA would have been able to set aside contracts for these businesses when the contract was not otherwise set aside for small businesses. While I understand there is some skepticism for a new set-aside category, this program would be incredibly helpful to mid-tier companies or small businesses as they make that transition.

So one, eliminate these quantitative competitions based on the number of size or size of contracts a firm has been awarded. And two, incentivize businesses. And then three, in multiple award contracts, require that these small businesses be able to compete.

As the Committee is no doubt aware, billions of dollars in Federal contracts are now awarded through large, government-wide contracts that are held by a smaller number of contractors. For example, in fiscal year 2017, some 6 billion in sales went through GWACs, or government-wide acquisition contracts administered by GSA. Award on such a vehicle can make or break a company and its future success. However, currently agencies assign point scores that account for the number of contracts a firm has performed, the overall size of those contracts, or whether those contracts were cost type or fixed price. Even the best mid-tier firms do not have the same number of contracts as the markets' multi-billion dollar industry leaders.

To preserve competition, I would ask this Committee to consider specific legislature requiring that multiple award competitions not be based on mathematical self-scoring of the number of large contracts a firm has performed, but instead, that these contracts be accessible to mid-tier firms with agencies required to review the quality of the work these firms have performed.

So along the lines of my second recommendation, it is common for mid-tier firms to join forces to compete with the scale of large businesses. However, many solicitations do not allow a prime contractor to benefit from the experience of its subcontractors. This is a huge disadvantage to those mid-tier companies who do not yet have the experience to compete alone against the industry leaders. To fix this issue, agencies should be required to consider the past performance experience and skills of both prime contractors and significant subcontractors, just like we do under the SBA Mentor-Protégé program.

Additionally, small and mid-tier businesses do not have very much prime contracting experiences, but solicitations will often refuse to consider an offer's past performance as a sub. This Committee should consider legislation that requires agencies to consider a firm's prior work as a subcontractor if it is relevant to the prime contract at issue.

And then finally, as you know, small businesses that hold large, multiple war contracts are often not allowed to compete with large businesses and are frozen out when they grow out of the small business size status. To encourage competition and incentivize growth, I suggest that small businesses should be allowed to compete on both set-aside and full and open task orders under these

large multiple award contracts. Further, once the small business graduates, it should be able to stay on the vehicle and compete on any full and open task orders. This small subtle change will give small businesses more opportunities even as they grow into mid-tier firms.

In conclusion, I would like to commend this Committee for considering the plight of firms that graduate from the small business program. Mid-tier companies have much to offer the government contracts marketplace and should be afforded an opportunity to continue to grow. I look forward to your questions.

Chairman KNIGHT. Thank you very much.

And Ms. Griffin, you are now recognized for 5 minutes.

STATEMENT OF EMINENCE N. GRIFFIN

Ms. GRIFFIN. Thank you. Chairman Knight, Ranking Member Murphy, and members of the Committee, thank you for the opportunity to share our perspective on challenges that exist in the Federal marketplace for graduated small businesses.

The IT Alliance for Public Sector represents approximately 90 of the leading innovative government contractors in the IT market. The health of small businesses is important to our members as they utilize these firms not only as subcontractors but many of them sell their products to the government via small business resellers. As such, we understand some of the difficulties that graduated small businesses face as they seek continued participation in the marketplace, and we believe the answer lies in creating a more robust small business contracting program.

As a result of the existing small business programs and goals, we have seen increased dollars awarded to small businesses and more of these firms graduating out of their size. While these are laudable achievements, we rarely look beyond the dollars awarded to determine whether we are growing healthier small businesses that have the tools to succeed in the full and open market once they graduate.

Currently, only the 8(a) business development program monitors the contracts and growth of its participants. However, after a firm's 9 year term ends, the SBA ceases its tracking efforts. The SBA does not track whether small businesses can successfully compete in the marketplace after they outgrow their size standards. However, this information is needed in order to promote sustainable growth in small business participants and for the overall success of the programs themselves.

Further, more could be done to ensure fair distribution of the contracting dollars among a variety of small firms. We have seen agencies set aside increasingly large percentages of their small business dollars to a limited number of NAICS codes, particularly in IT where the percentages are as high as 40 to 60 percent at some agencies. This does not create a healthy industrial base and leaves limited funds and opportunities available for competition among other businesses, particularly those in the middle market.

Also, large set asides have become increasingly common, and as a result, some small businesses are left out of the market while the awardees quickly outgrow their size standard without the ability to compete in the full and open market. This decreases contract op-

portunities for other businesses and reduces the ability to enhance the Nation's industrial and manufacturing base.

While the set-aside process needs improvements, ITAPS recognizes the competitive marketplace is not perfect either. The process has become timely and costly, sometimes preventing businesses from competing with large IDIQs leaving firms shuttered out of the market for periods of 5 to 10 years. We need increased transparency into the process and onramps onto these contracts to help small and middle market businesses compete. Greater transparency is also needed through post-award debriefings to those offerors who lost the contracts to help them become more repetitive.

In a report released earlier this year, Rand Corporation found that better debriefings could help the offeror understand why they lost and potentially prevent protests. Yet, even when a business wins a competition, obstacles remain. Though accelerated payments are helpful for businesses of all sizes, only small businesses are eligible to receive them. A permanent extension of faster payments as proposed in H.R. 5337, the Accelerated Payments for Small Businesses Act, is an easy way to cut some of the red tape out of the acquisition system.

The Mentor-Protégé program also provides an opportunity for healthy growth in small businesses as they open a vast array of learning opportunities in areas like cybersecurity and regulatory compliance. ITAPS believes these programs are vital in building sustainable firms, and middle market businesses have an important role to play in imparting first-hand knowledge on transitioning from small to middle market.

Join ventures or teaming arrangements can also play a role when an acquisition is too big for a small business to fulfill alone. Yet, the fear of affiliation prevents small businesses from seizing these opportunities. As such, the rules governing affiliation should be simplified and modernized to more closely align to the business structures that have developed over the past 3 decades.

Lastly, fraud and abuse continue to permeate the various small business programs, and as a result, small businesses and others are prevented from competing for contracts. Until agencies take real action against these bad actors, fraudulent actions will continue and businesses will lose opportunities to compete.

ITAPS believes the recommendations set forth here and further discussed in my written testimony outline the steps needed to create a healthy and vibrant industrial base across businesses of all sizes.

Members of the Committee, thank you for this opportunity to testify, and I would be happy to answer your questions.

Chairman KNIGHT. Well, thank you very much.

I have a few questions, but then I want to kind of roll down and get everybody's idea of this.

Ms. Firestone, you said something that I think all of us took note of—plan to survive when you are doubling in growth. What is my plan to survive when my business is doing so well? And I think that that kind of hits at the heart of what small business is about. Small business is about making sure that your idea and your hard work is paying off, and paying off means I am probably growing.

I am hiring more people. I am expanding and doing all those things. But then when you start to move out of small business and you might be leaving some of the contracts or the advantages of being a small business, how do I survive in the next step? That is something that should not be. Right? So that is not my question. That is just my statement.

Ms. FIRESTONE. I agree.

Chairman KNIGHT. So I guess my question is, you know, we talk about a small business or a small big or something like that. When you move into kind of a midsize arena, what are your advantages of doing, of being in that arena, and what are your advantages of maybe us saying you are a small business and then the cutoff is here for that certain industry, or you are a large business and you lose all the advantages of being in a small business category?

Ms. FIRESTONE. Well, for us, you know, when I got into government contracting, it was something that I said, okay, here is a demand. And we started to grow. And, you know, your size standard looks pretty far off when you are starting with four people and you are like, yay, I just got \$250,000 this year. So, you know, for us, as we continue to grow, it is not, you know, we learned government contracting. We learned the advantage of small businesses and small business set asides. And the reasons for it. Right? Nobody is handing you a contract. You have to win those contracts. You technically have to be very, very good, and sometimes I think you have to be better than the big companies because the perception of risk.

So for us, as we are growing, you know, as I said, we are about 36—if we have another year—so we have been growing year over year anywhere from 30 percent, 20 percent, 15, 50 percent one year. If we have another year where we grow 36 percent, we are done in our size standard. And for us, you know, it is something where we have to be concerned not only about not competing on future small business awards, but all of the contracts that we have gotten in the past that are small business that may be up for re-compete or may still have 3 years left on them. So what do we do about those customers; right? So that is a big problem.

So I think, you know, looking at some of the things we looked at today, like the lowest 3 out of 5. If you are growing, you know, year over year, you can have a big year or 2 big years and it allows you to grow a little bit and get closer to that size. There is a big gap between a \$15 million company and the infrastructure you have and the ability to compete with a \$100 or \$500 million company. So I think looking at enabling us to stay within that size standard or raise the size standards so that we can compete with the \$100 million, you know, or I, personally, our company, we are right now examining do we sell? Right? And if we look at that, the first question that people come in and ask is how many of your contracts are small business?

Chairman KNIGHT. Well, when you start out a business, obviously, you are not looking at, boy, I could get this contract. I could do this.

Ms. FIRESTONE. Right.

Chairman KNIGHT. Your first thing is, how do I survive, and how do I, you know—

Ms. FIRESTONE. Exactly. Make payroll.

Chairman KNIGHT.—make payroll. But when you are selling, yes, somebody who is going to come in is going to say, okay, well, this actually becomes a liability for me if I am looking at all of the different things on your ledger.

So my second question is, there are multiple award contracts, and this might be for Mr. Ramaley, that do allow streamline on ramping from small business contracts to the unrestricted contract. The General Services Administration comes to mind. Why has this common sense practice not been adopted across multiple award contracts?

Mr. RAMALEY. It is true what you have just said. There are some onramps. We actually, I have been colloquially referring to them as up ramps. It is, you know, when a small business either recertifies or grows out of its size, they get moved up to the large business track. And the problem is it is not mandatory in the FAR. That is a permissive thing that you can set up and a CO might put that in a solicitation. I think Mr. Sanghani hit the nail on the head that making that more mandatory would be a good step. This is not something I have vetted with the chamber. This is my own personal opinion, but I have seen that really hurt the value of those multiple award contracts in an acquisition context and also incentivize people to not want to grow because they know they are not going to be able to use that vehicle anymore and they put all that B&P, the bid and proposal costs into obtaining that contract and then they cannot use it.

And that sort of dovetails with the greater point that this increased use of MACs, multiple award contracts, I do not think that is going away. The government knows they can get a good value by doing that. It is sort of part and parcel to the bundling and consolidation discussion that this Committee I know has had. And we need to probably address the fact that that is not going away and come up with creative solutions to work within the confines of that paradigm. And so our proposals and the ones you have heard today I think help.

Chairman KNIGHT. Thank you.

And now I would like to yield time to the Ranking Member, Ms. Murphy.

Ms. MURPHY. Thank you, Chairman.

Ms. Griffin, in your written testimony you provided a number of recommendations to improve small business contracting programs, including developing and tracking metrics of small businesses and graduated small businesses that compete in the full and open marketplace. How can the Committee implement what you have suggested using the existing databases?

Ms. GRIFFIN. So the Federal procurement database system is able to track each contractor through their D-U-N-S number and you can see what type of contracts they are getting, whether it is set aside. You can even filter down into the type of set aside, whether it be women-owned or small business, if it is a sole source. But you can also see how they are competing in the full and open competition. So if a company is relying solely on set asides, we can use that data to then look and see how we can transition them into full and open competitions, whether that be send them for in-

creased training at small business development centers or women business centers. But the data is there; SBA just needs to pull it out. And they have which companies are enrolled in 8(a), which ones are enrolled in HUBZone. When the Women-Owned Small Business Certification Program is put in place, they will have that data, too. The one question will be service-disabled and solely small businesses that do not have to go through a certification process.

Ms. MURPHY. So what factors other than the type of set aside and job creation stats do you think that we should track?

Ms. GRIFFIN. I think revenue is very important. As you heard here today, revenue is what makes you either a small or a graduated small. And so that is not tracked. You can kind of look at it based on the contracts, but how their fiscal years are calculated, revenue is another important factor.

Ms. MURPHY. Great.

As you know, larger IDIQs and subcontracts have become more prevalent in government contracting. These opportunities are especially attractive for small and midsize businesses looking to expand and grow their revenues. What mechanisms currently exist for small and midsize businesses to win these opportunities, and how do you think they should be improved?

Ms. GRIFFIN. Sorry; me? So I think that there are mechanisms that already exist in how a contract is frame that could provide better clarity to those that are competing, what they need to have. So lowest price technically acceptable, for instance. That is going to favor people that are able to lower their price. So if you move those awards to best value, mid-tier, smaller businesses are able to compete more on the best value because they have that ability to provide better customer service or what have you.

Ms. MURPHY. Great. Thanks.

And then this question is open to the panel. As you know, there is no federally recognized definition of midsize, and a lack of empirical data tracking the trajectory of firms that graduate out of the small size standard. This means that we do not necessarily have a clear picture of the number of jobs that are created by these emergent small firms, and we do not know which industries are contributing to or hindering middle market growth or to the success or failure rate of these firms, et cetera. We just do not have the information. My office has frequently called upon the assistance of Grow Florida, and I do not know, Ms. Firestone, you said you are in Lake Mary, Florida, which is in my district. You might be aware of Grow Florida. It is basically a statewide economic development program focused on assisting second stage growth companies in Florida. But we rely on them for this type of data. Grow Florida is tracking all the information that I listed above, and it has been really instrumental in helping Central Florida identify ways to strengthen our entrepreneurial ecosystem.

Can you elaborate on why it is critical for us to have access to this data at a national scale? And in what way would you suggest that we go about collecting it?

Mr. SANGHANI. So I think one thing that is noteworthy, I am not sure if Mr. Ramaley made reference to it, but there have been some empirical studies that have taken a hard look at not just the definition of the midmarket and how we define a midsize firm, but

also gaining access to information that is publicly available in some of the systems that Ms. Griffin talked about, in FPDS and other data sources that define the size and the scale of the market. When you look at it anecdotally, you know, and in terms of my own experience, this is a burgeoning area of the marketplace in terms of the services that are being delivered. If you look at the marketplace itself, it is a trillion dollar market. At the top, what have you seen? You have seen a tremendous amount of consolidation among some of these million dollar behemoths. The big are getting bigger in order to compete at a scale necessary to capture an even larger share of the marketplace.

And then you have a ton of small businesses, you know, several hundred thousand that compete for what amounts to about 20 percent of the remaining dollars. And then when we look at the mid-tier, I believe there are about 1,500 companies that represent about 25 to 500 million in size that are a significant component of that supply base. So I challenge the Committee in terms of when they look at this marketplace, they look at those trends, I challenge the Committee to look at any other component of the economy where you look at it in terms of your success and how that is tied to your survivability. I am so successful I may not be able to survive going forward. I do not know of many other components of our economy or industries that kind of have that conundrum.

And so when you look at it from the perspective of the size of the market, you know, a trillion dollars, when you look at it from the perspective of what is good for the economy, what is good for the taxpayer, what is good for the jobs of businesses like ours, I do not think you can look at any of those dimensions and say that there is not room for policy to address this challenge going forward.

So again, I will let the other folks on the Committee chime in, but I do believe there is ample data in some of these databases that exist publicly to allow you to not only get a snapshot, but really get a pulse for this issue. And I believe again, if when you look at it anecdotally relative to the sum of the issues and trends at the top of the marketplace, I think what you see is you see an industry that is heavily fragmented and you see an industry where you might be left if you do not look at this from a policy perspective with just 100 businesses that occupy 90 percent of that trillion dollar market, and across any of those dimensions, the economy, the taxpayer, the jobs, I cannot see that being beneficial.

Ms. MURPHY. Thank you, Mr. Sanghani. And also, thank you to the witnesses.

Mr. Chairman, I am really sorry but I have to excuse myself. But thank you all for being here.

Chairman KNIGHT. Okay. We have heard from California. We have heard from Florida. We are going to hear from South Carolina. Mr. Norman, you are recognized.

Mr. NORMAN. Thank you, panel, for taking the time to come.

Mr. Sanghani, I am a small business owner. I run a real estate company. One of the things we try to do and do on a regular basis is get with our customers to ask, what can we do better? What can change? Does the SBA need to reconsider the size requirements and how that is determined in your opinion?

Mr. SANGHANI. I absolutely do. And I believe Ms. Firestone made reference to the fact that there is, you know, perhaps some efforts underway to take a look at the size standards associated with that. The one thing I will say is, you know, from the SBA's perspective in terms of its mission, you know, they have a wide-ranging mission in support of a large community of small businesses. And you know, I think there is ample room for improvement. We have talked about it here from a policy perspective, and I will talk about the NAICS codes in a second. But, you know, they do not have a lot of resources sometimes to address those policy changes. So I did want to state that first and foremost.

But when you look at these NAICS codes, and I believe Senator McCaskill took a hard look at this several years ago, you know, this is an outdated system in many ways for industrial classification. It is the best system that we have perhaps in terms of what legacy historically we have been looking at, but do I think that there is room for reconsideration of whether a system that was established, I believe, in the 1920s is appropriate for determining size? Absolutely. And do I think there is room for consideration of what I have talked about here from a policy perspective is an important component of the industrial base in terms of its contribution to that trillion dollar market and what is happening at the top? Absolutely. There should be an aggressive look at what is appropriate going forward.

Mr. NORMAN. I guess as a follow-up, how would we get specific in implementing that? And this is for the panel. What do you suggest we do to have effective change and to put it in practice?

Mr. RAMALEY. I can address that briefly. Our proposals deal with addressing a range of the problems caused by the current system. So currently, SBA is actually about to undergo their 5-year review of their NAICS code standards, and I think we are all supportive of that review. And likely, that review will result in increasing of size standards for certain industries. Part of the problem that we have identified is not just where the point cutoff is. It is how fast companies are reaching it. It is the idea that they are reaching it so fast that they are not able to take that money and bring it to bear in their own competitiveness by investing and recruiting people. So our proposals are trying to address a slightly different problem than just the size standard being too low. Right? So what we proposed is instead of measuring companies over 3 years of their annual receipts, to measure them over 5 years but actually to choose the 3 lowest of the last 5 so that companies will be able to exclude sort of an outlier boom year and that boom may not actually really reflect their present competitiveness.

We have also proposed a number of things like allowing certain deductions to their annual receipts, such as the R&D expenses, for example. Another group has proposed allowing folks to deduct subcontracting dollars from receipts. These are specific proposals aimed at trying to recognize what a company's true size is and true competitiveness is without throwing everybody and every dollar in the same bucket. Right? So.

Ms. GRIFFIN. And I would also add, I think, I am not sure about the size standard changes that they are making, but I think generally the size standards do not reflect the current marketplace

and how businesses lay out their business plans. I do not know many businesses that do a 3-year business plan. It is 5-year, 10-year projections, et cetera.

And I would also say with regard to Mr. Sanghani's comment about the NAICS codes, the NAICS codes themselves, the various industry classifications, they were never meant to do size standards. They were meant for trade. And so we need to start looking at other ways to differentiate the sectors and industries because I think that is also causing a problem.

Mr. NORMAN. Great.

Ms. FIRESTONE. And I think from a small business standpoint, it is also a matter of business requirements are changing. I know you had a hearing on The Hill yesterday on cybersecurity. The requirements I have to meet and the requirements a large business have to meet are exactly the same. So I think as you look at the size, you also have to look at, you know, I have to invest a million dollars as a healthcare company in cybersecurity, but so does a multi-billion dollar company. So as I look at the size and what we have invested over time, is it really realistic at a 15 million size standard to then take what we have invested and actually be able to fully utilize that?

Mr. NORMAN. Great. I think I am out of time. I yield back to the Chairman.

Chairman KNIGHT. Thank you very much.

And I think that is a good point, Ms. Firestone. We look at some things that small business has to do that large business has to do on the same exact scale. If I have got 200 attorneys on staff and you have got you, because typically the owner of the business is the attorney, the payroll, the everything at some point during the business, you are looking at part of that now I have got to either hire out attorneys, I have got to figure out expertise, or I have got to hopefully draw from somebody inside my company that can help me with this. That does not always happen. So we have looked at that and we are trying to work on that. I think that that is a vital point.

Okay. On to the great state of Pennsylvania, Mr. Evans.

Mr. EVANS. Thank you, Mr. Chairman.

Good morning. This morning I saw the timing release of the Philadelphia Federal Reserve Report on Diversity and Inclusion, and I want to take a moment to read from the letter of the President of the Federal Reserve of that district. He basically said my letter last year was the why. My letter this year is the how. Diversity and inclusion are not add-ons. What he also says is diversity and inclusion have to be deeply ingrained aspects of working culture. It needs to be so fully a part of what we do and who we are that it has its own muscle memory.

I want to start off with that setting the tone for my questioning. It is no coincidence that we have two women testifying on this Committee. So I am going to start off with Ms. Griffin.

You pointed out in your testimony that the only 8(a) business development program does continuous monitoring. Given your familiarity with this program from your work here as a staffer and now in the private sector, if we are writing legislation for other pro-

grams to perform the same type of monitoring and oversight, how would it differ, if at all?

Ms. GRIFFIN. I do not think that it needs to differ. I think that the same type of growth that you want in the 8(a) firm you want in a woman-owned small business, you want in a service-disabled, you want in a HUBZone. And in the business opportunities that 8(a)s have, they have additional availability in partnerships and joint ventures that the other categories do not have. So it is a great program that has built sustainable businesses like my colleague here. So I think the continuous tracking has helped them in their ability to grow.

Mr. EVANS. Ms. Firestone, your business is located inside the beltway in nearby Montgomery County, Maryland. Apparently, it has been able to prosper. I represent Montgomery County, Pennsylvania, just outside Philadelphia. Could you address the role that a small business geographically might play in getting contracts or even being aware if that possibility exists?

Ms. FIRESTONE. Getting Federal contracts?

Mr. EVANS. Yes.

Ms. FIRESTONE. You know, with me—

Mr. EVANS. The location.

Ms. FIRESTONE. Right. I am located right outside the beltway.

Mr. EVANS. Right.

Ms. FIRESTONE. And you know, obviously, being that close to the Nation's capital, you know, you would think that is how I got into government contracting. But I think the real reason I got into government contracting was my technical knowledge in the past. So that is how I actually got in. Somebody called me because they knew I was an expert in case management. However, representing Women Impacting Public Policy, being within the beltway has helped being close to the District of Columbia and to the seat of government, but we represent women all over the country. And I think the key to that is SBA. It is Women Impacting Public Policy. It is the Montgomery County Chamber. It is people that are advocating on behalf of women and other minorities, and really educate us on how do we get into Federal procurement? Why do we get into Federal procurement? So I do not think it is a just around the beltway issue. As a matter of fact, WIPP is growing regionally at an expanding rate for that reason, to make sure that we are representative of the entire country and all the products and service they have to offer.

Mr. EVANS. I do not want to leave out the two gentlemen. Any reaction to what you have just heard? I only have like a minute left.

Mr. RAMALEY. Sure. I will be brief.

I think the need for additional outreach outside the beltway is something that there is a consensus behind. SBA has been doing that through the PTACs and other various mechanisms that they have sprinkled throughout the country to let people know about Federal contracting opportunities. Those efforts could always be strengthened. And I think you would see real returns on it because there is a skew towards the beltway. And that does not need to happen, particularly in 2018. It is a global economy. Lots of online

businesses can even survive with the Federal Government as their customer. So looking elsewhere would be beneficial, I think.

Mr. SANGHANI. I totally concur. I think one of the things in addition to outreach I think is where are the buying centers associated with that industrial base? Our firm has employees in Boston, Atlanta, San Antonio as points of presence. And these are all major buying centers. I have been up to the Naval Supply Center up in Philadelphia outside your district. And so, I mean, it really comes down to these buying centers and their center of gravity and their ability to not only award contracts but award contracts that support the industrial base just outside their door.

Ms. FIRESTONE. Just to add to that, our contract, living in the environment we do, we work in now, we have employees in 30 states. So we are really being able to reach out using technology.

Mr. EVANS. Thank you, Mr. Chairman. I yield back the balance of my time.

Chairman KNIGHT. Thank you very much.

And Mr. Comer, you are recognized for 5 minutes.

Mr. COMER. Thank you, Mr. Chairman. And welcome to the Small Business Committee.

My first question is for Mr. Ramaley. Did I get that right?

Mr. RAMALEY. Ramaley, but do not worry about it.

Mr. COMER. Ramaley. Where I am from we mispronounce everything.

Mr. RAMALEY. That is fine.

Mr. COMER. Regarding your proposal to subtract—if somebody has asked this question I apologize. But regarding your proposal to subtract research and development costs from the revenue total when calculating size, how much do firms typically spend on R&D as a percentage or dollar amount of their total budget?

Mr. RAMALEY. It is a great question. It is actually I think what motivated our proposal in some sense because the answer is right now not a lot. Not a lot is spent by smalls. And that is what we are trying to change a little bit, our perception, and this is admittedly our perception, there is not a lot of data out there on this subject, but folks do not want to spend that money because they need it now. They need to be positioned to survive once they go large, and that means every dollar that comes in needs to be invested in present or near future competitiveness and that means recruitment. That means B&P, bid and proposal costs. So we wanted to sort of piggyback off an already stated objective of the Federal Government to encourage innovation, encourage research and development, but not continue to disincentivize it by punishing firms who spend dollars there.

Mr. COMER. Okay. I am going to attempt this.

Mr. SANGHANI. Sanghani.

Mr. COMER. Thank you. That is what I was going to say.

Mr. SANGHANI. That is right.

Mr. COMER. Yeah. You mentioned that the past performance experience and skills of both prime and significant subcontractors should be considered. What do you mean by “significant” contractors?

Mr. SANGHANI. Well, I think if you have—and again, I think in order to be able to compete against some of the firms that I have

described, I think you kind of have to stand on each other's shoulders to be able to compete at that level. And so I think there are different definitions of what could be considered a significant subcontractor. But from my perspective, anyone performing at least 20 percent of the work on a contract, 20 to 25 percent of the work on a contract I think should be deemed a significant subcontractor. You know, there again, and I think just to follow up on what Mr. Ramaley said when we were talking about NAICS codes, I think when you look at it from the perspective of, you know, are NAICS codes the best way of approaching this, or can you look at employee count as ways to define what is small going forward, I think at the end of the day, you know, when you look at it through the lens of job creation, you know, that may be another way of looking at it. And so there again, if you have firms that are employing, in my case, several hundred, you know, 400 employees, but you are able to combine forces to be considered with another company that is of that size. I think you are able to compete on a more head-to-head basis with some of these companies.

And lastly, when you are looking at it from the perspective of innovation, are you going to be getting innovation from the large behemoths or are you going to be getting innovation from midsize and small businesses? And I think that ties to Mr. Ramaley's recommendation on the R&D side as well.

Mr. COMER. Right. And one of the biggest complaints that I receive, especially with subcontractors trying to bid on governmental projects, big projects in the congressional district is the definition of what is a small business? And I know that is one of the topics of this Committee hearing.

This question is for the entire panel. Do you believe that we need to change the way the SBA determines its size standards?

Ms. GRIFFIN. Yes.

Ms. FIRESTONE. Yes.

Mr. RAMALEY. Yes.

Mr. COMER. What would be a better definition? What would be a better criteria for that?

Mr. RAMALEY. Well, we have proposed, the Chamber of Commerce from Montgomery County, Maryland, has proposed changing the mathematical calculation for how you determine annual receipts. So we are staying within the paradigm of using annual revenue as the basis for calculation; right? But currently, it is an average of the firm's past 3 years of receipts. And we are suggesting that we extend that to no longer be such a narrow period of time. The way businesses grow these days in the Federal marketplace, it is a lot of up and down, particularly a lot of up for a successful firm, and it will kick them out, it will slingshot them literally out of the small business programs into the full and open environment too quickly. So by extending the time period of measurement, you get a truly, more accurate view of their true competitiveness.

Ms. FIRESTONE. I am going to give you a realistic example because I sat and cranked the numbers yesterday on my firm. So as I said in my testimony, if I grow 36 percent in another year, I am done at a \$15 million size standard. Right? But if you can take the lower—and we have grown year over year, but obviously, the bigger you are, the more you are able to grow. If we had the lowest

3 years of 5, it would buy me at least 3 more years and allow me to grow enough and to get that infrastructure in place enough to then compete in what is now a midsize market, or a large market with people who are in the \$100, \$200, \$500 million range. So as I think they need to look at the size standards to see if they really meet today's businesses and what you are buying, I think that is going to take a little bit of time to do, but this other proposal, I think from a realistic business owner sitting here today could help just a tremendous cross section of people. Again, because business is up and down, too. Right? We work for Department of Commerce. We have a census coming up and we are dealing with something that may be a 1 year just huge blip. And if it was not my company and somebody else's, that would immediately knock them out of a program when the next year they are back down to maybe a million dollars.

Mr. SANGHANI. The other thing I offer is what I offered before, is revenue. And it is a little bit of a counter to my colleagues here. Is revenue the best indicator of size? It is certainly, you know, one metric or things like employee headcount, job creation, are they better metrics and rubrics to look at going forward? And I think that is one thing that should be strongly looked at relative to how you define and how you define mid.

The last thing I will point out that should be up for consideration is allowing businesses some sort of transition. You know, and there again, if you look at my recommendation there, what had bipartisan support I believe in 2011, that Small Business Growth Act, you know, measure, and I think that was looking at a pilot program that looked at midsize businesses or set asides for businesses that had 1,500 employees or less. I think you could, by implementing a pilot program, look at the success or lack of success empirically of that program and then decide what makes the most sense from a policy perspective. So try before you implement.

Mr. COMER. Great.

Ms. GRIFFIN. I would just add one thing. Sorry, Mr. Chairman. Is perhaps we need to also start looking at whether government contracting itself needs its own designation because the other small businesses that do not participate in the government contracting marketplace can bring down the overall size standard.

Mr. COMER. That is a good idea.

Sorry I went over time, Mr. Chairman. I yield back. Thank you all very much.

Chairman KNIGHT. Thanks. So I encourage you to be very engaged with us. We do not do hearings to hear you; we do hearings to hear from you and then engage in something that can help. So that is what we are trying to do. That is what we are trying to measure here.

If I go back to Mr. Sanghani—or I am sorry, Mr. Ramaley said 3 out of 5 years. Is that something that we might want to revisit again at some point and say now it has got to be 3 out of 7? Or is that something that you think would stand the test of time? In other words, you know, what happened in the 1920s does not happen today very much. So things have to evolve. But if we are looking at something and we are saying, look, a small business is now being bumped into a midsize business and either being forced to

sell or go out of business or deny contracts, because I am sure that is probably an option, too, that you might say I cannot take that contract, is that something that we might want to revisit at some point, too?

Mr. RAMALEY. Absolutely. Our perspective is that 3 out of 7, straight 5, 3 out of 5, any of those options are better than the status quo. We have landed on 3 out of 5 for now for a couple reasons. One, most contracts last 5 years; right? So there is kind of a neat—well, one contract cycle, if you have got 5 years of receipts under your belt, if after that one contract cycle you are truly large, that is probably the right time for you to be forceful and open.

Chairman KNIGHT. Right.

Mr. RAMALEY. We do not want to be overbroad here because we are genuinely concerned for the smallest of the smalls, and folks who may perceive that, oh, great. Now that more businesses are going to be qualified as small, I may have enhanced competition. So we thought 3 out of 5 was a good balance there because, remember, the purpose of this change, or at least for our understanding, is that present competitiveness is not determined by present revenue. Right? So giving folks a little bit extra runway should not really negatively affect the smallest smalls because those folk really were not significantly more competitive anyway. They were being graduated prematurely.

Our other perception for that, our other understanding was really that the more smalls there are, the more likely COs will be able to set aside contracts because the rule of two, which you guys are familiar with, will be satisfied more often. So the smallest of the smalls will have more opportunities in theory to compete if these changes were enacted, so.

Chairman KNIGHT. Well, let's continue to have that discussion and kind of figure out the balancing act because I do not want, you know, Ms. Firestone, when she is starting her business years ago and she is the smallest of the small trying to get into the marketplace, then be overwhelmed by Ms. Firestone of 2018 because now she cannot compete. And so we kind of have to have that balancing act of if you are a small business, we want you to be able to compete in the small business arena. But if you are a big, big small business and now you are competing with these small businesses, you have grown out.

Ms. FIRESTONE. I think the one thing to consider is that as a small business, when I started out or got in government, I would not be bidding on what I am bidding on today.

Chairman KNIGHT. Sure.

Ms. FIRESTONE. So I think that is a consideration. The other thing is that there are a lot of businesses like mine and I think like yours because we started small and we climbed the ladder and with people like WIPP, it is in our DNA to help the smaller businesses. So we have the small-small Mentor-Protégé program, which I think is helping that. So I think that is a consideration as well. I think it really will help the small-smalls to have those of us who have been through it continue to help them.

Mr. SANGHANI. There again, I think there is, as Ms. Firestone noted, you bid on different things and I think it is certainly at the discretion of the agency, procurement executives, the COs to look

at, okay, this particular contract as we noted, if you do create a pilot program or a specific midsize category, this particular requirement is better suited to that midsize. We are going to set just that particular requirement aside. And then these other requirements are better suited to firms that are 15 million and below and we are going to set that one aside for the smallest of the smalls. There again, I think the benefit of having a program that perhaps is even a pilot program that examines that is it will give you the data and allow you to hear from constituents on what works and what does not work.

Chairman KNIGHT. Well, I agree. And I want to thank Ms. Griffin for bringing up a couple words that always hit us, and that is fraud and abuse and that is not doing the right thing. And the business that is doing the right thing is now incurring all of these costs because they are doing the right thing. And somebody who is swooping in is not. And for them to get a contract or for them to be able to build their business under poor practices or illegal activity is something we should always be concerned in, not just in small business but across the board. And I deal with an awful lot of small businesses, especially in California. Our roofing industry out there is an industry that I work with almost weekly of the poor behavior that happens in that industry. And then you have got the business owner that is trying to make it and trying to win contracts and trying to do the right thing is now being penalized. So, but that is a balancing act, or that is a hard deal, too. And you know that. How many folks do we have out there enforcing? How much enforcement do we do? How much penalties are levied? All of those types of things are difficult. So that is a tough one.

I do believe there is going to be legislation out of this. I do believe that we are going to start to see some ground swell. This is something that is talked about quite a bit. It is talked about because small businesses are the backbone of the economy, and we do not want you to go out of business. We want you to thrive.

So, again, I thank you for your time today. I thank you for your patience. I pride myself on punctuality, and I was not very today.

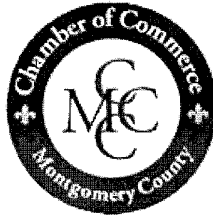
So, I ask unanimous consent that members have 5 legislative days to submit statements and supporting materials for the record.

Without objection, so ordered.

The hearing is now adjourned.

[Whereupon, at 1:33 p.m., the Subcommittee was adjourned.]

A P P E N D I X



Written Testimony of

Stephen P. Ramaley

Associate
Miles & Stockbridge P.C.
McLean, VA

On Behalf of
Montgomery County Chamber of Commerce (MCCC)

Before the
House Committee on Small Business Subcommittee on Contracting
and Workforce

“No Man’s Land: Middle-Market Challenges for Small Business
Graduates”

April 26, 2018

Good morning Chair Knight and Ranking Member Murphy. I want to thank you for the opportunity to testify on this important topic. My name is Steve Ramaley, Associate Attorney in the Government Contracts Law practice group at Miles and Stockbridge, P.C. I am testifying today on behalf of the 800-member Montgomery County, Maryland, Chamber of Commerce (MCCC) and as an active member of its GovConNet Council. The Council meets monthly to tackle federal contracting issues that affect small and midsize firms. Large companies are also an important part of the Chamber membership and they support efforts to assist small and midsize companies to obtain success in federal contracting.

According to Bloomberg Government's "The Mid-Tier Paradox: 2018 Company Report," there is some good news and some not so good news.

The good news is that the number of midsize vendors to the federal government — defined by Bloomberg as firms with \$25 million to \$500 million in revenue — is the highest in five years, totaling almost 1,700. That compares to roughly 118,000 small businesses and 110 vendors who are "large" — with annual revenues in excess of \$500 million. The other good news is that in FY17, federal government spending on midsize companies went up 2.1%.

If you look closely at the data, however, there is some not so good news. First, despite the increase in numbers, midsize vendors still account for only 1.4% of all vendors to the federal government. And second, even though last year saw an increase in midsize spending, this increase came on the heels of an 8.3% decline across the previous three years.

Also, I must note a caveat: Bloomberg defines midsize companies as firms with annual revenues between \$25 million and \$500 million. Since SBA size standards top out at \$35.8 million, Bloomberg's midsize numbers include "big small businesses" as well as those who no longer qualify for set-asides. Bloomberg reports that roughly 23% of federal spending on midsize

companies was made through small business set-asides. So, if we removed this spending on “bigger smalls,” it would paint a considerably more pessimistic midsize picture.

This leads to our request for Congressional action. As small businesses and government contracts become larger, it is inevitable that they will face choices – grow beyond the small business programs to compete with large companies, stay small to avoid the difficulties of competing in a “full and open” environment, sell, or go out of business. Unfortunately, it appears that more and more firms are being forced to make those latter choices — stay small, sell, or go out of business.

Also, before getting into the meat of our proposals, we echo the observations in the Bloomberg report that (1) there is a need for the Government to identify highly qualified companies early in the acquisition cycle and (2) the burden rests, and should continue to rest, on midsize companies to identify strong teaming partners and productive contract vehicles. Our proposals are designed to facilitate success, but not cause it. That is up to each individual company.

Size standards play an important part in government contracting, defining eligibility for small business programs. This hearing is very timely because the SBA is about to undertake its five-year review of size standards, which vary from industry to industry. Currently, the highest revenue standard is \$38.5 million, applicable to industries such as financial services and aerospace engineering. This means that a business in those industries cannot have more than \$38.5 million in annual receipts, averaged over previous three years, to qualify as “small.” A business with an average revenue of \$39 million is expected to compete with large businesses with revenues sometimes in excess of \$500 million. The numbers bear out how difficult such completion can be.

Small business programs impact the local and national economy, though the purpose of these programs is sometimes misunderstood. Small business programs are not designed to

subsidize business development; the purpose is to ensure supplier diversity in the federal marketplace in order to spur innovation and guard against supplier consolidation and noncompetitive pricing. And, of course, small businesses produce the majority of American jobs. Without these firms growing to become midsize firms, who in turn grow to compete and challenge large businesses, the federal contractor ecosystem would stagnate, and jobs would likely be lost.

Government contractors experience a unique pattern in their growth which is causing this midsize crisis – or no man’s land. Contractor growth can be mercurial, sometimes hovering in the single digits and then exploding over two or three years. This pattern of sudden growth is increasingly common because of the Government’s more frequent use of large indefinite delivery, indefinite quantity (IDIQ) contract vehicles, under which contractors can be awarded huge task orders. It is not unusual for a contractor to win a single award or task order that, on its own, bumps the contractor out of the small business program. As referenced earlier in my testimony, the SBA uses a three year average of revenues to determine program eligibility. So a company with historic revenues of \$15-\$20 million might win an \$80 million task order and be very quickly slingshotted out of the set-aside environment and into the full-and-open world.

This leads me to the Chamber’s first recommendation: change the SBA formula for small business eligibility. Our proposal is to allow companies to look back five years and choose their lowest 3 years for purposes of calculating size standard eligibility. The Chamber’s GovConNet Council, comprised of practitioners and business owners involved in government contracting, worked for months to come up with proposals that would give larger small businesses more “runway” to adjust to rapid growth, while still protecting smaller businesses under the various SBA programs. We believe this proposal strikes that balance.

The rationale behind this proposed change can be stated simply: competitiveness takes time to build. Revenue is not an indicator of present competitiveness; it is an indicator of future competitiveness. Bigger small businesses that are about to graduate from the set-aside world need time to recruit talented employees, develop their intellectual property and build infrastructure to compete at the next level. Having a good year (or even a couple good years) does not mean that the company will continue to grow. Moving from a three-year look-back, to a lowest three in the last five, would give firms more time to adjust to the full-and-open marketplace. Furthermore, firms that show consistent high revenues would still be graduated.

Who would benefit from this proposal? Not just big small businesses and midsize companies. Any small business that intends to grow will eventually benefit from these changes. Further, having more well-qualified firms under the revenue standards will increase the chance that solicitations will be set-aside, and therefore will give all small firms more opportunities to compete. Separately, large businesses benefit because it increases the pool of well-qualified subcontractors. A major complaint we hear from large primes is that by the time they find a great small partner, the work garnered from that relationship makes the partner large.

There have been suggestions that perhaps it would be better to use a straight five-year look-back, instead of the lowest three out of five that we are proposing. First of all, both are better than the status quo. But a straight five-year look-back would punish firms who may end up with decreased revenues in following years. While competitiveness takes time to build, it can be lost overnight. Losing one contract can cascade to key employees departing, the unraveling of teaming relationships, or other crises. A straight five-year look-back would require firms on the decline to continue to count peak years, even if they were four or five years ago. A three out of five-year look-back would not do that. Second, the straight five-year look-back would, in many cases, be

less impactful than our proposal. Firms winning one very large task order or IDIQ can be pushed out of the small business program even in one year. A five-year look-back might not be helpful to those companies. The midsize no man's land is a big problem, and it needs a big solution.

In addition to the three out of five-year look-back proposal, the Chamber is offering another measure which, just like the look-back proposal, is a relatively simple change. We propose allowing companies to subtract Independent Research and Development ("R&D") expenses from total revenue for size determination purposes.

This change would support the government's initiative to stimulate technological and biomedical innovation and would allow companies to continue to pursue and develop new products and processes, without penalty. Firms who invest in R&D often do so at the expense of their present competitiveness. For firms at the cusp of becoming large, every revenue dollar counts and must be brought to bear to help win the next contract award, in order to maximize revenue streams that can support the company while it transitions to full-and-open competition. This dynamic effectively discourages R&D investment. Allowing a firm to subtract its R&D costs from size receipts would not only support innovation, it would also remove one barrier to small business contractors who invest in future growth.

The key to this change is simplicity. We are proposing that this subtraction piggybacks off the IRS's definition for R&D expenses, which firms already annually tabulate and report. Also, we recognize the need for a cap on the subtraction — to prevent otherwise large firms who have massive R&D expenses from qualifying as small businesses. We propose the subtraction be capped at two times the NAICS size standard. For employee-based standards, we propose a subtraction of a single employee for \$50,000 in qualified R&D expenses.

Let me wrap up this testimony by emphasizing that the midsize “no man’s land” is an ever-present worry for every small business contractor. Until we provide meaningful opportunities for growth beyond small, we will continue to see too few companies crossing “no man’s land” to become successful large businesses. We believe that our proposals would be effective steps in the right direction, but we’ll be the first to say that even more steps are needed. We look forward to working with this Subcommittee, and sincerely thank you for your time, your attention to this matter, and for your invitation to participate today.



Written Testimony of

Lisa M. Firestone, MHSA

President and CEO
Managed Care Advisors, Inc.
Bethesda, MD

On Behalf of
Women Impacting Public Policy (WIPP)

Before the
House Committee on Small Business Subcommittee on Contracting
and Workforce

“No Man’s Land: Middle-Market Challenges for Small Business
Graduates”

April 26, 2018

Good morning Chair Knight and Ranking Member Murphy. I am Lisa Firestone, President and CEO of Managed Care Advisors, a health services company headquartered in Bethesda, MD. I am testifying today on behalf of Women Impacting Public Policy (WIPP), as Chair of their Board of Directors. WIPP is a nonpartisan public policy organization that advocates on behalf of women entrepreneurs. Thank you for giving me the opportunity to testify.

First just a little background on my company. Established in 1997, Managed Care Advisors began as a boutique healthcare consulting company specializing in Employee Health Benefits, Managed Care, and Workers' Compensation. Today, we are the leading provider of Federal Workers' Compensation Case Management Services, currently operating in all 50 States and US Territories. How we transformed from a four-person consulting company to a thriving federal contractor with more than 120 employees has been a long, difficult and very fulfilling journey. In 2003, my company was contracted to support a congressionally mandated study to assess the feasibility of applying industry best practices for managing work-related injuries and illnesses for civilian employees of the US Army. This initial introduction to federal contracting was a turning point for my company. We identified a market with unmet demand, designed a path forward for meeting that demand and learned very quickly that we had a lot to learn about government contracting. In 2005, we were awarded our first government contract, as part of a joint venture. Since winning our largest contract to date in 2007 (\$53 million), we have experienced double-digit growth. Where this double-digit growth has always been a source of pride, we are now facing the reality that annual growth in excess of 36% will take us from small to midsize, requiring us to reinvent ourselves in order to continue to grow and remain relevant in the federal market.

With that said, I feel my company is a poster child for the issue we are here to discuss today. The size standard for our industry NAICS code is \$15 million. We currently represent 16

federal agencies. The average size of our contracts range from \$1.5 million to \$53 million, with the size of our annual task orders averaging \$1.2 million/year. It is not hard to see how a company like mine can and will exceed the \$15 million size standard relatively quickly in the federal contracting arena. As mentioned above, we are now at a crossroads. Our executive team has spent significant resources putting together a plan to survive in the federal midsize world and I am loathe to restrict my growth to stay in the small business program. It runs counter to my entrepreneurial instincts and it certainly is not good for the local economy nor is it good for the federal government or the thousands of injured federal employees who count on us every day to support their recovery and return to work. The reality is that there are limited choices for companies like mine—acquire or be acquired, join forces with large contractors with existing contracting vehicles and interest in your market sector, or revamp your marketing and sales strategy including one for maintaining contracts that have been small business set-asides in the past.

It seems to me that the federal government should seek to keep businesses like mine as contractors. We have honed our technical and contracting expertise to fit the needs of the federal government, have the infrastructure and resources in place to support it and have successful past performance.

The topic of size standards and the great abyss between small and large is a frequent discussion among the members of WIPP. The federal government on one hand encourages us to grow, emphasizing the need for access to capital and entrepreneurial assistance. Many SBA programs emphasize, educate and support growth. But on the other hand, it structures policies that discourage growth such as its size standard structure and limitation on small business program participation.

WIPP is a partner in the Montgomery County Chamber of Commerce's "Pathway to Growth" initiative. As the witness from the Chamber laid out, we are requesting Congress pass two modest proposals to give companies like mine a smoother transition to a midsize firm.

WIPP represents companies of all sizes who are competing in the federal market, from the smaller firms where changes to the WOSB program are essential to their growth to larger corporations like mine, who are positioned to compete for much larger single and multi-award contracts. The businesses we represent require different legislative and regulatory solutions especially in the area of procurement. I do not believe the changes we are proposing will take away opportunities from smaller companies. If anything, these changes will provide greater growth potential. In other words, we are not competing with each other—we operate in a different contracting space.

While I am on the topic of competition, I hope that this Committee will take a hard look at the NAICS code size review which the SBA is about to embark upon. For example, my primary NAICS code 541611 is capped at \$15 million. While that might sound like a big number, the size of federal contracts are getting bigger. The government now uses multiple award contracts where businesses compete for a "slot" on the contract. The businesses then have to compete for task orders which in many cases are sizable contracts. We urge you to examine whether the SBA size standards allow companies to successfully compete as small companies on these contracts.

Last year, Senators Ernst and Gillibrand championed a study that requires the SBA to analyze small business participation in multiple award contracts. That study is due 180 days after the FY18 NDAA was signed into law. It will show a path forward on prudent policy changes to increase small business participation on MAC contracts and should be helpful to include all socio-economic groups into these contracts.

Let me close by thanking you for holding this hearing. Government contracting is a clear path for firms to grow. Women owned companies continue to post impressive numbers with respect to numbers and growth. They are a strong economic force in the United States and increasingly in the world. More than 36% of all American businesses are women-owned and are growing at four times the rate of male-owned businesses. According to the National Women's Business Council report, "10 Million Strong," women owned businesses have created 8.9 million jobs and total \$1.6 trillion in revenue in 2016.¹

Despite this contribution, women-owned firms are still 21% less likely to win government contracts – even when controlling for past performance, size, and time in business.² When adding the additional challenges of transitioning from a small to a midsize company, the hurdles for women-owned firms to succeed are steep.

Let's work together to make sure we reward growth, not stifle it. If we solve this problem, we will create jobs, increase our contribution to the economy and maintain a strong industrial base. Thank you for giving women-owned businesses a voice in this important hearing.

¹ 10 Million Strong: The Tipping Point for Women Entrepreneurs. National Women's Business Council (2016).

² Women-Owned Businesses: Carving A New American Business Landscape, U.S. Chamber of Commerce Foundation for Women in Business (2014).

Testimony of

Mehul Sanghani
Chief Executive Officer
Octo Consulting Group

BEFORE THE UNITED STATES HOUSE OF
REPRESENTATIVES
COMMITTEE ON SMALL BUSINESS
SUBCOMMITTEE ON CONTRACTING AND
WORKFORCE

Regarding “No Man’s Land: Middle Market
Challenges for Small Business Graduates”

April 26, 2018

Chairman Knight and Members of the Subcommittee, thank you for the invitation to appear today. My name is Mehul Sanghani, and I am the founder and Chief Executive Officer of Octo Consulting Group, a nationally recognized and award winning technology solutions and management consulting firm located in Northern Virginia. It is a privilege and an honor for me to share my views on how we can encourage entrepreneurship and growth among small and mid-size government contractors. Before I begin, let me state that my comments are my own and I am not speaking on behalf of my company.

I founded Octo Consulting Group in 2006 with a focus on providing cutting edge technology solutions and consulting services to the federal government. As you might expect from a fast-growing government contractor, we have had to leverage innovation to compete. We grew from being a subcontractor to large prime contractors in our early days to a firm that today employs over 400 employees and performs as a prime contractor on 90% of its work with support for agencies all over the federal government. Our use of technology has evolved as well. Over the years, we have consistently positioned ourselves at the forefront of technology and innovation, with our specialty focusing on the modernization of legacy systems to include developing, deploying and migrating these systems into modern cloud computing infrastructure.

Under my leadership, Octo Consulting Group has received numerous awards and accolades including being named the 23rd fastest growing private business in the country by Inc. Magazine, awards for GovCon Contractor and Executive of the Year by the Northern Virginia Chamber of Commerce, and the Washington Business Journal's Corporate Philanthropist of the Year. I am particularly proud of the fact that Octo Consulting Group has also been consistently recognized as one of the best places to work, receiving recognition in Washingtonian Magazine, the Washington Business Journal, and the Washington Post.

Over the years, I have become very familiar with the small business programs and policies that this Committee has worked feverishly to implement. We are ourselves a successful graduate of the 8(a) program for Small Disadvantaged businesses and have benefitted from competitive access to some small business set aside contracts. These programs enabled us the opportunity to compete with other small businesses and enabled us to develop a strong record of past performance that would have been otherwise exceedingly difficult to attain. Without these programs, Octo Consulting Group would not have been able to reach customers in the same way and likely would not have grown at such a fast pace. We are also working to pass along the knowledge we gained through these programs to other firms by participating as an approved Mentor in the Small Business Administration ("SBA") Mentor Protégé program.

None of this is meant to indicate that our path to achieving this success has been easy. My team and I have faced numerous challenges. For many years, our primary focus was achieving the scale necessary to afford re-investment back into our firm. This reinvestment was applied towards building up our business infrastructure working to convince our Federal customers to take a chance making a prime contract award to a small business. Recently, we've found ourselves in direct competition with some of the largest government contractors in the world – and as you might expect, the competition is exceedingly fierce. We are ready, willing and able now at our current size to compete with any government contractor – and more importantly feel our credentials, certifications, and past performance line up favorably too.

However, I am also very much aware of the struggles that growing small businesses face in our space – especially as they navigate the treacherous path towards becoming a mid-size or mid-tier contractor. Everyone in our Government Contracting industry is universally aware of small businesses that outgrew their size status and subsequently failed to compete with our

industry's multi-billion dollar aerospace and defense behemoths. We also know of firms that intentionally remain and judiciously work to remain "small" because they fear that same outcome. Worse still, I have painfully come to acknowledge that there are policies and practices in the industry that specifically disadvantage growing firms. It is those policies that I'd like to address here today.

The State of the Market

Once a small business has exceeded its primary size standard, which can be as low as \$15 million in annual revenue for consulting services, it is no longer entitled to participate in small business programs and is considered a mid-tier company. Mid-tier companies are no longer afforded the preferential protections enjoyed by small business government contractors, they instead must directly compete for prime contracts with multi-billion dollar firms, such as Lockheed Martin and General Dynamics. Worse still, mid-tier businesses are no longer attractive subcontracting partners because they can no longer help large contractors meet their subcontracting goals and targets for small business participation.

Because of these dynamics, small businesses on the verge of graduation from the small business program often have two sobering choices: be acquired by a large business or attempt to compete with large businesses. When a successful small business is acquired by a large business, the Federal market and Federal supply base loses a valuable and often innovative participant. Conversely, if a small-business is able to compete and graduates into a mid-tier business, the economy expands, innovation continues, competition is increased, and jobs are created.

In addition, mid-tier companies are part of the natural progression of small business growth. Without providing a structured path to mid-tier growth, we place a cap on how far these

businesses can go and we institutionalize a scheme that has damaging ramifications to our supply base and in turn the services we provide our taxpayers. Further, it very clear that our industry is blessed with numerous exceptional entrepreneurs. However, without a defined path to and through mid-tier status, entrepreneurs will be less likely to choose our industry.

There are several simple reforms that can help mid-tier businesses compete for government contracts and serve as robust components of our supply base. Specifically, I would like to suggest to the Committee that it investigate the following policies:

1. Eliminate “quantitative” competitions based on the number or size of contracts a firm has been awarded.
2. Incentivize mid-tier businesses to work together by requiring consideration of each team members’ past performance; and
3. In multiple award contracts, require that small and recently graduated small business be able to compete for unrestricted task orders.

Each of these solutions will remove significant barriers to mid-size business growth without any downstream harm to our small businesses and also without adding any more complex regulations for entrepreneurs to learn.

Before I address each of these simple changes, I’d like to address previous efforts that originated within this same committee to support mid-tier firms. Specifically, in 2012, Congress considered establishing a Small Business Growth Pilot Program to create a mid-size category benefit. A bill called the Small Business Growth Act was introduced that would create a 5-year pilot program for General Services Administration (“GSA”) contractors with fewer than 1,500 employees. This bill would have created a program under which GSA could set-aside a contract

for mid-tier businesses so long as the contract would otherwise be awarded to an entity other than a small business concern. While adding yet another set aside category is likely to be met with some skepticism by this committee, we should strongly consider these significant steps as previous efforts at more modest reforms have fallen woefully short.

Quantitative Evaluations Disadvantage Mid-Tier Firms

The first specific reform I'd like to address is limiting "quantitative" evaluations. As the Committee is no doubt aware, billions of dollars in federal contracts are now awarded through large "government-wide" contracts that are held by a small number of contractors. For example, in fiscal year 2017, some \$6.0 billion in sales went through government-wide contracts administered by the General Services Administration alone. Some examples of such large, government-wide contracts include GSA's OASIS and Alliant 2 vehicles. Contractors who win a spot on these huge, government-wide acquisition vehicles win exclusive access for up to a decade for a lion's share of the government contracting opportunities. Firms that do not win are effectively shut out of competing for opportunities with customers or markets for five and sometime ten years.

Because winning these contracts is absolutely essential, the Government is flooded with dozens, and sometimes more than one hundred, proposals for each new contract vehicle. The Government has responded to this overwhelming number of proposals by making awards based on a movement towards "self-scoring." Instead of judging each proposal on its merits, the Government instead assigns point scores that account for the number of contracts a firm has performed, the overall size of those contracts, or whether the contracts were cost-type or fixed price.

The problem is that even the best and most experienced mid-tier firms do not have the same number of contracts as the market's multi-billion dollar industry leaders. We are happy to compete on value, price and innovation – but we cannot on fair footing when the evaluation dimension is slanted more towards the total number of contracts we hold.

For example, the recent solicitation for the GSA Alliant 2 contract required firms to provide references to seven projects of relevant experience completed within 5 years and valued at more than \$8 million. Firms receive bonus points for project values exceeding various thresholds, topping out at \$100 million. There were also points available for work outside the United States, cost-type contracts and the like. Only the top 60 firms based on these points received a spot on the multiple-award, government-wide contract vehicle.

For firms that have been large for at least five years, it is easy to compile much larger point totals. A multi-billion dollar firm with hundreds of contracts will have little issue finding seven, high value previous contracts and getting far more points than a mid-tier company. That does not make that firm any better, more innovative or price competitive than a mid-tier firm that does not have the same history of contract awards. For small firms, there are often set-aside versions of these contracts that award points based on lower standards. For mid-size firms, however, these math competitions are incredibly hard to win. They do not let us demonstrate how we can do things differently - and often better - than household name contractors. Given the increasing importance of these contracts, this practice needs to stop.

Specifically, to preserve competition, mid-tier firms should be afforded an opportunity to compete qualitatively. In other words, I would ask this Committee to consider specific tactical legislation requiring that multiple-award contract competitions not be based on a mathematical

self-scoring calculation of the *number* of large contracts a firm has performed, but instead that these contracts be accessible to mid-tier firms with agencies required to review the *quality* of the work these firms have performed. This change will allow small firms that have recently grown into mid-tier status to continue to compete on a level playing field.

Agencies Should Be Required To Consider Subcontractor Experience

Mid-tier firms understand that they will never be able to compete with the scale of the industry leaders. As a result, it is common for these firms to join forces to compete for larger contracts. However, many solicitations do not allow a prime contractor to benefit from the experience of its subcontractors. For example, the Alliant 2 RFP required that prime contractors, standing alone, “represent all proposal submission documents required under Section L.5., including all Relevant Experience, Past Performance, Systems, Certifications, and Clearances, as applicable, under this solicitation.” This means that the agency would look at the experience and past performance of the single contractor to meet its requirements. If you are an industry leader, that is easy. If you are a recently graduated small business, however, all the teaming agreements and subcontracts in the world cannot help you compete. This is a tremendous disadvantage.

When this Committee and the SBA implemented the mentor protégé program, you recognized that it was essential for the parties to be able to rely on each-others’ past performance. Without that support, each party standing alone would be unable to compete with more established industry players. Mid-tier firms face the same problem and should benefit from the same solution. Specifically, agencies must be required to consider the past performance, experience and skills of *both* prime contractors and significant subcontractors. All of these firms will be involved in contract performance and it makes no sense to exclude their skills and past

work. Further, this modest and small change will allow mid-tier firms to team together to compete for the largest contract awards.

Further, some agencies will only consider past performance information from firms that performed as a prime contractor. That is a significant disadvantage for small businesses that often enter the federal market as subcontractors. Again, these restrictions serve only to harm small businesses, mid-tier businesses, and the supply base that serves our citizens. This Committee should consider legislation that requires agencies to consider a firm's prior work as a subcontractor if it is relevant to the prime contract at issue.

Small Businesses and Recent Graduates Should be Able to Compete With Large Firms

Finally, I'd like to address what happens when a small business graduates from size status during the course of a multiple-award contract. As the Committee is aware, multiple award contracts are often awarded in pairs: One contract for small business and one for large businesses. Because of this construction, small firms can neither compete for large business awards or transition to that contract if they grow.

There are two major problems with this approach for small and mid-size businesses. First, if multiple award contracts are the way of the future and a small business is not allowed to compete with large businesses on those contracts, how can small firms prove that they can offer comparable goods and services? We are looking for opportunities to compete, and these types of awards make it impossible.

Second, when a small firm grows to be mid-size, it is often told that it cannot win new work on its current contract. However, that same firm is not automatically offered a position on the full and open contract. In short, growth is the kiss of death for these firms. All the effort that

firm put into winning the contract is wasted simply because it grew. Further, the Government is robbed of another competitor that could offer superior services at a better price.

You can solve this problem by considering legislation that would allow small business holders of multiple award contracts to compete for task orders awarded on large business contracts. Give us a chance and we may surprise you.

Further, a small business contractor that grows to be mid-tier during performance of a multiple-award contract should not simply be thrown off a vehicle. Instead, we should encourage growth by allowing small business contractors that grow to “graduate” to the full and open version swim lanes of these same contracts. That will create a win-win situation that encourages growth while increasing competition.

Conclusion

In conclusion, I would like to commend this Committee for considering the plight of firms that graduate from the small business program. Mid-tier companies have much to offer the government contracts marketplace and should be afforded an opportunity to continue to grow. I look forward to your questions.



Testimony of

Eminence Griffin

Counsel and Director, Federal Procurement

Information Technology Alliance for Public Sector (ITAPS)

before a hearing of the

Subcommittee on Contracting and Workforce

of the

U.S. House of Representatives

Small Business Committee

on

**"No Man's Land: Middle-Market Challenges
for Small Business Graduates"**

April 26, 2018

IT Alliance for Public Sector Testimony on Middle-Market Challenges
House Small Business Committee
April 26, 2018
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Introduction

Chairman Knight, Ranking Member Murphy, and Members of the Committee, thank you for the opportunity to share our perspective on challenges that exist in the federal marketplace for graduated small businesses. It is a great honor to testify before this Committee, which I worked for over six years on topics that impact small businesses and on steps that can be taken to aid in their growth.

At the Information Technology Alliance for Public Sector (ITAPS), we understand some of the difficulties that graduated small businesses face as they seek continued participation in the federal marketplace. We believe the solution in helping businesses face these challenges is to create a more robust and successful small business contracting program.

In 1953, Congress first established the policy that “a fair proportion of the total purchases and contracts for supplies and services” should be awarded to small business concerns in the “interest of mobilizing the Nation’s full productive capacity” or “in the interest of war or national defense programs.”¹ Since that time, the small business programs were expanded to first, establish the current government-wide 23 percent goal for prime contract dollars to be awarded to small businesses in “a wide variety of industries and from a broad spectrum of small business concerns within each industry,”² and then later expanded to include goals at the agency level and government-wide for specific socio-economic categories of small business awards as well as subcontracting dollars awarded to small businesses.

With these goals in place, we have seen increased dollars awarded to small businesses and the government, as well as individual agencies, begin to meet their small business goals. This increase in dollars has resulted in more and more of these businesses graduating out of their size. While these are laudable achievements, we rarely look beyond the awarded dollars. We need to start digging deeper into the programs and determine how the small business contracting programs can be improved to look beyond the money and see what can be done to grow healthier small businesses that have the tools to succeed in the full and open market once they graduate.

Improve Small Business Set-Aside Programs

Currently, only one program, the 8(a) Business Development Program, does continuous monitoring of the contracts and growth of its participants. This monitoring includes tracking of its revenue as well as the types of contracts the business wins throughout its nine-year participation. However, once the business graduates from the program, even if it remains a small business, the Small Business Administration (SBA) ceases to continue its monitoring. To my knowledge, the SBA does not track revenue, growth, or job creation that results from small business contracting outside of this program. Additionally, the agency does not track when individual businesses grow out of the small business size standard and their ability to compete in the open marketplace after such graduation. Furthermore, there is no tracking or analysis of whether small businesses that participated in any of the set-aside programs can successfully compete in the

¹ Pub. L. 86-163.

² Pub. L. 105-135.



marketplace after they have exceeded established size standards; whether they continue to do business in the government or commercial marketplace; or if the graduated small businesses fall back into the small business size standard. This information is vital in not only determining how the programs can be developed to promote sustainable growth in its participant small businesses but also the overall success of the programs themselves. With this information, the SBA and its partners, such as Small Business Development Centers and Women's Business Centers, could better counsel businesses as they approach the top end of their size standard and help with the transition.

In addition to better metrics and information, more could be done to ensure fair equity in the distribution of the contracting dollars amongst small businesses to promote sustainable growth. This problem has manifested itself in two ways: first, agencies are looking for easy dollars to award to small businesses in able to meet their goals with many looking to the limited industry North American Industry Classification System (NAICS) codes to do so and second, set-aside contracts have increased in value so much that it sometimes catapults a small business beyond its size in one contract.

On the first point, we have seen agencies set aside increasingly large percentages of their small business dollars to a limited number of NAICS codes. Small business set-asides have been as high as 40 to 60 percent at some agencies in the information technology and other services categories. Agencies are not creating a healthy industrial base with this approach as contracting officers do not look across the spectrum of industries to make awards to small businesses to determine where a gap exists in the base. Additionally, it leaves limited funds and opportunities available for competition among other businesses, particularly middle-market businesses.

The increased size of set-asides has also become increasingly common. Bundling of requirements has been an issue that small businesses have faced for years, but rather than bundling preventing any small businesses from competing, this technique is now used to exclude some small businesses in favor of other small businesses. Because of these larger contracts, not only are small businesses left out of the market but the firms that win these contracts can grow out of their size standard with just one award. These actions result in small businesses graduating from their size standard without the ability to compete for full and open government contracts or commercial contracts. Furthermore, these types of awards not only significantly decrease the contract opportunities for graduated smalls and other businesses, but by not ensuring companies have the tools to succeed long-term, contracting officials are also undermining one of the primary goals of the small business program, which is to enhance the nation's industrial and manufacturing base.

Agencies are measured on their ability to meet their small business goals and since the inception of the agency scorecards, this Committee has been able to hold agencies accountable to the goals. However, these scorecards have been heavily weighted towards one metric—the dollars awarded to small businesses, mostly primes. Subcontracting and steps taken by the agency to meet the goals are weighted in the scorecard at lesser levels. While this is due to change once the SBA revises its scorecard as required in the

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FY16 National Defense Authorization Act,³ we must ensure that the new scorecard provides greater insight into the health of small businesses working with each agency and the overall health of the industrial base.

Recommendations:

- Measure success by more than the percentage of contracts going to small businesses, particularly if those businesses have no opportunities once they graduate from the program. The definition of success for the small business program should be expanded to contain metrics that include the overall health of the small business industrial base.
- Develop and track metrics on the ability of small businesses and graduated small businesses to compete and thrive in full and open competitions and identify barriers to success post-graduation. Possible metrics could include: time and performance; job growth; and ability to win contracts via free and open competition.
- Reduce poor business practices or weaknesses in the industrial base and incentivize healthier business practices with stronger oversight and accountability.
- Implement government-wide monitoring of resulting revenue, growth, or job creation like the Department of Defense's (DoD) recent changes in required reporting of the Mentor Protégé Program impact success.
- Require that the 23 percent statutory goal of awards to small business concerns be spread across all NAICS codes, with a prohibition on agencies using set-asides that exceed a certain percentage of dollars in any particular NAICS code. Further dispersal could be found by preventing agencies from placing requirements on prime contractors to subcontract more than 50 percent of work to small businesses in any one NAICS code.
- Collect better data to understand impacts of small business goaling and set-asides on the industrial base.
- Improve oversight on value and scope of contract awards set-aside for small businesses to ensure sustainable success.

Increase Transparency and Efficiency in the Marketplace

While the set-aside process needs improvement, the competitive marketplace is not perfect. As businesses of all sizes look to win free and open awards, the process has become timely and costly, preventing and discouraging businesses from competing. Large indefinite delivery-indefinite quantity (IDIQ) contracts have become the norm. These large acquisitions are costly to compete for and the market research, bidding, and selection phases sometimes span over the course of years. At the end of those years and dollars spent, few companies win the awards and the others can be left out of the market for upwards of five to ten years. If a graduated small business is shuttered out of the market for the length of these contracts, it is likely they will revert to a small business. Increased transparency into the process and on-ramps onto these contracts will help small and middle-market businesses formulate more competitive proposals.

Another improvement needed to the marketplace is greater transparency through post-award debriefings to those offerors who lost the contract. While many believe increased communication will lead to more bid

³ Pub. L. 114-92 (Nov. 25, 2015).



protests, that is simply not the case. In a report released earlier this year, RAND Corporation found that the share of contracts that are protested is small compared to the number of awards and better debriefings could help the offeror understand why they lost and potentially prevent protests.⁴ A better understanding of how and why disappointed offerors did not win an award helps businesses of all sizes become more competitive in future competitions.

Even when a business wins a competition, obstacles remain. For example, only small businesses can currently receive accelerated payments. While the Office of Management and Budget (OMB) had previously ensured that both small and other than small businesses could receive payment quickly, OMB has only extended the payments for small businesses, leaving middle-market and large businesses waiting for payments. Accelerated payments are necessary for businesses of all sizes: small and middle-market businesses can cover their overhead expenses and quickly pay employees, while middle-market and large businesses are able to quickly distribute payments to their small business subcontractors. A permanent extension of both is an easy way to cut out some of the red tape out of the acquisitions system.

Recommendations:

- Increase transparency into all phases of larger IDIQ contracts and provide mechanisms for new companies to on-ramp onto these vehicles.
- Provide for enhanced debriefings of larger contracts and basic debriefings for other contracts, such as task and delivery orders, to ensure that contractors have a better understanding as to why they were not successful in a given competition.
- Pass H.R. 5337, *The Accelerated Payments for Small Businesses Act*, to provide a permanent solution for accelerated payments to all businesses.

Enhance Mentor-Protégé Programs and Teaming

In 2016, the SBA published a long-awaited proposed rule that opens the benefits of the 8(a) Mentor-Protégé program to small businesses of all categories. The rule provides significant new opportunities to businesses of all sizes as previously only a small percentage of small businesses were eligible for the program and many large and middle market primes previously found the pool of potential protégés too limited. ITAPS believes these programs are vital in building sustainable small businesses.

As part of the process, mentors and protégés are required to jointly develop a tailored developmental assistance plan, which is set forth in a “mentor-protégé agreement” that is also submitted to Office of Small and Disadvantaged Business Utilization officials who, in turn, determine the agreement’s compliance with specific agency requirements. These mentor-protégé agreement authorizes a broad array of developmental assistance, such as training, assistance in obtaining production and accounting certifications, contract administration, and overall general business management skills and organizational management.

⁴ RAND Corporation, “Assessing Bid Protests of U.S. Department of Defense Procurements: Identifying Issues, Trends, and Drivers” (2018), available at https://www.rand.org/pubs/research_reports/RR2356.html.

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Additionally, some agencies' programs allow mentors to provide loans and can award subcontracts on a noncompetitive basis.⁵

These arrangements are beneficial to small businesses, as it opens a vast array of knowledge and learning opportunities to which they would otherwise not have access. Under these arrangements, primes are arming small businesses with skills in cybersecurity, cost and accounting principles, regulatory compliance assistance, and so many others. Yet, we do not have enough participants on either side. While much of the focus on mentors has been on larger primes, middle-market businesses have the same skills and knowledge to impart on small firms as many of them have participated in the program and have more immediate first-hand knowledge on transitioning from small to middle-market. We need to create additional incentives to middle-market and large primes to participate in the program. The incentives could be as easy as giving the mentors additional credit in their subcontracting plan or extending the length of the agreements to provide for additional contracting opportunities, neither of which would cost the SBA or other agencies any additional funding.

In addition to the formal mentor-protégé program, small businesses often enter into joint ventures or teaming arrangements when an acquisition is too big for a small business to fulfill alone. Rather than not bidding on the contract, these arrangements allow these businesses to form a joint venture or partnership with a middle-market or large prime for a limited amount of time or for a specific project. Through this method, many small businesses have been able to compete and win contracts for work that would normally be out of their grasp. Through these types of arrangements, companies can grow their business and increase their individual capacities.

While ITAPS understands the limited scope that teaming and joint ventures are meant to provide to avoid affiliation, business structures have changed rapidly over the past three decades. In no sector is this more evident than in the IT sector. Many of these companies have been working with DoD and others to provide innovative solutions to some of the warfighter's most pressing problems. However, very few of these companies have experience in the government marketplace, and many continually look for opportunities to partner to escape the "valley of death" too well-known in the research and development field. Nonetheless, it is this need to seek help that will prevent them and others from reaping the benefits of their technology.

Large and middle-market businesses wish to partner with these small firms to help provide solutions to the warfighter. These actions are taken not for the sake of trying to control a smaller company or to defraud the government, but rather to build partnerships and gain trusted business relationships that can be carried forward on future projects. However, the downside of affiliation prevents small businesses from seizing on these opportunities.

Recommendations:

⁵ See generally, Robert Jay Dilger, *Small Business Mentor-Protégé Programs*, Congressional Research Service R41722 (March 2, 2015) (providing an overview of the different incentives provided by each agency's program).



- Increase the number of protégés that mentors can enter into agreements with, as it will enable smaller firms to gain valuable insight into the contracting marketplace and strengthen the industrial base.
- The current acquisition process to bid and award a contract has long surpassed the timeframe of a traditional mentor-protégé agreement. As such, the timing on these agreements should be extended beyond the current one to three-year timeframes currently used to at least a five-year timeframe that mirrors the length of acquisitions.
- Create additional incentives, such as providing subcontracting credit to mentors, in order to increase participation in the programs.
- Require that past performance of individual companies in teams, joint ventures, or mentor-protégés partners to be considered when evaluating past performance.
- Simplify the affiliation rules to allow for more clarity and more flexibility in allowing small businesses to team with large and middle-market businesses.

Fraud

Fraud and abuse continue to permeate the various small business contracting programs and multiple reports by various Inspectors General and the Government Accountability Office have illustrated the depth of the problem. For example, in the 8(a) Contracting Program, several reports have indicated that agencies are unclear as to who is to monitor the compliance with the subcontracting limitations and the confusion allowed participants in the program to surpass their limitations on subcontracting. Investigations have revealed small businesses operating as pass-throughs with 100 percent of the dollars going to their subcontractors.⁶ The same results were found at the Department of Interior (DOI), in which it was determined that in some cases the contract clause was not included and when it was, contracting officers were “unsure how to monitor the requirement [and] had no knowledge of any Departmental guidance in this regard.”⁷ In another audit, DOI found that an Alaskan Native Corporation had submitted reports showing that it had been non-compliant with its subcontracting limitations for over two years.⁸ However, the contracting officer neither corrected the problem nor terminated the contract and therefore, the business was able violate the subcontracting limitation without penalty or risk.⁹

⁶ *Id.*

⁷ U.S. Dept. of Interior, Office of Inspector General, Recovery Oversight Advisory: Monitoring of Limitations on Subcontracting Clause on 8(a) Contracts, Report No. ROO-ROA MOA-1021-2010 (Oct. 13, 2010).

⁸ U.S. Dept. of Interior, Office of Inspector General, Acquisition Services Directorate—Sierra Vista, Report No. ER-IS-NBC-0003-2011 (July 14, 2011).

⁹ *Id.*

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Fraud has also been found in the Service-Disabled Veteran-Owned Small Business contracting program,¹⁰ as well as with the HUBZone program.¹¹ While in some cases, firms were decertified from the program,¹² SBA and other agencies have not consistently enforced the limitations nor sought prosecution of the businesses for violating the terms of the contract. Even when a contracting officer can determine that limitations on subcontracting were exceeded or fraud occurred, it is difficult to prove damages caused by the breach since in almost all cases the government has received the good or services that it procured through the contract. While section 16(d) of the *Small Business Act* provides penalties, which include fines and/or imprisonment, for misrepresentation of small business status to obtain a contract,¹³ these punishments have yet to be extended to those who violate the limitations on subcontracting. Thus, suspension or debarment is the only penalty available.

These instances of fraud not only prevent other small businesses from being able to compete for contracting opportunities, they can also prevent graduated small and other businesses from competing for the award. If a company cannot meet the prime performance requirements or is defrauding the system by passing the dollars through to an eligible firm, they should not receive the award. However, until there are consequences for these fraudulent actions, they will continue.

Recommendations:

- Clarify who is ultimately responsible for monitoring compliance with subcontracting limitations.
- Ensure that there are consequences that will occur for violating small business compliance requirements.

Conclusion

ITAPS believes the recommendations set forth here outline the steps needed to create a healthy and vibrant industrial base across businesses of all sizes. With these measures, small businesses and graduated businesses will be given the tools to succeed and sustain themselves for the long haul. Chairman Knight, Ranking Member Murphy, and Members of the Committee, thank you again for this opportunity to testify, and I would be happy to answer your questions.

¹⁰ U.S. Government Accountability Office, Report to the Chairwoman, Committee on Small Business, House of Representatives, *Service-Disabled Veteran-Owned Small Business Program: Case Studies Show Fraud and Abuse Allowed Ineligible Firms to Obtain Millions of Dollars in Contracts*, GAO 10-108 (Oct. 23, 2009).

¹¹ *Id.*

¹² U.S. Government Accountability Office, Report to the Chairwoman, Committee on Small Business, House of Representatives, *Small Business Administration: Undercover Tests Show HUBZone Program Remains Vulnerable to Fraud and Abuse*, GAO-10-759 (June 25, 2010).

¹³ Small Business Act, P.L. 111-240, § 16(d), 72 Stat. 384.



April 26, 2018

The Honorable Steve Knight
Chairman
The Honorable Stephanie Murphy
Ranking
Subcommittee on Contracting and Workforce
Committee on Small Business
Congress of the United States
U.S. House of Representatives
2361 Rayburn House Office Building
Washington, DC 20515-6315

Re: No Man's Land: Middle-Market Challenges for Small Business Graduates

Dear Chairman Knight and Ranking Member Murphy:

Background:

No Man's Land is the stage in a business organization's growth where a company is essentially too small to be big, but conversely too big to be small. Often the result is that companies who find themselves in this evolutionary phase of their development, known as No Man's Land, have not yet developed the capital resources, operational systems, mature processes and diversified past performance history that larger competitors possess. Yet, these same companies have often grown beyond the small business size standards that allow them to compete against peer companies. In its notice of hearing from April 19, 2018, the Subcommittee very effectively captured the challenges that small or mid-sized businesses face as they grow when it stated:

"As the divide between small and large contractors continues to widen, successfully navigating the middle market becomes an increasingly challenging prospect for advanced small or mid-size businesses. The mid-size issue is a multi-faceted one and this hearing continues the efforts of the Committee to examine this important issue in light of the changing procurement landscape."

Discussion:

The intent of small business programs is to provide start-up businesses with limited competition procurements that will allow them to build infrastructure and experience during their time in the small business program, so that once they graduate, they are a viable and capable organization that can

compete on the open market. The small business size standards that determine whether an organization is eligible to compete for small business procurement opportunities is primarily based on the most recent three year average of revenues generated by the organization.

The idea to extend the period of earnings from a 3 year average to a 5 year average appears beneficial at first glance. However, the benefit to a small company would be quickly outweighed by an offsetting downside. As a company is growing, theoretically moving to a 5 year average would allow them to stay in their small business size standard for a longer period of time. However, once graduated, the same process would keep them out of their size standard for a longer period of time.

This could result in unintended consequences that may or may not do more harm to a “newly minted” mid-tier company. In many cases, the potential benefits would never be realized due to the sheer size of the contract awards. For example, if a company is awarded a \$100M contract under a \$7.5M size standard, they will have graduated immediately upon recertification which would not happen until after the 5 year period of performance on the contract. At that point, they would have amassed a rolling \$20M + per year revenue number that would keep them out of their size standard with this one contract for 5 years after the contract period of performance.

If you forget about the 3 year average for a moment and consider some of the “real” drivers behind a company’s inability to build a sustainable business model within the time given, it is more about the types of revenue any company is forced to recognize. Most small businesses graduate very rapidly out of their small business size standards with the assistance of their business partners. These partners are necessary to assist the start-up company throughout the business pursuit phases of their evolution and therefore have significant influence on the small business. This influence is further driven by the government’s intent to meet their small business goals by awarding multi-million dollar procurements to businesses in the smallest of size standards. Connect the large business’s drive to win a 49% stake in a large contract with the government’s attempt to meet small business goals by awarding these mega million contracts and you have a small company that can outgrow its size standards at a pace far too fast to actually mature into a viable company.

One of the largest contributors to the rapid influx of revenue is the requirement to recognize all revenue as the prime contractor of a contract award. Since procurement requirements often require small businesses to possess past performance history, scale, capability, etc., an essential element of success is to have a large business as a substantial subcontractor often representing 49% of the work. The revenue associated with the large business subcontractor’s share of work is a major contributor to the revenue of the prime contractor even though it is merely a pass-through. Essentially, half the revenue realized and reported by the small business is of no value at all to the small business. This revenue inflates the posture of the small business, significantly contributes to the graduation of the small business and provides “zero” benefit to the company.

Recommendations:

As a result of the challenges identified herein, we respectfully request that the Subcommittee consider the following recommendations:

- Only require the small business to recognize and report revenue that funds the labor associated with work the small business actually performs. "Pass through" revenue and revenue associated with Other Direct Costs (ODCs) should not be included in reportable revenue. This revenue recognition would be in line with the revenue recognition requirements currently required by an unpopulated Joint Venture.
- Allow a small business to exclude the revenue associated with an outlier contract (i.e. a single contract that represents over 50% of the overall company). This would allow a small business to service a large contract, build past performance, scale, mature, etc. and still allow the small business to grow along the lines of their designated NAICS code(s). Further, this revised reporting requirement would allow a small business to service a large contract without threatening the future lively hood of their company and rapidly exceeding their size standards before they are ready.

We encourage the Subcommittee to consider the measures detailed herein. We have confidence that these proposed measures will allow for a more broadly successful advanced small or "mid-market" industry segment while also not adversely impacting the very smallest of competitors. A healthy and thriving "mid-tier" industry sector is vital to the health of both our economy as a whole and more specifically to the procurement objectives of the Federal Government being achieved through robust innovation and healthy competition.

In the event that we can answer any questions or provide any additional information regarding this matter, please do not hesitate to contact us.

Respectfully Submitted,

Tonya M. Saunders
Chairman
Mid-Tier Advocacy, Inc.

Bryan Davis
President
Mid-Tier Advocacy, Inc.

