

GROWING THE SMALL BUSINESS SUPPLIER BASE IN GOVERNMENT CONTRACTING

HEARING BEFORE THE SUBMITTEE ON CONTRACTING AND INFRASTRUCTURE OF THE COMMITTEE ON SMALL BUSINESS UNITED STATES HOUSE OF REPRESENTATIVES ONE HUNDRED SEVENTEENTH CONGRESS FIRST SESSION

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WEDNESDAY, OCTOBER 13, 2021

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

The Subcommittee met, pursuant to call, at 12:04 p.m., via Zoom, Hon. Kweisi Mfume [chairman of the Subcommittee] presiding.

Present: Representatives Mfume, Newman, Andy Kim, Hagedorn, Stauber, Meuser, Salazar, and Fitzgerald.

Chairman MFUME. Good morning, ladies and gentlemen. I want to call the Subcommittee to order.

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

I would like to begin by noting some important requirements. Let me begin by saying that the standing House Committee rules will be in practice today and will apply during these remote proceedings. All Members are reminded that they are expected to adhere to these standing rules, including decorum when they are, in fact, participating in any remote event.

With that said, the technology that we are utilizing today requires us to make some small modifications to ensure that Members can fully participate in these hearings. House regulations require Members to be visible through a video connection throughout the proceedings, so please keep your cameras on. If you have to participate in another proceeding, please exit and then log back in later.

In the event that a Member encounters technical issues that prevent them from being recognized for their questioning, I will then move to the next available Member of the same party and will recognize that Member at the next appropriate time slot provided that is that they have returned to the proceedings.

Should a Member be interrupted by technical issues, I will recognize that Member at the next appropriate spot for the remainder of their time once those issues have, in fact, been resolved. In the event that a witness loses connectivity during testimony or questioning, I will preserve their time as staff attempts to address whatever technical issue may be at hand. I may need to recess the proceedings to provide time for witnesses to reconnect. And finally, please remember to remain muted until you are recognized to be able to minimize background noise.

In accordance with staff rules, staff has been advised to mute participants only in the event that there is inadvertent background

noise. Should a Member be recognized, they obviously then must unmute themselves to seek recognition again at the appropriate time.

I want to thank all of you for participating in this meeting, this hearing, and to say that you that I am hoping that we make a great deal of progress as we get through the day and all that we have to do.

The United States Government is the largest purchaser of goods and services in the world. In fiscal 2020 alone, federal agencies obligated more than \$650 billion in federal contracts. They did that through their buying power because the federal government is uniquely positioned to incentivize the economy and strengthen the industrial base. Thus, it really is vital that small businesses then have ample opportunity to compete in this space.

When small firms have the ability to compete and then win federal contracts, American entrepreneurs and the federal government all benefit. Unfortunately, the federal small business supplier base has shrunk a staggering 40 percent over the last decade. This decline means less opportunity then for small businesses to support livelihoods and to support the communities that they, in fact, serve.

Now, while this decrease cannot be attributed to any one factor, it is safe I think to say that Category Management has been a driving force behind the decline of the number of small firms serving as federal prime contractors.

Category Management, or CM as it is known, is a government-wide procurement initiative that involves buying common goods and services as a single enterprise. The intended goal as we know of the initiative is to eliminate redundancies, increase efficiencies, and deliver more savings by leveraging the federal government's buying power.

Now, these are all worthy goals, but the policy has resulted in pushing small businesses in many instances out of the federal procurement space. Category Management discourages the use of individual contracts and consolidates requirements into large contracting vehicles, leading to less competition and then ultimately fewer contracting opportunities.

In 2020, GAO issued a report showing that while dollars and contract actions have grown for small businesses within the CM initiative, the overall number of small businesses and vendors receiving awards had, in fact, declined.

So to put it mildly, I think it is fair to say that a select number of small businesses were able to navigate and benefit this complex system, while many others were pushed out altogether.

In fiscal year 2016, 92,000-plus small businesses provided common products compared to just 79,114 of those same businesses in 3 years, a drop of 17 percent in that 36 month period. If this trend persists, it will have a severe consequence, both for the federal government and for the small business base. Fewer small businesses will lead to less innovation, higher costs, and then ultimately a weaker supply chain.

So I think it is not a stretch for me to say that all Members of this Committee believe in bringing in more efficiency and less redundancy to our procurement system. Yet, we cannot advance

these goals at the expense of small businesses, which are still, and will always be, the backbone of our economy.

That is why we must ensure that the implementation of this initiative does not run counter to the protections afforded to small businesses under the Small Business Act. And so I look forward to the hearing. I look forward to our panel today, to be able to talk about the challenges that Category Management continues to pose for small businesses and what, in fact, this Subcommittee and what Congress can do.

With that, I would like to yield to the Ranking Minority Member, Ms. Salazar of Florida for her opening statement.

Ms. Salazar?

Ms. SALAZAR. Yes, thank you, Chairman, for being here with us and for giving me the opportunity to talk to the rest of the Subcommittee. I appreciate you holding this hearing to support greater small business participation in federal government contracting.

As I explained to you, I wanted to do it in person. It is a lot more warmer and you can definitely share more thoughts but I understand that now is the time to do as we are doing. Hopefully, next time we will be able to do it in person in Washington.

So small businesses are critical to our nation's security, innovation, and the economy. And because of this, the federal government needs a strong small business supplier base. We don't have a strong the small business supplier base, and it is the federal government's fault.

In the last decade, the number of small contractors shrank by nearly 40 percent. Let me say it again. We have lost over one-third of our small contractors in less than 10 years. If that does not shock us, let me tell you more. In the last 15 years, the number of new entrants to the federal marketplace declined by nearly 80 percent. Clearly, the federal procurement environment has become so hostile to new small businesses that they just do not even try.

We need to act now to stop this axis and we at the federal level need to figure out what is happening. For instance, we need to re-evaluate the government's use of what you call contract bundling. That happens when several small contractors are combined into one unnecessarily large contract.

Another problem is what we call Category Management. That is when contractors are grouped together in categories, but this leads to picking winners and losers and that is not our job at the federal level. That is the marketplace job.

To be fair, Category Management has worked, and as of recent, small business contracts can now be classified as a Tier 1 contract, an upgrade from before.

Category Management can also be useful to track federal purchasing habits, identify efficiencies, and keep contracting costs down.

With that said, we cannot be naive when it es to how this will impact our small business suppliers. I want to give you an example. The government is increasing spending towards Best-in-Class (BIC) contracts, which according to the government are the preferred and recommended contracting method. But these contracting methods at this hour are only benefitting a few contractors from above the rest, stifling competition, and reducing opportunities. In

other words, the current category's management efforts appear to be benefitting the few to the detriment of many. And the end result is the federal government, while it is desperately looking to save a few pennies, is destroying the small business supplier space.

Let me share another example. The Office of Management and Budget, the OMB, eliminated one whole category of contracts called the Tier 0 contracts. They celebrated this as a major success. They said that it would only impact 5 percent of small businesses. But let me tell you something. There was another fact check conducted by the Government Accountability Office that it said that that new bracket eliminated thousands of opportunities for small businesses that had been eliminated by the Category Management. In other words, it does not work.

I promised my constituents in District 27 that one of my goals from this office, the Congressional Office, was to make thousands and thousands of them, thousands of small business owners vendors of the federal government and it has not happened.

So let me conclude with this thought. The decline of small business federal contractors to inflate directly to healthy competition and innovation. This comes on the heels of another staff job report in September, last month. The United States economy added only 200,000 new jobs compared to the 500,000 that were affected. So the federal government must do a lot more to provide opportunities for the small businesses in this country.

I thank you. I would like to thank the witnesses for their expert testimony today, and I yield back.

Chairman MFUME. Thank you very much, Ms. Salazar. The gentlewoman yields back.

I would like to take a moment now to explain how this hearing will, in fact, proceed. Each witness will have 5 minutes to provide a statement and each Committee Member will have 5 minutes for questions. Please ensure as I mentioned earlier that your microphone is on when you begin speaking and that you return to mute when you finish.

With that said, I would like to introduce the order of our witnesses.

Our first witness is Ms. Alba Alemán. And I hope I am pronouncing that correctly, the founder and CEO of Citizant, Inc., located in Chantilly, Virginia. Citizant is a certified, woman-owned business and a former 8(a) firm. The company specializes in creating solutions to complex government IT challenges, including application development, testing, automatization, enterprise, data management, and quality process improvement. Ms. Alemán has led Citizant through 22 years of successful service delivery on mission critical government programs. Welcome, Ms. Alemán.

Our next witness will be Lynn Ann Casey, the founder and CEO of Arc Aspicio, a certified woman-owned small business. Arc Aspicio is a consulting absolutions company that provides and solves problems I should say by applying integrated capabilities in strategy, design, data, capital, behavioral science, and in technology. Ms. Casey founded Arc Aspicio in 2004 and has a proud career of driving innovation for government agencies. Welcome, Ms. Casey.

Our third witness today will be Mr. Victor Holt, founder and CEO of V-Tech Solutions, Inc. V-tech is a HUBZone 1 certified

former 8(a) veteran-owned small business that offers technology, information, and a wide range of professional services. Mr. Holt founded V-Tech in 2000 after serving in the United States Air Force and working in the private sector for Lockheed Martin, Northrop Grumman, and Hewlett Packard. We appreciate your time and expertise, Mr. Holt. Welcome to you as well.

I will now yield to the Ranking Member to introduce our final witness. Ms. Salazar?

Ms. SALAZAR. Yes. Thank you, Mr. Chairman.

Our final witness is Sophia Tong. She is the founder and chief executive officer of T&T Consulting Services, Inc., a woman-owned small business. Ms. Tong is also a graduate of the Small Business Administration's 8(a) program. Under her leadership, T&T has grown from a small two-person business in 2004 to over 100 employees at this time. Under Ms. Tong's direction, T&T has achieved numerous, difficult to obtain, certifications in both a diverse array of federal government and commercial clients. Ms. Tong holds over 15 years of experience in software engineering and project manager. She has earned a Master of Science in Computer Science from the University of Maryland and her Bachelor of Science in Computer Science and Information Engineering from the National Chiao Tung University in Taiwan. She is a certified project manager professional and also information technology infrastructure library certificate. Due to her hard work and exemplary leadership skills, Ms. Tong has received many accolades, including the 2008 American Business Awards Executive of the Year Award, the Washington Business Journal 2019 Minority Business Leader Award, and the 2019 Small Business Administration's Small Businessperson of the Year in Northern Virginia. Ms. Tong, I look forward to hearing your testimony and I yield back. Welcome.

Chairman MFUME. Thank you, Ms. Salazar.

Ms. Alemán, you are now recognized for 5 minutes. Please proceed.

STATEMENTS OF ALBA ALEMÁN, CHIEF EXECUTIVE OFFICER AND FOUNDER, CITIZANT, INC.; LYNN ANN CASEY, CHIEF EXECUTIVE OFFICER AND FOUNDER, ARC ASPICIO; VICTOR HOLT, CHIEF EXECUTIVE OFFICER AND FOUNDER, V-TECH SOLUTIONS, INC.; SOPHIA TONG, CHIEF EXECUTIVE OFFICER AND FOUNDER, T AND T CONSULTING SERVICES, INC.

STATEMENT OF ALBA ALEMÁN

Ms. ALEMÁN. Good morning, Chairman Mfume, Ranking Member Salazar, and Members of the House Small Business Committee, Subcommittee on Contracting and Infrastructure. Thank you for the opportunity to speak with you today about the topic of Category Management.

My name is Alba Alemán, and I am the founder and CEO of Citizant, Inc., a small government services firm based in Chantilly, Virginia. We employ nearly 200 professionals who support federal agencies in 27 states. I am an active Member of the Women's Chamber of Commerce and serve on their Category Management Task Force. Citizant has been in business since 1999 and we have weathered many storms—Y2K, 9-11, Katrina, numerous govern-

ment shutdowns, continuing resolutions, administration and policy changes, and the Budget Control Act of 2011. Through all of these national emergencies and disruptions, we have diligently continued to serve important missions at the IRS, Department of Defense, Department of Homeland Security, and the Department of Justice, just to name a few.

The purpose of my testimony today is to share my first-hand insights about the detrimental impact that Category Management is having on the small business supplier base. Category Management has disproportionately stripped small, minority, and woman-owned businesses from access to federal contracts. It is responsible for the erosion of 30 percent of my own business in the last 2 years. It has widened the gap between small and large contractors to the detriment of our economy and has reduced the availability of innovative cost-effective solutions for our government.

Recent executive orders introduced a concept called “Tiered Spending” under which federal procurement departments are forced to use a small handful of government-wide contract vehicles, Best-in-Class contract vehicles. These BICs, like Alliant 2, VETS 2, and OASIS, account for hundreds of billions of dollars of spend among very small groups of prequalified contractors. And of these vehicles, only VETS 2 and OASIS provide a swimlane for a handful of small, minority, and women-owned businesses.

Category Management and Tiered Spending rules create significant problems for small businesses. Whereas large contractors have the experience and credentials to qualify for nearly every single BIC, small businesses are hard-pressed to qualify for even one. Competing for these BIC contracts requires a small business to have already spent hundreds of thousands of dollars on certifications, have tens of millions of dollars in prior contracts, and meet dozens of other requirements that only the largest businesses would ever have.

Here is a sobering statistic. Only .0001 percent of small businesses—that is, 1 in 100,000—have access to 100 percent of the BIC spending. And these “small businesses” are not small by most industry standards. They sometimes have \$100 million in revenue, have been around for decades, and have thousands of employees. Of the tens of thousands of small businesses who might want to pursue a BIC contract, only a few dozen will ever receive an award. The small businesses that do not earn a seat at the table in a BIC contract are effectively barred from competing during the 10-year life of that contract.

At the end of the day, the steering of government spending to large businesses results in a loss of millions of small business jobs. Large businesses are offshoring many of the jobs won on government contracts including BICs. With a concentration of contracting in the hands of fewer, larger businesses, the government loses the benefit of competition to lower prices. Furthermore, when large businesses subcontract to small companies, they mark up our services by 25 to 40 percent without additional value to the government.

Innovation is stifled. And let’s face it, most of the innovation in today’s economy comes from small businesses and entrepreneurs. And the hollowing out of small businesses in our industrial sup-

plier base creates National Security risks in countless industry sectors.

As an immigrant, I am not deterred by hard work or challenging times. I view it as my honor and responsibility to shoulder and protect the future of a vibrant, small business ecosystem in the U.S. And I am encouraged by the protections for small businesses included in the National Defense Authorization Act, including exemptions from Category Management for small business in all socioeconomic categories. Provisions like these are absolutely essential to protecting the viability of America's small business contractors who have already been pressed to their limits.

I am immensely grateful for the opportunity to address this Subcommittee and for the work that you do to preserve diversity and inclusion in our federal government supplier base.

I will gladly answer any questions. Thank you so very much.

Chairman MFUME. Thank you very, very much, Ms. Alemán. We appreciate your testimony.

Ms. Casey, you are now recognized for 5 minutes.

STATEMENT OF LYNN ANN CASEY

Ms. CASEY. Chairman Mfume, Ranking Member Salazar, and Members of the Committee. Thank you for the invitation.

My name is Lynn Ann Casey. I am the founder and CEO of Arc Aspicio, a woman-owned small business that has provided innovative professional services to the federal government since 2008.

I am also a Member of the Board of Directors of the Professional Services Council and work often with other small businesses who serve the federal government and this topic is of particular importance to me.

Category Management is an urgent issue for my company and other small businesses since it is contributing to the trend of decreasing the small business supplier base and running counter to the purpose of the Small Business Act.

In my testimony, I plan to offer some ideas and potential solutions to help grow the supplier base. All of my remarks refer to professional services rather than any items or products.

While Category Management does help increase procurement efficiencies, our company has seen it reduce the number of small businesses and the number of opportunities that are available for companies like mine to compete on. This in turn reduces innovation that small businesses bring.

In terms of the challenges of Category Management, we have been competing as a subcontractor and a prime contractor with the federal government for 13 years who are very experienced. We have been on several Category Management Best-in-Class vehicles, and despite our extensive experience and exceptional performance, we have only won one of those. And that is after spending hundreds of thousands of dollars.

We are also a mentor to another small business in a Small Business Administration Mentor Protégé program under an 8(a) program. So both Arc Aspicio and our protégé, which are very different in the stages of maturity in our company, have seen a significant reduction in the number and size, as well as the scope of opportunities for us available to compete and pursue competitively. We love

hard work and we love to compete. We just want the opportunity to compete.

Many new and recompile contract opportunities for Arc Aspicio have moved to Best-in-Class contract vehicles where we were not a prime contractor and therefore, could not pursue the work.

Agencies have raised significant concerns about not being able to allow their incumbent small businesses to bid for their recompetes competitively. Allowing small businesses to recompile on follow-on contracts after successfully delivering to the government should be a regular practice in small businesses. And yet, Category Management does not allow this competition and it prohibits innovation, competition, and it does not allow for continuous improvement.

In addition to fewer opportunities to pursue, it is very difficult for small businesses to compete and win Tier 3 BIC contracts. You have to have hundreds of thousands of dollars' worth of certifications and these BIC contracts often disproportionately favor small businesses who have extensive experience and certifications with the Department of Defense.

And yet, many other departments outside of DoD use these vehicles but they cannot get access to their current small business contractors. As a result, there are fewer small businesses, there is less competition, and while the revenue to small businesses may be increasing, it is to a much smaller base of small businesses. So ultimately, very small businesses are getting acquired or are just dropping out of the market and we are dramatically reducing the small business supplier base.

There are four potential ideas that I suggest and provide additional information in my written testimony. I would encourage the Committee to explore looking at Category Management for Spend Under Management (SUM) and exempting small business goals from the Spend Under Management to expand the opportunities for set-aside contracts.

Legislation to increase simplified acquisition thresholds from \$250,000 to \$1 million or more is another idea. Considering legislation or policy to allow the GSA Multiple Award Schedules for professional services contracts to be a BIC is another solution.

Thank you so much for the opportunity to testify today and I welcome further questions on my testimony. Thank you to the Committee.

Chairman MFUME. Thank you very much, Ms. Casey. We appreciate your testimony.

Mr. Holt, you are now recognized for 5 minutes.

STATEMENT OF VICTOR HOLT

Mr. HOLT. Thank you, Chair Mfume, Ranking Member Salazar, and Members of the Subcommittee. Thank you for the invitation to testify today.

I am Victor P. Holt, president and CEO of V-Tech Solutions, Inc. As a minority veteran-owned HUBZone firm, we provide health, technology, and professional services. We most recently celebrated our 21st anniversary.

Today, I testify as the Vice Chair of the HUBZone Contractors National Council. The Council is a nonprofit trade association that provides information and support for companies and individuals in-

interested in the HUBZone program. The HUBZone program provides economic assistance to historically underutilized business zones by awarding federal contracts to HUBZone companies that operate and employ workers who live in designated HUBZone tracts. We would like to thank the Committee for its commitment and support of small government contracting businesses. We also thank you for highlighting the topic of Category Management.

This is a topic that the Council continues to be concerned about. Council Chair, Shirley Bailey testified in 2018 before the Committee on this topic. Today, we are here again facing the same bleak outlook as 2018. The cause for concern remains simple—small business access to government contracts.

Small businesses are the engine that fuels the American economy. We bring growth, innovation, and employment opportunities. We embody the promise, hope, and future of our country. However, substantial challenges and barriers still exist. The Council continues to believe that Best-in-Class contracts create enormous barriers for small businesses. As the government moves away from direct award contracts, business opportunities decrease for the small business community. The large buying contracts used in Category Management require substantial resources to bid and win. These contract requirements keep small businesses from competing. This includes stringent past performance or other requirements that are impossible for a small business to beat.

Subcontracting comes with its own challenges as well. This includes small margins and often alignment with a large or mid-size prime based solely on cost. BIC vehicles also have a crippling effect on small business competitive opportunities. Approximately 25,000 small businesses provide IT services to the government, but for the OASIS Small Business Pool 1, only 30 slots are available. Additionally, some Best-in-Class vehicles do not have on ramps. This restricts the opportunities for future on ramping for small businesses. Hence, shutting us out from high dollar contract opportunities.

According to Bloomberg Government, IT spending represented more than half of the Best-in-Class market in FY20 with the Best-in-Class spending goal of FY21 at approximately \$48.4 billion. With a large portion of IT spending going through these Best-in-Class contracts, winning a recompete or direct award may be even more challenging than before.

Category Management, when applied to broad acquisitions, does not consider that innovation provides incredible value. Best-in-Class should not resemble lowest price technically acceptable. We hope the government does not mistake lowest cost for best value.

As to popularity of utilizing Best-in-Class contracts increases, HUBZones and other small businesses have pure opportunities to compete. In fact, the government has never met its goal to obligate 3 percent of the eligible prime contract dollars to the HUBZone community. This represents 23 years of missed opportunities and unawarded dollars to HUBZone companies that can train, employ, and mentor constituents within your HUBZone tracts.

No one would disagree with the goals of efficient government by and saving taxpayer money. However, we believe Category Management comes at a cost. It can restrict the ability of small businesses to grow through federal contracts. The Council urges the

Committee to exercise its authority to ensure the government's procurement policies, specifically Category Management, utilize small businesses.

I thank you for the opportunity to speak today and look forward to engaging in continued dialogue.

Chairman MFUME. Thank you very much, Mr. Holt. We appreciate your testimony. We will be back to you, obviously.

Ms. Tong, you are now recognized for 5 minutes. Please proceed.

STATEMENT OF SOPHIA TONG

Ms. TONG. Chairman Mfume, Ranking Member Salazar, and Members of the Subcommittee, I thank you for the opportunity to testify before you today. My name is Sophia Tong. I am founder and CEO of T and T Consulting Services, Inc. (T&T). We are located in Falls Church, Virginia. T&T is a woman-owned small business. We specialize in providing strategic IT solutions to the federal government that allow them to successfully achieve their mission objectives on time and within budget.

I am testifying today on behalf of the Montgomery County Chamber of Commerce (MCCC) in Montgomery County, Maryland.

Today's topic is very important for the small business contracting community. The impact of Category Management is increasingly evident in my industry and affecting our company. Agencies are bundling contracts that were previously performed successfully by small businesses, rolling them into large contracts and awarding them to large businesses. The outcome of this action is killing small suppliers like ours. There are countless examples of this in the IT field.

For example, in August of this year, the Defense Health Agency (DHA) awarded a large business a single award 10-year, \$2 billion blanket purchase agreement (BPA) to support the Military Health System's Enterprise IT Services Integrator requirement. By taking this work and bundling it into a massive single award contract, a monopoly is created, allowing the large business to control (and raise) prices on the work performed for the government. Large businesses always claim there is no harm to the small business supplier base as contract consolidation happens, because they will hire the small businesses as subcontractors.

However, the fact is large firms often take substantial cuts. Small businesses are usually given unrealistically low rates and it makes it difficult to meet requirements, recruit, and retain resources—the margins are too thin. Additionally, small business lost the close relationship we had with the government client when we were prime and now we have become subcontractors.

Another example, large businesses also use high rates they receive from the government to steal the workforce from small businesses. There are numerous instances where Members of my team have been hired by large business that were awarded my previous contract, all due to the consolidation efforts. Unfortunately, my experience is that government clients are unable to help in resolving those disputes.

And the third one, primes have also bullied small businesses, leveraging their existing network and relationships with government clients to try to steal contracts from successfully performing

smalls. For example, we received a sole source contract to create a minimum viable product (MVP) for an organization under DHA. The contract is still ongoing, and the customers are very satisfied with our performance. But, because the contract is very important and could potentially become a very large contract, we were contacted by many large businesses wanting to be a part of this effort. One of them is Google. When Google found out we were not able to bring them on the team, Google wrote a "letter of concern" to DHA complaining that DHA awarded this contract to a small business. This type of behavior is common and increasingly concerning.

Although we have grown to a larger small business, newer and smaller entrants are particularly hard-hit with Category Management. Even for mature, well-established small businesses with a diverse portfolio, like us, contract bundling and consolidation is hurting these businesses. The cost of getting on a Best-in-Class contract is substantial and requires significant investments just to get a slot. Category Management continues to shift an increasing number of dollars to large contract vehicles. Additionally, Category Management has accelerated a decline in diversity of vendors with large dollar amounts held only by a few companies.

The Chamber applauds inclusion of provision in the FY2022 NDAA by the Committee to combat the effects of Category Management and any future bundling strategies. MCCC also understands additional factors are contributing to the supplier base decline, in addition to Category Management: increasing transparency and accountability in subcontracting, as well as increasing R&D investment to maintaining and growing the small business supplier base.

In conclusion, small businesses are asking for equity, a fair chance to compete for contracts. We are asking for actions from this Committee to change the trajectory of contract consolidation which in our view creates opportunities for large businesses but results in fewer opportunities for a small business like us. We need your help and appreciate the opportunity to bring these issues before you today. Thank you.

Chairman MFUME. Thank you very much, Ms. Tong.

We are going to begin our questioning in just a minute. I want to again thank all of the witnesses. I know you have much more to say and hopefully you will get that opportunity as we go around the table so to speak and have Members join in with questions.

I will now recognize myself for 5 minutes.

Ms. Alemán, I would like to really just start with you. We all know that the ultimate goal of Category Management is to increase efficiencies and to decrease duplication and things that harm the process. And yet, what we see as we have all heard today and which many of you have given in your testimonies, has been an adverse effect on small businesses.

Now, I know some of you, and I want to come to you in just a moment, had some specific suggestions, but Ms. Alemán, what do you think we can do to strike the right balance as the Congress with oversight between the goals of Category Management and ensuring that we still have a robust small business base?

Ms. ALEMAN. Thank you. I think that the actions already taken in the house version of the National Defense Authorization Act already addresses some of the important topics that we have been

testifying on. For example, an amendment to the Small Business Act included in the NDA states that all contracts awarded under the relevant sections of the Small Business Act will be classified as Tier 0. In essence, they will not be aligned to Category Management principles and not be required to be enforced under Category Management rules. And it further stipulates that these Tier 0 contracts shall not be included in metrics related to Category Management rules and that federal agencies shall not re-classify Tier 0 contracts to Tier 1, 2, or 3 without approval from the SBA administrator. This is a really important step to preventing future small business awards from being rolled up into massive procurements for large businesses as is currently being done with several of our own task orders at the IRS.

As a metrics person, as a person who lives for numbers, I can tell you that people will do what they are measured against. If you measure them against what percentages they do in each of these tiers, and Tier 0 is not an option for them, guess what? They are not going to use Tier 0.

Chairman MFUME. Okay. Ms. Casey, you were specific in your written testimony. You have four recommendations. Is it fair to assume that all of these recommendations that you listed are still very much needed and necessary? And if you would, could you kind of prioritize them and let the Committee know what is the most important or the second most important issue?

Ms. CASEY. Yes, of course. As Ms. Alemán just said, the number one item would be to consider the language that allows small businesses and small business to be considered in Category Management such that they would not get count against the metrics. And so that would allow more small businesses to compete. So I agree with that recommendation. And if that cannot be done, considering that for professional services contracts, considering the GSA schedules which are very successful for both new entrants and current small businesses to win prime contracts should be considered because they are competitively awarded under GSA. And so they should be considered under Category Management.

I would also strongly consider that you look at not only current SBA increases in small business size standards but future increases that keep the small business supplier base very healthy or very important.

Chairman MFUME. Okay. I am going to quickly go to you, Mr. Holt. You talked specifically about loss of competition, smaller margins. I think I also heard you say that someone from your firm or that you associated with came before a similar hearing back in 2018 and that nothing has changed in many respects. Any specific ideas? You have heard both Ms. Alemán and Ms. Casey. What are your thoughts on what we can do and should do to be able to turn this around?

Mr. HOLT. I echo what they say as far as more language as it relates to the NDA for inclusion. One of the biggest challenges that we face as small businesses, especially as it relates to Category Management, Best-in-Class type contracts as a subcontractor is playing with very, very razor thin margins where we are asked to do a lot with a little. And it is sort of like sometimes just going down the line to whatever company will sign up for that.

So what we are looking at is how do we hold these primes that we work with more accountable, understanding their pricing structure that you see on the procurement side and being able to say this is fair and justified what they are doing with their small businesses, that small businesses will be able to perform. There will not be any false starts on onboarding a small business, a subcontractor in getting underway and showing good service delivery to the federal government.

Chairman MFUME. Thank you very much, Mr. Holt.

Ms. Tong, I do not have any time left so I will try to hold off my comments and questions for our next round. But thank you very much for your patience.

As I said, my time is expired, so the Ranking Member, Ms. Salazar of Florida, is now recognized for 5 minutes.

Ms. SALAZAR. Thank you, Mr. Chairman. And thank you to all the witnesses.

I wanted to start with Ms. Tong. You mentioned, you said two key words. That you were being bullied and that Google had written a letter to an agency which I am sorry that I did not—maybe I did not write the name correctly and I wanted you to expand on the bullying situation. Who has been bullying you? And number two, if you could expand on that initiative taken by Google, and to what agency and what did the letter contain? Thank you, Ms. Tong.

Ms. TONG. Thank you for the opportunity to talk about this issue.

Yes, it was Google, the giant. This is a very important initiative taken by DHA for an organization called Joint Pathology Center. So DHA had conducted initiatives before and identified the solutions they want for this effort. And we were picked to be the integrator for this work. So Google called us and said we have talked to the executive in DHA and they like our solution. So I told them the solution was picked by DHA. All we have to do is to follow the instruction they want and put together the team to perform this work. So I told them. I said I will try to help them look for the future but I just cannot take them to the team. So Google turned around and sent a letter of concern to DHA complaining that why did DHA award this contract to an 8(a) company? I do not know the details of the letter because it was directly sent to a lawyer of DHA. All I know is that the customer asked us what we had disclosed to Google, which I did not because we signed an NDA.

This is a very—

Ms. SALAZAR. So you signed an NDA but nonetheless, Google had the information that it should have not had?

Ms. TONG. They got the information—and also, I think they know something from their connection in the network in DHA. So they come to me.

Ms. SALAZAR. Oh.

Ms. TONG. I just tell them I cannot tell them.

Ms. SALAZAR. DHA is working for Google then?

Ms. TONG. They did not get that for the effort. So this is the way that DHA find out what could be possible solutions out there for them. And then based on their response, they will decide what

are the solutions they would like to use for this effort. So Google participated but was not selected.

Ms. SALAZAR. All right. And besides what you just described as Google's way of conducting itself against your interests, what other bullying incidents have you felt or have you experienced in the last while conducting your business as a small business owner?

Ms. TONG. So I have another contract as an example. We created software that was very successful at the regional level. I was able to convince the CIO to bring it to enterprise-wide and they are very happy about it and would support this idea. But unfortunately, they were told by the contracting and one of the organizations that managed the money, they told them, they say, no, we cannot have more contracts. And I cannot say it is bullying but I think they have connections with the large businesses. So the award actually got pushed through a large business vehicle and it is not even an IT contract vehicle. So our customer told them, say we are the ones who create software and they were hoping that they could leverage us for this effort. But the large business just turned around and used the money to hire our people.

Ms. SALAZAR. All right. Very, very insightful information that I am sure our Chairman is understanding that we definitely need to do something about this and continue protecting people like you all over the country that are being stolen not only their intellectual property but their employees, people that you have invested time and effort and energy into training for now to be then just stolen away by the bigger guy.

Thank you. I think that my time is coming to an end. I will get back to you in the second round. Thank you very much for sharing that with us. I am sure that is not an experience that you have only felt. I am sure there are thousands of other small business owners all over the country that are experiencing the same thing. Thank you, Ms. Tong.

Ms. TONG. Thank you.

Chairman MFUME. Thank you. The gentlewoman's time is expired.

The Chair recognizes the gentleman from New Jersey, Mr. Kim for 5 minutes.

Mr. KIM. Thank you, Mr. Chair. I really appreciate it.

Mr. Holt, I wanted to start with you. In your testimony, you noted that "with larger contracts being utilized by the federal government, subcontracting is more important than ever." You identified better oversight of prime contractors' compliance with subcontracting plans as one solution. I have a legislation I am trying to put forward called the Put Our Neighbors to Work Act, which was also included in the House passed—which would require upcoming DoD subcontracting opportunities to be posted publicly so local small businesses have a better chance to compete.

One thing that we have come across that we feel like has been helpful, for instance, are the procurement technical assistance centers (PTACs), like the one at the New Jersey Institute of Technology, which provides one-on-one counseling to help small businesses become subcontractors.

I wanted to ask your thoughts. What other strategies should we be using to get more small businesses started in contracting? Be-

cause trying to figure out how to demystify the process and help them understand what might be feasible. So I wanted to see if you had other thoughts about the PTACs or about other opportunities.

Mr. HOLT. We happen to work with the PTAC, specifically DC PTAC. And they are a great resource for what we have been able to do and they have been instrumental with our growth as it relates to having entry points into federal government introductions as well as understanding certain programs that are out there. So I would definitely push the PTAC as one of those resources for you.

In addition, the Putting Our Neighbors to Work, when you said that I smiled because I always think of our neighbors as many different neighborhoods but me, as a HUBZone company, that is something that I really embrace and the HUBZone Council embraces that where we are always looking at how do we get subcontracting and prime opportunities put into the HUBZone arena.

HUBZone companies, and I say this probably more than anyone, knows how to find these individuals, these neighbors that you speak of that we can identify, train, employ, coach, and mentor along their career journey and get them into gainful employment. Currently, I have about 120 employees in Alabama with the majority of them, 80 percent plus of them are in HUBZone communities. And so when I think about that, working with various local agencies, the Department of Employment Services, working with PTACs, working with veteran organizations who they are always looking at how do we find our returning heroes and our warfighters employment. So those are some that come to mind.

Mr. KIM. Yeah, thank you. I appreciate that, Mr. Holt.

I wanted to just open this up for anyone who might want to respond. But another issue that I keep hearing over and over again is about how small businesses often have fewer resources than larger businesses in terms of navigating red tape and the bureaucracy that comes with contracting with federal government. And that obviously creates these barriers to entry for many qualified small businesses from the very start. So I wanted to ask if any one of you had any thoughts about whether or not there were targeted reforms that could be made to administrative burdens that would allow accessibility for small businesses to enter the market and whether or not you have any thoughts or some concrete thoughts here about what it is that we can do.

So I will just kind of open that up if anybody has any thoughts here.

Mr. HOLT. I will speak up real quickly. The HUBZone program has never met its 3 percent goal requirements since inception, 23 years. There is a lot that can be done there. And I would offer to work with you on that. The HUBZone Council would offer to work with you on that.

Mr. KIM. Ms. Tong?

Ms. TONG. Yeah. I would like to suggest can we remove the J&A requirement for HUBZone, women-owned and SDVOSB sole source? Because right now, every time we try to do sole source for those three categories, the contracting officer refuses to do so because it has to go through the lawyer for legal review and it takes a long time. So even though we have the FAR saying that we are

allowed to get a sole source but no one is doing that. Or very few of them.

Mr. KIM. Great. Thank you.

Mr. Chair, I yield back.

Chairman MFUME. Thank you very much. The gentleman yields back.

The Chair recognizes Mr. Stauber, the gentleman from Minnesota, for 5 minutes.

Mr. STAUBER. Thank you very much, Mr. Chair. And thanks to all the witnesses.

This is for anyone on the panel. What hurdles must small businesses, particularly new small businesses that are just starting out in the federal marketplace have to overcome to successfully participate in government contracts under Category Management? This is for anybody on the panel.

Ms. CASEY. I am happy to take that, Mr. Stauber.

Gosh, to be a small business entry in the market and telling the federal government is almost impossible. So to actually even learn about all of the contract peoples and the experience that you need to start applying for those contracts, it starts as a subcontractor. So you need to find out opportunities to subcontract. But then you need opportunities to prime contract. And there are fewer and fewer opportunities to prime contract on GSA schedules than there used to be. The GSA schedules used to provide a great opportunity to subcontract to get you ready to bid on things like a GWAC or a Best-in-Class vehicle. And so allowing more opportunities on the schedules so that small businesses can get the prime contract experience they need to then be a credible prime for the Best-in-Class vehicles is a critical pathway and very important.

Mr. STAUBER. Thank you very much.

Is there anybody else on the panel that would like to tackle that question or have comments on the question?

Ms. TONG. From my experience I found was very helpful for the new entrants. They can enter into a Joint Venture with a larger company and then through the large company they can get sole source contracts or they can get subcontract opportunities to help them to get started. That is how I helped my protégés.

Mr. STAUBER. Thank you very much.

And Ms. Alemán, did you want to respond?

Ms. ALEMAN. So the thing that I am look for today is the opportunity to create opportunities for small emerging companies. So one of those is through mentorships. Historically, and we benefitted from large businesses under the Department of Defense's Mentor-Protégé program. And SAIC at that time was our mentor. We learned so much. They helped us with our certifications. But the DoD Mentor-Protégé program funds those large businesses. Provides dollars for them to have staff to help us. So they are incented to. That does not exist in the civilian space. So for those that are working civilian, there is no funding for that. And quite frankly, as a mentor to other small businesses in the Women's Chamber of Commerce, I find that our smalls are larger smalls, like the ones represented here today, make better mentors to the small smalls than the big companies because we get them. We are there every Saturday and Sunday writing the proposal. We can hit each other

up on Teams. We are talking 24/7. We understand the world they are living in and we are still facing some of those challenges. So we are closer to the fire and we have a better shot at really helping them. So providing funding for mentors would be ideal.

Mr. STAUBER. Thank you very much.

Mr. Chair, how much time do I have left?

Chairman MFUME. Let's see. It looks like you have got a minute and one second.

Mr. STAUBER. Okay. You know, I think that the cost savings for taxpayers, it is absolutely laudable. But it is clear that Category Management is and has a punishing effect on some of our small businesses. And so I would ask any of the panelists real quick, what suggestions do you have to make our federal marketplace more accessible for small business participation? And just give me one or two quick examples all three of you with the time remaining. Thank you.

Ms. CASEY. I would suggest mandating that all of the agencies use a forecast system to project out what their requirements are so small businesses can pursue both subcontracting and prime opportunities and that is not consistent across agencies.

Mr. STAUBER. Thank you.

Sophia?

Ms. TONG. So I would suggest to stop counting by the quota of the sole source and set aside for small businesses for the Category Management. And increase more sole source, more small business set aside for us.

Mr. STAUBER. Thank you.

Ms. Alemán, real quick.

Ms. ALEMAN. Yeah. So for BICs like Alliant 2 that got canceled for the small businesses, they only offered 80 seats at the table for the 400 small business bidders. Percentage-wise, the 50 larges that got it out of the 80 that bid does not make any sense. And why GSA stuck to their ground on 80 when they had the opportunity through the federal procurement process and the protest process to increase the ceiling to 120 and they refused. They just canceled it and they essentially locked out small businesses from that BIC vehicle forever because they canceled the procurement. It is only open for the larges.

Mr. STAUBER. Well, thank you very much.

Back to you, Mr. Chair. Thank you.

Chairman MFUME. Thank you. The gentleman from Minnesota yields back.

The Chair recognizes the gentleman from Pennsylvania, Mr. Meuser, for 5 minutes.

Mr. MEUSER. Thank you, Mr. Chairman. Thank you to our witnesses very much. This is quite an important hearing. I have many small businesses in my district throughout Pennsylvania going through much of what you are all discussing and revealing. And it is appreciated. And it matters. So hopefully we can take this information and do something with it. That is what our role should be. Oversight but also effectuate some improvements.

And Mr. Stauber's last question on what we can do for you to make contracting more accessible, efficient, transparent is a key question here. So I noted that well.

I would ask Lynn Ann Casey, in your original testimony or your testimony here losing contracts, you have lost contracts, or all of you have difficulty retaining contracts due to changes in class requirements. And sometimes that happens sort of late in the game or during the contracting process. Can you illustrate that a little more and tell us, that just sounds like a very challenging situation should a contract requirement change late in the game.

Ms. CASEY. Yes. Often we find out, we would like to compete on a contract. We want to do that fairly. We are not asking to be rewarded a contract without a competition. But we are finding out later and later that our agencies are at the very end moving our recompetes to these Best-in-Class vehicles without even clearly communicating that to us. So we do not know where those opportunities are going sometimes and we have to scramble at the last minute to become a subcontractor to someone who is on those vehicles. And that has happened to us multiple times, mostly because of the department and agency-level procurement policies that require mandatory use for vehicles and for Category Management vehicles. And so often we see those switching vehicles all the time so we cannot even track them. We have had multiple contracts go to large business instead of small on Category Management or to just go onto a Category Management where we are not a prime contractor and it does not happen all the time.

Mr. MEUSER. Is it explained to you why that occurs? Like the agent that you are working with, they explain to you anything?

Ms. CASEY. No. Actually, at the department level, they will not even publish what their policy is so we only find out about it by talking to a contracting officer who says very little. They say they cannot share a copy of the policy with us and they would like to get an exception for the policy but they actually are afraid to put their neck out and go talk to a fair exception process in their agencies and they really do not have the information to explain it. They just have to blindly follow the policy from their agencies.

Mr. MEUSER. Mr. Holt, does this seem like a fair process to you?

Mr. HOLT. No, it is not. And it is a process that I have been affected by. We had a Best-in-Class vehicle be a Stars 2—where we were doing cybersecurity work with the Navy and there was a contract that we enjoyed for almost 8 years. When the option period was coming up they took it down to the wire. They did put it on the street. There was no recompetes and that week we were informed that the small business work was no longer needed and I saw 75 percent of my team absorbed in a prime who was already doing work with that program office and they just took them on. So, this is something that has affected us personally. And what that did, that hit us, that was worth about \$2.8 million a year in revenue that walked out the door.

Mr. MEUSER. Okay. I am glad to hear this. Sorry it occurred, but glad to hear it.

I want to change subjects a little bit and ask about vaccine guidance for federal contractors, both from those who provide product and service. Have you in your view received guidance that is to go into effect by December 8th, clear, understandable, comprehensible

guidance on what type of vaccines or level of vaccination and all that your employees must have in order to keep your contracts?

Ms. ALEMAN. So we have already published a policy for our employees regarding that and provided them with timelines, options, the path for obtaining legitimate exemptions. We have engaged once the Executive Order was signed, within 2 weeks we engaged legal counsel to develop how we would roll that out into our organization. We have been on all-hands calls with our employees. Everyone that is vaccinated has uploaded their vaccine cards to a private HR portal. And there are folks that will not get vaccinated that are not exempt and they know that their last day with us will be December 8th.

Mr. MEUSER. Okay. And I yield back, Mr. Chairman.

I will say though that I do hear from many small businesses that have federal contracts that they do not understand clearly the vaccine requirements which they want to abide by but they do not have the precise requirements.

I yield back. Thank you.

Chairman MFUME. Thank you very much. The gentleman from Pennsylvania yields back.

The Chair recognizes the gentleman from Wisconsin, Mr. Fitzgerald, for 5 minutes.

Mr. FITZGERALD. Thank you, Mr. Chairman.

As somebody that was a former small business owner and a veteran, you know, a lot of the questions today kind of nibble on the edges of what is the big frustration. And it is the same today as I think it has been for many years and that is having the technical assistance available to navigate the federal system. And I know personally, and I think if you talk to specifically a couple of industries, for the most part the sector, light manufacturing or certainly, I was very familiar with the printing industry. And if you want a federal contract, you either need to hire out professional services that can navigate the federal system and the technical aspects of all the specs that need to be met, or you need to hire somebody that is full-time on staff that can work and navigate, like I said, the entire system. So that is a frustration that has existed for many years.

I would just say there is a couple of different angles I think that could be helpful, and I would like maybe Ms. Tong could comment on this and Mr. Holt for sure. If there were larger contractors that were granted kind of a larger scope of what they could enter into or what they could actually bid on and then the ancillary smaller businesses, whether it is a tool and die shop down the street or certainly transportation services, if there was some way of enhancing the synergy between those two entities, do you think that would be helpful? Because that seems to be still missing out there in this whole discussion. And I would offer that to Ms. Tong first.

Ms. TONG. Thank you. So I think the challenge for us to working with large businesses actually, they take a big cut on pass through when they give it to us which makes it difficult for us. Yes, they constantly engage small businesses but they just did not give us the good rate to recruit talents to be able to have margin or to work efficiently. And like us, T&T, we actually have like 15 contract vehicles. We are able to bid and we see all the opportunities.

But challenge is more like some of the opportunities get consolidated, become a super huge contract and it is just not something small business or even midsize companies can bid. That is the main issue.

Mr. FITZGERALD. Mr. Holt, do you have any comment on that?

Mr. HOLT. Yes, sir. We actually have played on both sides of the field. Right now we are working with a large, coming up on a year, it has been a very enjoyable, enjoyable opportunity where they have given us custodial responsibility for the services that we deliver with the appropriate rates. And that is an anomaly. That is usually not the norm. And what the norm is is that depending on the health and the needs of the prime, a lot of times when the task order comes up for renewal or a recompetes, they are going to ask you to lower your rate. They are going to ask you how do you lower your rate? And we have had it happen at mid-contract before where I call it the bullying effect where the prime will come and say, hey, is there any room? We need you to go down by X percent. And, you know, we have held our ground on some and we have had opportunities where we just have to walk away because we could not do the business. So, you know, if there was a way to have more compliance as it relates to the prime and how the government looked into how they treated their subcontractors, I think it would go a long way as it relates to compliance and oversight and ensuring proper revenue shift as far as the pricing that is being pushed down to us.

Mr. FITZGERALD. Very good. Thank you. Thank you.

In the limited amount of time that I have left, I just wanted to touch on something that Congressman Meuser brought up earlier and that is, Mr. Chairman, I think there is kind of a storm brewing out there on the vaccination. There are so many different tentacles that are kind of reaching in to the smaller businesses that do work or are associated with specific types of sectors, whether they utilize the U.S. Mail or they may have obviously DoD ties. And you know, what was presented I think by the Biden Administration as something that was only going to affect corporations with 100 employees or more, we are starting to hear, I am back in the district, that this is reaching down much further than that and I would hope that this Committee would use its voice to make sure we reach out to the administration and make them aware of that because, like I said, I think it is a storm that is brewing that could become a big problem down the road.

So, and I would yield back. Thank you, Mr. Chair.

Chairman MFUME. The gentleman from Wisconsin yields back. The gentleman's points are well taken and I will share them with the larger Committee on Small Business that might want to pursue that going forward.

We are going to pursue a second round of questioning and I will recognize myself for 5 minutes.

Can any of you or all of you talk to the fact about whether or not you were not allowed to recompetes at some point in time on a contract and what was that like and how did you make out? Anyone?

Ms. CASEY. I can speak to that, Mr. Mfume.

Over the past 3 years, we have not been allowed to recompetite on at least seven different contracts worth probably well over \$15 million of work where we were getting exceptional ratings from the government on our performance. So it is really significantly affecting us. It has been many, many contracts. What ultimately ends up happening—

Mr. FITZGERALD. I am going to have to jump off now, so.

Chairman MFUME. Okay. So you will skip the second round?

Ms. CASEY. What ends up happening is we have to give up the work and then our people who are doing work at that agency then get hired by either the large contractor or the company on Category Management that run the work. So it is hurting our long-term workforce and it is hurting our long-term revenue, and it is places where we were doing excellent performance. I am sure my fellow panelists have seen similar things.

Chairman MFUME. And was there any effort to move you into a Best-in-Class situation?

Ms. CASEY. Yes. Most of those were because they were moving it from say a GSA schedule to a Best-in-Class vehicle or they were moving it from a department-wide vehicle into a Best-in-Class vehicle. So, yes, it was because of Category Management and Best-in-Class.

Chairman MFUME. Now, I have heard the term “bullying” a couple times today and it is interesting because I think what I am really hearing is something that Mr. Holt referenced earlier and that is the way primes treat subs and that there is apparently a lack of best practices or a lack of guidelines. I mean, we put in place a number of guidelines. If you are a prime in order to get a sub you must do this, you must do that. There are a number of things that have to be complied with.

Mr. Holt, am I talking out of school? Are you suggesting here that there ought to be some sort of standards that we can put in place even if we do it through report language? That would give primes some sense that they are being watched in terms of how they are treating subs to make sure this “bullying” phenomena does not continue?

Mr. HOLT. Yes, sir. That is exactly what I am saying.

Chairman MFUME. And do you have any suggestions of what those standards or guidelines should encompass?

Mr. HOLT. I think it should be part of their service level deliveries being transparent with the government, as well as being transparent with the subs that are supporting the primes, understanding what the expected revenue share is up front where a lot of times primes, they will say, hey, we want you on this particular opportunity. Give us your pricing. Give us this. Give us that. And when you go to talk about workshare, they do not want to have that conversation. That is taboo. And what usually can come out of that is that they start using us as staff augmentation as opposed to solutionists where we can really come in and provide something that is of value, if you will, that we can create more effect from this, more efficiency. And on the other side of the coin is for the primes to partner with us as opposed to just push work down to us that they may not want to do and that the margin may not be big enough for them to put their own employees in.

Chairman MFUME. Okay. My time is short.

Ms. Tong, you had mentioned also your not so pleasant experience with Google and you heard Mr. Holt. Any suggestions you may have also to kind of prevent that from occurring in the future?

Ms. TONG. Yes. So I think right now, government only look at the percentage they sub out to the sub or small business but they never look at the financial numbers in terms of how much will the money pass down to small business. Or do they even offer to pass down the escalation to the subs? For some cases, we cannot ask escalation for rate adjustment, our rate over the year remains the same but you know that people's salaries are going to increase over a year. So things like that. If government can look at more numbers, or even use cost plus type of contract i.e. base on what is the actual cost they hire the sub and then they just give them incentives or the profit, I think it will help so they do not have to cut our rate in order to meet their financial goal.

Chairman MFUME. Okay. Thank you very much. My time has expired.

The Chair recognizes the Ranking Member, Ms. Salazar of Florida, for 5 minutes.

Ms. SALAZAR. Thank you, Mr. Chairman. And this goes for any of the witnesses and any of the speakers. I would like to hear your experiences. I have heard from some of you this term of "buying your staff and intellectual property for pennies on the dollar." I know that Ms. Tong spoke about it but I would like to hear Ms. Alemán or Ms. Casey, if there are any examples that you want to share with us specifically when another bigger contractor stole from you precious employees after you had trained them and invested money, time, and energy in keeping them.

So, Ms. Alemán or Ms. Casey or Ms. Tong. Let's start with you, Ms. Alemán. I am not sure if you want to share with us. Do you have examples where we can illustrate this practice is happening right now? Please do so.

Ms. ALEMAN. Yes. This is a very recent example at the IRS. We have developed an award-winning solution for Dev Sec Ops, CICD pipeline, onboarding, saving the IRS 27,000 to 30,000 hours a year for the automation we have done and we have accelerated that with a patent pending unique solution that we have actually patented and won a national and international award for. It was so critical to their filing season that they gave us, they issued us under the women-owned procurement preference, they issued us a sole source contract last year to continue our work because our large agency-wide vehicle got shut down by a BIC. And that was full and open and it got shut down by the BICs. So they issued us this wonderful 2-year contract, sole source, base and option. Come September at the end of our base year, we still had an option where they did not need to reprocure. Instead of exercising our option year which they need the support we provide, they bundled a series of large contracts into something like a \$120, \$200 million contract. So they bundled it and they said, "No, no. Everything goes under that now. So you have got to go talk to them." So we did. We went to the prime, Maximus, who said, "Oh, no, we do not have space for you on our team." This is after award, knowing that our work would be shut down. Then they sent us, they batted us

over, this is the bullying part but it is almost like collusion. They batted us over to their key subcontractor which we all know Deloitte is not a small. So Maximus and Deloitte, both of them telling each other in the background, "no, no, no, do not hire them." Meanwhile, calling every single one of our employees on that contract and now the government is calling our employees. The government. The federal employees are calling our employees saying, "Go, please go. We cannot shut down your work. We need it." We have been off the contract for 3 weeks and the pipeline has been shut down.

So I am looking forward to January when filing season kicks off and they are not able to launch this because my employees refused to go. So they are sitting on my bench now which is totally fine because that is on me. That is the kind of decisions we small business owners make. We choose where our money goes. We choose to invest our profits in our people. And that is why they do not leave during a shutdown, during COVID, during contract transitions. They do not go because of that. So that is not only predatory but they are also positioned to steal our intellectual property.

Ms. SALAZAR. Absolutely. This cannot happen and I thank you very much for sharing this testimony.

Chairman, you have been listening to this. We have got to stop this somehow. That is what we are here for. The government cannot be stealing away from the private sector. So thank you, Ms. Alemán.

I think I have a couple of more minutes. Ms. Casey, would you like to share some of your experiences with us?

Ms. CASEY. I, too, have had similar experiences where large businesses have signed subcontracts with us and have given us a workshare. Say 30 percent of the work is supposed to be performed by Arc Aspicio. And if we are lucky, we will get 5 to 10 percent of that revenue and nobody holds the prime accountable. And there is no way, you know, they have a lot of lawyers and there is no way we can kind of argue with them about standing forward with their teaming agreements. But they use our teaming agreements to actually win the contracts in the first place. So they say we are going to team with Arc Aspicio. They are going to do all this work and then afterwards they do not do that and I, too, have had similar experiences where a large prime contractor has literally taken one of my employees, given that employee to one of the other small businesses on the contract, and on Friday they leave us and they say that person will not work there and on Monday they are there working on the same contract for another small business.

Ms. SALAZAR. Incredible.

Ms. CASEY. Unbelievable.

Ms. SALAZAR. Unbelievable.

Thank you very much for sharing, both of you, and I am sure that we will, we are going to take action into this. And thanks once again. I have to yield back. I do not have any more time.

Chairman MFUME. The gentlewoman yields back.

The Chair recognizes again the gentleman from Pennsylvania, Mr. Meuser, for 5 minutes.

Mr. MEUSER. Thank you again, Mr. Chairman. Thanks, everyone, again, for all this important information. I agree with Ms. Salazar. We certainly need to help them and act upon it.

So in a couple of the testimonies and in the discussion that just took place, you know, Ms. Alemán referred to as predatory Joint Ventures between large and small firms and that has been discussed. But I want to delve into that a little bit further here where these larger firms will set up subsidiaries or just new companies and set up Joint Ventures. And therefore, are able to capture contracts that they would not normally be able to capture. So large companies can do that and then perhaps undercut along the way. I mean, that is capitalism to an extent; right? I mean, if you can do something better you are going to be able to sell it for less, but when you are engaged in a deliberate, truly manipulative manner that is not outlined in a contract. It does not state, hey, if you want to get a small business contract or a minority-owned contract or a veteran-owned contract, you cannot just set up a company with those people as owners and therefore now you are eligible. I mean, that is just clearly against the grain and inappropriate and should not be done and perhaps should be illegal.

Is that something that, now, you have all been mentioning it but I will go to Lynn Ann Casey. Ms. Casey, is that something that small businesses experience related to federal contracts?

Ms. CASEY. I would say that there are certain situations where large business firms enter into Joint Ventures. And I would call them serial Joint Ventures where they do it over and over and over. I think Joint Ventures are a good thing for small businesses, especially under the mentoring programs but I would look to maybe limit how often a large business can enter into those Joint Ventures and whether they are serial Joint Ventures and therefore, preventing other small businesses from benefitting.

Mr. MEUSER. Yes. It has to be a legitimate Joint Venture, not just a spinoff.

Would someone else like to comment on that?

Ms. TONG. Yeah, can I? So my situation is my mentor, they actually have so many protégés which makes our Joint Venture was not as fruitful as I wish it would be because just with us it is a food fight within us. So I want to echo what Ms. Casey said. Limit the number of protégés they can have because we can only have two mentors but they can have at a minimum three at the same time within SBA and not to mention other agencies like DoD or Treasury.

Mr. MEUSER. Thank you.

Ms. Alemán or anyone else care to comment?

Ms. ALEMÁN. So I am a big fan of capitalism. I am a Cuban-American immigrant. This is what my parents brought me here to this country to do. I believe in America, freedom, the opportunities it provides. I will live and die by that. And I can tell you that I hear the pain in Lynn Ann and Victor and Sophia's voice because we have all been there. And any small business owner that you put in front of a room and you say, oh, has this ever happened to you, the intent of Joint Ventures is a good one. Just like Category Management. It is a good one. It is to relieve the pressure of procurement offices.

The reason smalls, ultra-smalls, are gravitating towards them knowing that they are still vulnerable is because they do not have a choice. So I think it is our responsibility, mutual responsibility, you as our elected representatives and us with a voice in our communities and in the organizations we belong, to create that opportunity for them. Let's give them the choice. Let's give them the choice to get work so that they can put other human beings to work, which is what we spend our money on is other human beings. So I just say create more opportunity. Do not shut down capitalism. That is not what this is about. I promise you all the small business owners I deal with and these on this call, we are not looking for handouts. We are looking for fair competition, that is all.

Mr. MEUSER. Perfectly well said.

Mr. Holt, last word? You have about 25 seconds.

Mr. HOLT. I agree with everything that has been said. I think Joint Ventures is a good thing when done correctly. A lot of times we see that it can become predator where companies come together to capitalize and create an unfair marketplace. So as long as it is done correctly, I am 100 percent supportive.

Mr. MEUSER. Great. Thank you.

Mr. Chairman, I yield back. And thanks again to all of our witnesses.

Chairman MFUME. The gentleman yields back. The gentleman's time is expired. All time has expired.

And on behalf of the Ranking Member, I want to thank all of our witnesses for being here today. Your testimonies showcase the obstacles and many of the frustrations that Category Management has created for small businesses like yours across the country. And the longer we allow these issues to persist for small firms, they will be pushed out of the federal supplier base.

This would be bad news, obviously, for businesses, but it would also be bad news for our government. So I look forward to working with Committee Members to find ways to improve our federal procurement systems while ensuring abundant opportunities for all small businesses.

I would ask unanimous consent that Members have 5 legislative days to submit statements and supporting materials for the record.

And without objection, so ordered.

And if there is no further business before the Committee, we stand adjourned. Thank you all very much.

[Responses to Questions by Mr. Victor Holt were not received in a timely manner.]

[Whereupon, at 1:34 p.m., the subcommittee was adjourned.]

APPENDIX



Written Testimony of

Alba M. Alemán
Chief Executive Officer
Citizant, Inc.
(www.citizant.com)
Chantilly, VA

Before the

U.S. House Small Business Committee
Subcommittee on Contracting and Infrastructure

*"Growing the Small Business Supplier Base
in Government Contracting"*

12:00 P.M. on Wednesday, October 13, 2020
Zoom Conference

Good morning, Chairman Mfume, Ranking Member Salazar, and Members of the House Small Business Committee, Subcommittee on Contracting and Infrastructure. Thank you for the opportunity to speak with you today about the topic of Category Management.

My name is Alba Alemán. I am the founder and CEO of Citizant, Inc., a small business government services firm based in Chantilly, Virginia. We employ nearly 200 professionals who support Federal agencies in 27 states. I am an active member of the U.S. Women's Chamber of Commerce and serve on their Category Management Task Force.

Citizant has been in business since 1999 and has weathered many storms – Y2K, 9-11, numerous government shutdowns, continuing resolutions, administration and policy changes, and the Budget Control Act of 2011. Through all of these emergencies and disruptions, we have continued to support important missions at the IRS, DoD, DHS, DOJ, and DOT, among others.

In the last 22 years, we have built innovative computing systems, led critical modernization initiatives, implemented governance programs, supported research and development, and developed robust data strategies for our government. These solutions have enabled Federal agencies to provide essential services for our fellow citizens. We have helped many agencies improve their efficiency and effectiveness, thereby allowing them to save or repurpose untold millions of taxpayer dollars.

The purpose of my testimony today is to share my first-hand insights about the detrimental impact that Category Management – at least as it is currently being implemented today by Federal agencies – is having on small businesses like mine. Category Management has disproportionately stripped small, minority, and woman-owned businesses from access to Federal contracts. And I fear that it is doing lasting damage to the growth and innovation engine of our economy that is driven by small businesses, which may take decades to recover.

Experts agree that Category Management has weakened the diversity and vitality of your supplier base. It has widened the gap between small and large contractors to the detriment of our economy. Category Management has negatively impacted the family-friendly, women-friendly policies of small businesses like mine and has reduced the availability of innovative, cost-effective solutions for our government.

Category Management was first introduced during the Obama administration. The original goal was to rein in spending across government agencies and find purchasing efficiencies where possible, while creating opportunity for America's small businesses. However, Executive Orders issued since 2017 have steered Category Management away from its original intent and have crowded out small businesses.

These recent orders introduced a concept called "Tiered Spending", under which Federal procurement departments were forced to use a handful of government-wide contracts called Best-in-Class, or "BIC" contract vehicles. These BICs – like ALLIANT 2, VETS 2, and OASIS – account for hundreds of billions of dollars of spending among very small groups of pre-qualified contractors. And only VETS 2 and OASIS provide a swim lane for small, minority-owned, and/or woman-owned businesses to participate.

You probably know that most of these BICS have both large-business and small-business pools of contractors. But when you dig deeper, you can begin to see where the problems arise. Whereas large contractors have the experience and credentials to qualify for nearly every single BIC, small businesses are hard-pressed to qualify for even one BIC contract. Competing for these BIC contracts requires a small business to have already spent hundreds of thousands of dollars on certifications, have tens of millions of dollars in prior contracts, and meet dozens of other requirements that only the largest of businesses would have, such as an approved purchasing system or earned value management system.

Out of tens of thousands of small businesses who might pursue a BIC contract, only a few dozen will receive an award. The hundreds of small businesses who don't earn a seat at the table on a BIC contract are effectively barred from competing for the 10-year life of that contract which, by definition, is used and required to be used by all Federal agencies.

Here's a sobering statistic: Only 0.001% of small businesses – that is, one in one hundred thousand – have access to 100% of the BIC spending. And these quote-unquote "small businesses" are not small by most industry standards. They sometimes have \$100 million in revenue, have been around for decades, and have thousands of employees.

Compounding the issues, most small businesses cannot qualify for a BIC on their own. They are forced to partner with very large businesses in predatory joint ventures to meet the minimum qualifications and thresholds. So even in the small-business pool on many BICs, half of the work winds up going to large businesses anyway.

It's not just small business owners like me who are ringing the alarm bells about this massive disparity and inequity. Corrections to these rules have support from government leaders including the GAO, the Small Business Administration, the council of nearly 100 small business offices within the Executive Branch, the Pentagon, and many members of your own committee and peers on the Senate Small Business Committee.

Congress must continue to push for change to the current practices around Tiered Spending on BIC contracts, before irreparable harm is done to our small business industrial base. Lest you think I'm an alarmist, let me call your attention to several key data points published in May 2021 by the U.S. Women's Chamber of Commerce, in a report entitled "Stop the Loss of Small Business Federal Suppliers."

- The number of small business new entrants into government contracting has dropped nearly 60% in the last 7 years, representing more than 13,000 businesses each YEAR who are barred from entry.
- While overall small businesses showed a loss of 24% since 2017 (a total of 24,000 suppliers lost), the number of women-owned suppliers dropped more than 22% and veteran-owned suppliers dropped over 17%.

- Each year, small businesses receive 20-25% of all government contracts. However, of the tens of thousands of contracts eliminated by Category Management, 53% of them were small business contracts.
- In FY20, the government missed its small business procurement goal for professional services by 1.9%. This equates to billions in spending that was earmarked for small businesses – but was instead spent on contracts to large businesses.

The facts about the impact of BICs and Tiered Spending on small businesses are clear and overwhelming. At the end of the day, the steering of government spending to large businesses results in the loss of millions of small business jobs. Large businesses are offshoring many of the jobs they win on government contracts. With a concentration of contracting in the hands of fewer large businesses, the government loses the benefit of competition to lower prices. When large businesses subcontract to small companies, they markup services by 25 to 40 percent without adding any value. Innovation is stifled – and let's face it, most of the innovations in today's economy come from small businesses. And the hollowing out of small businesses in our Defense industrial base creates national security risks in countless industry sectors.

So, the problem is real. If you'll indulge me, I would like to share some stories about the impact these issues have had on me personally. As I enter my 23rd year in business, I have the perspective of two decades of experience with Federal procurement, and I can honestly tell you that it has never been harder to win and maintain a seat at the table.

The past 2 years have been especially grueling and have led to the erosion of nearly 30% of my business. My small business colleagues have been exiting this market at an accelerated pace, and with every departure, the loss of vital institutional knowledge and technologies that serve our government, create efficiencies, and create jobs for all those that choose to call America home.

In 2019, we rallied our workforce and our entrepreneurial network to survive a historic 35-day government shutdown – one which left us on the brink of bankruptcy. I testified before the House Oversight Committee in May 2019 about the importance of legislation to protect the small business supplier base during protracted government shutdowns in the future.

And then COVID hit, and five of our contracts were either cancelled or consumed by BIC holders. Half a dozen more are already in danger of cancellation or erosion by large businesses who have access to BICs that we don't even have the opportunity to bid on.

Contrary to what other small and large business leaders consider prudent, our team rallied and kept true to our core values throughout COVID. We have consumed every ounce of profit and brought cash to dangerously low levels in order to protect our workforce. A once-in-a-lifetime national crisis like this pandemic is NOT the time for business owners to maximize profits by laying off their staff! We retained our staff to keep Americans out of the unemployment line and to preserve the capability to serve our government customers in the future.

We have been with you every step of the way and continue to make sacrifices (personal, family, health) to support you, support Americans who rely on government services, and support a path to fair and equitable opportunity that is the hallmark of the American economy.

Please know that I LOVE what I do, and I love the government customers that I personally get to serve. I love the employees who I work with and their families, and I will happily continue to work long hours to serve the vital missions of DHS, DoD, Treasury, and other departments for the NEXT 20 years.

As an immigrant, I am not deterred by hard work or challenging times. I view it as an honor and my responsibility to shoulder and protect the future of a vibrant small business ecosystem in the United States.

Small businesses have the WILL and the drive to succeed in government contracting. But the opportunity is lacking. In 2008, I was able to win a seat at the table – in full and open competition – to bring innovation and ingenuity to the Department of Treasury. Because of Category Management, I no longer have a seat at that table. My company is at the mercy of large businesses in my market space that are waiting for me to suffer long enough so that they can buy my staff and my intellectual property for pennies on the dollar.

As a business owner, I accept the laws of business and the reality that I may not be here tomorrow, next year, or in 2023 to serve you any longer.

Down turns in the economy, shutdowns, global pandemics... I have already demonstrated that I can survive those! But Category Management is a different beast. When my family-friendly, woman-owned business comes under attack by the very institutions that I have been serving for the past 30 years, I am not as certain that I will be able to survive.

I am encouraged by the protections for small businesses that were included in the National Defense Authorization Act – often because of the bi-partisan support from members of this committee. The House Committee on Small Business has already championed exemptions from Category Management for small businesses in all socioeconomic categories. Another NDAA provision passed by the House extends the 8(a) program for an additional year because of the COVID-19 crisis. The House also voted to require contracting officers to consider the past performance of a joint venture when evaluating the past performance of a small business joint venture member, opening more doors for small firms to perform as prime Federal contractors. And importantly, the House version of the NDAA requires the Small Business Administration and its designated agencies to provide training for procurement and acquisition staff about how to manage the competing goals of Category Management and requirements of the Small Business Act.

I will be mobilizing with the US Women's Chamber of Commerce and other like-minded organizations to advocate for the inclusion of these small-business provisions in the Senate's version of the NDAA, as well as the reconciliation bill. Provisions like these are absolutely essential to protecting the viability of

Alba M. Alemán Testimony to the House Committee on Small Business
Subcommittee on Contracting and Infrastructure (10/13/21)

America's small business contractors who have already been pressed to sacrifice so much to serve their government customers.

I am immensely grateful for the opportunity to address this Subcommittee and for the work that you do to preserve Diversity and Inclusion in our Federal government's supplier base. I will gladly answer any questions you might have. Thank you.

Statement of Lynn Ann Casey

Chief Executive Officer, Arc Aspicio LLC

**“Growing the Small Business Supplier Base in Government
Contracting”**

**Committee on Small Business, Subcommittee on Contracting and
Infrastructure**

U.S. House of Representatives

October 13, 2021

Introduction

Chairman Mfume and the Members of the Subcommittee on Contracting and Infrastructure, thank you for the invitation to testify on behalf of small businesses. As the Chief Executive Officer (CEO) of Arc Aspicio, a small business that has provided innovative professional services to the Federal Government since 2008, I appreciate the opportunity to discuss how Category Management is impacting the federal small business supplier base.

As Founder and CEO of a woman-owned small business certified by the Small Business Administration (SBA) and a member of the Board of Directors of the Professional Services Council (PSC), the topic of this hearing is important to me and very relevant to my company and other small businesses who serve the Federal Government as prime contractors. I appreciate the opportunity to describe how Category Management relates to the concerning trend that the small business base is decreasing at a rapid rate, running counter to the purpose of the Small Business Act. I plan to offer ideas and potential solutions to help grow the supplier base.

Category Management (CM) is a government-wide procurement initiative led by the Office of Federal Procurement Policy (OFPP), an office within the Office of Management and Budget (OMB) with the support of the General Services Administration (GSA). While CM broadly helps the Federal Government increase procurement efficiencies, our company has seen it reduce the total number of small businesses and the number and type of opportunities that are available for small business to compete on. This, in turn, reduces the innovation that small businesses bring.

Challenges of Category Management for Small Businesses

Arc Aspicio has extensive experience in working for the Federal Government under current Category Management practices and prior to the enactment of this policy. We have successfully participated in Tier 1 through Tier 3 contract vehicles under OMB's Category Management guidance, so we have direct experience with the variety of contract vehicles used in Category Management. We also bring the perspective as a Mentor in the Small Business Administration (SBA) Mentor-Protégé Program, where we mentor an 8(a) company and provide advice and support to grow their company.

Both Arc Aspicio and our protégé, who are in different stages of company maturity, have seen a significant reduction in the number and size/scope of opportunities available for us to pursue competitively. Similarly, we have seen many new and re-compete contract opportunities move to Best in Class (BIC) contract vehicles where we were not a prime contractor and therefore could not pursue follow-on work. Agencies have raised significant concerns about not being able to allow their incumbent small businesses to bid for their re-competes. Allowing small businesses to compete for follow-on contracts after successfully delivering solutions to the Government as an exception to CM spurs competition, lowers prices, and fosters continuous improvement.

In addition to fewer opportunities to pursue, it is also very difficult for small businesses to win access to the Tier 3 BIC contract vehicles. These vehicles also only allow for a small number of participating suppliers relative to the size of the potential supplier base. While GSA has introduced STARS III, which has provided for a larger pool of qualified 8(a) vendors, small businesses with other socio-economic qualifiers have not had this opportunity. In addition, while some of the Government-wide contracts such as OASIS 2 Small Business have allowed on-ramps, it is becoming harder and harder for new entrants or smaller businesses to overcome the

strict entry requirements that include qualifications or certifications that require certified cost accounting systems. These vehicles disproportionately favor small businesses who have extensive prior experience with the Department of Defense (DOD). And yet, many other Departments outside of DOD then use these vehicles, reducing the diversity of small businesses able to participate and offer innovative solutions. This directly results in fewer small businesses competing for opportunities. It may also increase the revenue of opportunities that the selected few small businesses can access, which makes them grow quickly and get acquired, ultimately taking them out of the small business supplier base.

Government-wide acquisition contracts (GWACs) and BICs are also very expensive for small businesses to bid on (as compared to GSA Multiple Award Schedules, for examples). Our experience and the experience of our peer small businesses is that these can cost upwards of \$75,000 - \$100,000 just to submit a proposal. Then, award timeframes typically take one to two years or longer, delaying the ability to bid on opportunities they have been pursuing as a company awaits a contract award for the contract vehicle itself.

Arc Aspicio is prime contractor on Pool 2 of the Human Capital and Training Solutions BIC, commonly known as HCaTS Small Business. This has allowed us to see firsthand how well-executed CM can provide customized services from companies with human capital and organizational performance improvement experience can enable federal agencies to identify highly qualified vendors to successfully meet challenging mission requirements. However, other GWACS such as OASIS are large, very broad, and unnecessarily limit the number of small businesses that can bid on them.

GSA MAS is a huge opportunity for small businesses who start in subcontracting to qualify to begin to pursue their initial prime contracts in professional services. We are seeing a move away from GSA Multiple Award Schedules for professional services, however, and a move towards consolidation of GWACs. For example, GSA currently plans to eliminate HCaTS and consolidate this contract under a future Government-wide vehicle that they are currently planning and that is informally called the BIC Multi-award Contract (BIC MAC). Consolidating these Government-wide vehicles further reduces the pool of small businesses that can compete and ultimately reduces the size of the supplier base further.

Unintended Consequences of CM and Reducing the Small Business Supplier Base

Applying CM to small businesses has the unintended consequence of limiting Federal agencies' access to many of the most innovative small businesses who might otherwise offer services of significant value to the public, while reducing the number and diversity small business suppliers available to meet government needs. Meanwhile, this situation undermines opportunities for small businesses to enter the market and offer competitive solutions, threatening the strength of our national industrial base.

Growing the number of small businesses and providing more opportunities for current small businesses, especially outside of the designated Best in Class vehicles, provides extensive benefit to the Government and to the economy, including:

- More competition on set-aside procurements, also lowering prices
- More innovation in solutions to meet federal agency needs, resulting from the broader variety of small business offerings and new solutions offered by new entrants
- Increased competitiveness and expansion of the industrial base

Ideas and Potential Solutions

Solutions for growing the supplier base (new entrants, continuity of current base) may include:

1. **Recommendation 1:** To preserve individual set-aside contracting opportunities and give the agencies flexibility to award them to preserve the small business base and stimulate innovation and competition among small businesses, allow agencies who have required Category Management goals for Spend Under Management (SUM) to be exempt from the SUM goals by allowing them to claim credit for set aside contracts and/or consider small business set-asides as Tier 3. Since Category Management was created by OFPP and did not go through the rulemaking and interagency process, small businesses and other stakeholders did not have the opportunities to comment and assess the impact. An unintended consequence is the reduction of the number of small businesses. The committee may consider amending section 15 of the Small Business Act (USC 644):

CATEGORY MANAGEMENT. (1) Any acquisition for a contract to be awarded under the procedures of section 8(a), 8(m), 15(a), 15(j), 31, or 36 (including an acquisition for commercial items) shall (A) be exempt from the procedural requirements of agency-level or governmentwide guidance on category management, best in class solutions, common contract solutions, or successor strategies for contract consolidation; and (B) be disregarded when measuring attainment of any goal or benchmark established under agency-level or governmentwide guidance on category management, best in class solutions, common contract solutions, or successor strategies for contract consolidation, unless considering the acquisition aids the achievement of such goal or benchmark.

(2) Once a contract has been awarded under the section 8(a), 8(m), 15(a), 15(j), 31, or 36 (including an acquisition for commercial items), the incumbent small business shall be given an opportunity to compete on that contract as a prime contractor if the Government requires continued services.

(3) The term "contract" includes a prime contract, a task order, a delivery order, a blanket purchase agreement, and a basic ordering agreement.
2. **Recommendation 2:** To encourage more small business entrants, consider legislation to increase the simplified acquisition threshold from \$250,000 to \$1 million or more. This approach provides more opportunities for small businesses to win prime contracts and provide innovation to the Government. It also provides more opportunities for participants in the small business supplier base to build their capabilities.
3. **Recommendation 3:** To help small businesses to win their initial prime contracts and build their capabilities to support larger contracts effectively, encourage the OFPP to consider policy changes to include the GSA Multiple Award Schedules that apply to professional services contracts and special item numbers and are held by small businesses are categorized as BIC Solutions (Tier 3).
4. **Recommendation 4:** To continue to support the growth of the small business supplier base, follow up with the Small Business Administration (SBA) to increase the small business size standards, as current standards prevent small businesses from pursuing continued opportunities. Explore further increases to small business size standards beyond this current SBA proposal to remain current with economic and market trends.



Testimony
of

Victor P. Holt
President, V-Tech Solutions, Inc.

On Behalf of the HUBZone Contractors National
Council

House Committee on Small Business Subcommittee
on Contracting and Infrastructure

“Growing the Small Business Supplier Base in
Government Contracting”

October 13, 2021

Chair Mfume, Ranking Member Salazar and Members of the Subcommittee, thank you for inviting me to testify before you today. My name is Victor P. Holt, and I am the President of V-Tech Solutions, Incorporated. V-Tech is a HUBZone certified, Veteran and Minority-Owned Information Technology and Professional Services company. We most recently celebrated our 21st anniversary. Incorporated in the District of Columbia in 2000, V-Tech has honored its commitment to give back to the local community since day one by creating new jobs and hiring local workers, donating goods and services to help those in need, and giving our employees time off for volunteer activities. V-Tech continues to focus on creating a collaborative environment for the personal and professional development of our team members, while also driving change and empowerment in the communities where we serve. Most recently, V-Tech received the 2020 HUBZone Small Business of the Year award for creating new jobs in underserved areas of Washington, DC, El Paso, TX and Montgomery, AL.

I am testifying today on behalf of the HUBZone Contractors National Council, of which I am the Vice-Chair. The Council is a non-profit trade association providing information and support for companies and professionals interested in the Small Business Administration's (SBA) HUBZone program. The Council strives to promote economic development in underutilized rural and urban communities, as well as maximize success for companies participating in the HUBZone program. The HUBZone program is designed to provide economic assistance to underserved areas by awarding federal contracts to small businesses that operate and employ workers in those areas.

We would like to thank the Committee for its commitment to support small businesses doing business with the federal government. Thank you for highlighting this important topic -- category management. This is a policy that the Council has been concerned about for quite a few years -- in 2018, Council Chair Shirley Bailey testified before the Committee on this exact issue. Unfortunately, today we are facing the same bleak outlook on its impact on the supplier base as we were back then. The cause for concern remains simple: small business access to contracts.

It is often stated that small businesses are the engine that drive the American economy. I believe this to be true. Small businesses bring growth, innovation, and employment opportunities while embodying promise, hope and change for our country. We are the entrepreneurs and business owners that fuel economic growth, however substantial challenges and barriers still exist as in the government contracting arena. These barriers are especially prevalent in the HUBZone program. Since the inception of the program, the Federal Government has not met its goal to obligate 3 percent of eligible prime contract dollars to HUBZone small businesses. This represents 23 years of missed opportunities and unawarded dollars that could have gone to companies that operate and employ people in Historically Underutilized Business Zones. Further, to date, the HUBZone program is the only SBA contracting program where the government failed in meeting its established goal.

The Council continues to believe that relying on Best-in-Class (BIC) contracts creates enormous barriers for small businesses. As the government moves away from direct contracts with businesses (Tier Zero), opportunities decrease for smaller businesses. The large buying contracts used in category management require substantial resources to bid and substantial resources to win task orders. Contract requirements have been increasingly structured to keep small businesses out -- including stringent past performance or other requirements that are impossible for a small business

to meet, especially those who are new to the federal market. Our concern is obvious – a strong industrial base requires a pipeline of emerging companies with innovative solutions. HUBZones and other small businesses anticipate fewer opportunities to compete, which means companies like mine must align with large and midsize prime contractors to get work. Subcontracting comes with its own challenges – small margins and often alignment with the prime contractor on a cost basis as opposed to value or capability. This effectively weakens small business opportunities to compete for prime awards – a community that represents the valuable marketplace of ideas and innovation. Let us not forget that many of the large prime contractors that we see today are the small businesses from yesterday.

The Office of Management and Budget (OMB) has set an agency goal of 30 percent for utilization of small businesses for each fiscal year, as well as goals for each of their 10 categories of common spending. For FY2017-19, the overall 30 percent category management goal for small business was met or exceeded.¹ According to the Office of Procurement Policy (OFPP), the percentage of BIC spending that went to small businesses in FY18 was 31%, a decrease from 43% in FY17. However, despite meeting these internal goals, the number of small businesses receiving awards under CM declined.² Thus, most dollars in these 10 categories go to a small share of companies. For example, in 2017, just 4.3% of BIC contract holders received 80% of BIC dollars.³ This decline has been underway since 2010 and has accelerated under category management. Awarded dollars do not go to a diverse set of firms, rather the same ones that continue to perform work on the managed contracts. Continuing to implement this buying strategy flies in the face of government procurement objectives that seek to diversify the small business base that performs government contracting, particularly with the current Administration's focus on increasing contract awards to small businesses.

Category Management, when applied to broad acquisitions, does not consider that innovation provides incredible value. Much like the previous push toward utilizing Lowest Price Technically Acceptable (LPTA), we are concerned the federal government is mistaking lowest cost for best value. As history shows, this is not the case. As the popularity of utilizing BIC contracts increases, HUBZones and other small businesses have fewer opportunities to pursue federal contracts. A 2017 study by Delttek⁴ reported that the number of small businesses winning prime contracts has decreased by 25% since 2010. Although mechanisms such as the SBA procurement scorecard seek to hold federal agencies accountable for meeting small business goals, these percentages are focused on total dollars, not the number of small businesses receiving awards.

As mentioned in our previous testimony, it remains unclear what criteria is used for a contract vehicle to be designated as BIC, and whether there will be consistent criteria across vehicles. We encourage the Committee to look into this process. BIC vehicles also have a crippling effect on small business competitive opportunities. Approximately 25,000 small businesses provide IT services to the government, but for OASIS Small Business Pool 1, only 30 slots are available. That

¹ Government Accountability Office, Federal Buying Power, GAO-21-40, OMB Can Further Advance Category Management Initiative by Focusing on Requirements, Data and Training (Nov 2020).

² *Id.*

³ Office of Federal Procurement Policy, Harmonizing Category Management and Small Business Goals 10 (2018).

⁴ <https://federalnewsnetwork.com/reporters-notebook-jason-miller/2017/10/number-of-small-business-prime-contractors-down-by-25-percent-since-2010/>

means that less than 0.12% of all small IT businesses are allowed to compete for prime opportunities. Additionally, some BIC vehicles do not have on ramps (a way to allow other businesses to populate the contract) which restricts new small business entrants from the competitive pool. The government has indicated it intends to make 40 awards in each OASIS Pool, but many businesses are in multiple pools, and thus eligible for an award in multiple pools. The federal agencies decide when to review the pool of contractors and determine if an on ramp is warranted. This practice shuts out numerous viable small businesses from the high dollar contract opportunities on the BIC vehicles.

Additional Suggestions to Grow the Small Business Supplier Base

Change Reporting Requirements to Accurately Reflect Contract Set-Asides.

At the core of effectively measuring these policies is data. Without accurate, reliable information, it is impossible to understand the full impact category management has on the supplier base. Each year, the SBA issues a procurement scorecard, which indicates how agencies performed in meeting their small business goals. The governmentwide goal of contracting with HUBZones is 3 percent. Despite this small number, the federal government has never met its goal. In FY2020, 2.44% of prime contract dollars were awarded to HUBZone businesses.⁵

Despite these low numbers, we believe that even less contracts have been awarded to HUBZone businesses, due to inaccurate reporting. Agencies often count the same dollar value towards multiple socioeconomic program goals, even though the contract was not explicitly a set-aside for more than one program. For example, if a contract is set-aside for the HUBZone program, if the winning company is also a certified WOSB and SDVOSB, those contract dollars count toward the agency meeting all of those goals. This practice ultimately inflates the government data on small business contracting awards.

According to SAM.gov, there are 6,512 firms with active HUBZone certifications.⁶ In FY2020, the federal government reported it awarded approximately \$13.6 billion to HUBZone-certified businesses.⁷ However, of that \$13.6 billion, only \$4 billion was awarded through a HUBZone set-asides and \$67.5 million utilizing the HUBZone program's sole source authority. Additionally, more than half of the \$13.6 billion was awarded to other small business preferences. Therefore, the current data does not paint an accurate picture of dollars flowing directly through the HUBZone program, or other SBA contracting programs.

The Council recommends agencies report progress toward small business goals based on how the contract was solicited, instead being able to double or triple count the same dollar value. In other words, if an agency set a contract aside for the HUBZone program, then the dollars should only count as a HUBZone award. The government policy of counting a company with more than one certification multiple times skews critical reporting data. We suggest Congress look at this policy so that the true number of contracts awarded to small businesses is accurate.

Apply the HUBZone Price Preference to Task Orders.

⁵ SBA Government Wide Performance FY2020 Small Business Procurement Scorecard.

⁶ Data as of 10/10/21

⁷ SBA Government Wide Performance FY2020 Small Business Procurement Scorecard.

The HUBZone price evaluation preference helps to create a more equitable system in full-and-open competition and allows federal agencies greater opportunity to devote federal spending to HUBZone firms. Regrettably, federal agencies have interpreted FAR 19.1304 as prohibiting the price evaluation preference to task orders when, in fact, it only prohibits commodities. Federal agencies should amend this interpretation to follow the law as Congress intended and apply the price preference to task orders. As the federal government increasingly drives its spending through large IDIQ contracts, such as the BIC contracts, a significant opportunity for HUBZone spending is being lost. Applying the price preference to task orders would significantly benefit HUBZone firms and the underserved communities they serve. We are encouraged by the inclusion of an amendment in the House FY2022 National Defense Authorization Act that clarifies utilization of the preference and urge Congress to keep it in the final version of the NDAA.

Ensure Subcontracting Plan Compliance.

Subcontracting is a way for small businesses to enter the federal marketplace and build past performance and as cited above, often the only way to win work. With larger contracts being utilized by the federal government, subcontracting is more important than ever. It is critical that we look for ways to reward prime contractors that adhere to subcontracting plans and penalize those that do not. Presently, there is little to no recourse for prime contractors that fail to meet their small business subcontracting goals. For example, it would be of value to create a structured framework for large primes to provide past performance evaluations when requested. The FY2021 National Defense Authorization Act (NDAA) included language to require large primes with subcontracting plan requirements to provide past performance evaluations when requested. However, many small businesses have faced issues when requesting this information that they are using for proposal submissions for prime contracts. Creating a streamlined framework for large primes to provide this information to small businesses would greatly assist businesses trying to enter the prime contracting arena. The Council encourages the Committee to look at incentives that would spur subcontracting plan compliance.

Recognize HUBZones As Part of the DOT's DBE Program.

The Department of Transportation's (DOT) Disadvantaged Business Enterprise (DBE) program is the second-largest source of potential small business contract dollars. The DOT should allow HUBZone companies to be recognized in the DBE program. This change would provide increased opportunities for HUBZone businesses to hire more employees from underserved communities and contribute to the economic development of the nation's most economically challenged communities. Additionally, the HUBZone Program includes a large portfolio of construction and engineering companies that would become eligible to submit proposals if given equal access to DBE opportunities. As Congress considers injecting billions of dollars in contracts through pending infrastructure legislation, it presents an incredible opportunity for investment in the communities that HUBZone companies serve.

Expand Sole Source Contract Opportunities for HUBZone Companies.

The Council is dedicated to fighting for government acquisition practices that maximize small business ability to compete. However, the governmentwide push to increase the use of category management leaves businesses shut out of opportunities to contract across the government. As government buying continues to trend toward buying through large contracting vehicles and

moving away from direct contracts, the ability for small companies to win sole source awards is more crucial than ever.

Increasing the award amounts for sole source contracts is extremely beneficial to the small business contracting community, however, it is equally as important to streamline and simplify rules for awarding these contracts. Our members have been told repeatedly by the federal workforce that awarding a sole source to a HUBZone certified company is too complicated. The Council believes that creating parity among SBA socioeconomic contracting programs, as it relates to sole source contracts, would incentivize agencies to increase their awards to all programs. A current hinderance to awarding sole source contracts is the requirement that a contracting officer must show that she/he does not have a reasonable expectation that offers would be received from two or more HUBZone small business concerns. There is confusion around the language “reasonable expectation,” which leaves this interpretation up to each contracting officer. This presents a barrier to awarding a sole source contract to a HUBZone company, as this could open the door to a protest – an action contracting officers seek to avoid. Eliminating this requirement for the HUBZone, WOSB/EDWOSB and SDVOSB programs would increase these awards to small businesses.

While it is not parity, the Council applauds the inclusion of an amendment in the FY2022 National Defense Authorization Act to raise the sole source thresholds for SBA’s small business programs. It is a step in the right direction to start to bring acquisition rules in line with current government buying trends.

Conclusion

The underlying principle behind the HUBZone program, established 20 years ago, remains relevant today – to decrease unemployment, and revitalize low-income communities by encouraging businesses to locate in these HUBZone areas. Our member companies are ready to compete on federal contracts to bring jobs, innovation, training, and economic empowerment to HUBZones. As the government prioritizes buying through category management, the contracting programs at SBA are of critical importance for small businesses to access and succeed in the federal marketplace.

No one would disagree with the goals of efficient government buying and saving the taxpayer money. However, we believe category management comes at a cost. Fewer small business awards limit the supply of vendors to the government, as well as restricts the ability of small businesses to grow through federal contracting. Category management rewards a subset of high-performing vendors by prequalifying them for a pool of valuable contract opportunities, while at the same time, barring entry for companies new to the federal market and those that find it too costly to compete for or maintain a spot on those contracts. In our view, category management also does not achieve the law’s stated goal of utilizing small businesses to the “maximum practicable extent possible,” and will make reaching government-wide small business goals even more difficult. The utilization of HUBZone companies already poses a problem for the government – it has never reached the 3% goal. Further limiting contract competition to utilize only multiple award contracts will have a devastating effect on small business participation in federal contracting. The Council

urges this Committee to exercise its authority to ensure the government's procurement policies, specifically category management, utilize small businesses rather than limiting them.

Thank you for the opportunity to speak today and look forward to continued engagement on this matter.



Written Testimony of

Sophia Tong
Founder & Chief Executive Officer
T and T Consulting Services Inc.

On Behalf of
Montgomery County Chamber of Commerce (MCCC)

House Committee on Small Business
Subcommittee on Contracting and Infrastructure

“Growing the Small Business Supplier Base in Government
Contracting”

October 13, 2021

Chair Mfume, Ranking Member Salazar and Members of the Subcommittee, thank you for the opportunity to testify before you today. My name is Sophia Tong, Founder and CEO of T and T Consulting Services Inc. located in Falls Church, Virginia. T and T Consulting is a woman-owned small business (WOSB) that specializes in providing strategic information technology solutions to the federal government. We focus on delivering critical solutions to our customers that allow them to successfully achieve their vital mission objectives on time and within budget.

I am testifying today on behalf of the Montgomery County Chamber of Commerce (MCCC) in Montgomery County, Maryland. MCCC is comprised of future-focused business leaders creating opportunities that move the needle and impact the marketplace. The Chamber would like to thank the Committee for working tirelessly to support small business contractors and pass policies that strengthen the industrial base.

The topic today is a critical one for the small business contracting community. The overall number of small business vendors receiving awards for common products and services declined from 95,000 businesses in FY2016, when category management began to be implemented, to 79,000 in FY2019.¹ This decline is also impacting midsize companies and others as well – according to Bloomberg Government, the count of active federal prime contractors fell 17.5% from 123,790 in FY2016 to 102,047 in FY2020.²

The impact of category management is increasingly evident in my industry and affecting our company. Agencies are bundling contracts that were previously performed successfully by small businesses, rolling them into larger contracts, and awarding them to large businesses. The outcome of this action is disastrous for the small supplier base. There are countless examples of this in the IT field. In August of this year, the Defense Health Agency (DHA) awarded a large business a single award 10-year, \$2 billion blanket purchase agreement (BPA) to support the Military Health System's Enterprise Information Technology Services Integrator requirement. By taking this work and bundling it into a massive single award contract, a monopoly is created, allowing the large business to control (and raise) prices on the work performed for the government.

Further, this type of bundling shuts out any small or midsize companies from competing for the work – the requirements were structured for only a very large business to be able to bid. DHA market research is now underway to identify parties to support an initiative that consolidates military healthcare IT support services. The objective is to maximize efficiency and effectiveness by optimizing acquisition strategies, processes, staffing, and tools. Currently, the "on contract" IT support capabilities are decentralized and predominantly managed at the local level. There are approximately 103 contracts with a total value of \$146 million, with 85 of the 103 contracts

¹ <https://www.gao.gov/assets/gao-21-40.pdf>

² <https://about.bgov.com/news/staffing-spending-trends-feed-appetite-for-high-value-contracts/>

(~83%) performed by small businesses.³ Small businesses are currently successfully executing these IT support capabilities contracts and at this time, typical agency small business participation goals (~40% small business goal) are being used to guide the effort. If the contract is instead competed as full and open because of the size of the contract after consolidation, the small business utilization goal (~40%) will be significantly lower than the current percentage (~83%).

This would be devastating to the small businesses that support DHA's mission. Large businesses often claim there is no harm to the small business supplier base when this happens, because they will hire the small businesses as subcontractors. However, this is a fallacy. Since large primes often take a substantial cut, small businesses are usually given unrealistically lower rates, making it difficult to meet requirements with fewer resources. This pass-through problem makes it frequently unrealistic for a small to perform as a subcontractor – the margins are too thin. Additionally, small businesses lose the close relationship they had with the government client when they become subcontractors. This impacts their ability to get additional prime work in the future.

An additional example of the harm of category management is when one of our contracts with United States Special Command (USSCOM) was merged into a large business BPA. This also happened when Army MEDCOM was unable to award us a sole source contract to upgrade, to the enterprise level, the software we created for the Army Regional Health Command. The effort was instead pushed to a contract vehicle for large businesses, using a vehicle that was not even meant for IT buying.

A contributing factor to these struggles is policy related and one that this Committee could fix. The current low thresholds for awarding small business sole source contracts have contributed to us losing this vital business. We applaud the Committee for its recent inclusion of raising sole source thresholds to make them easier to utilize in the House-passed FY2022 National Defense Authorization Act (NDAA). However, eliminating the J&A requirement for sole-source contracts for small businesses other than 8(a) would also be of great help to small companies like mine. As a former 8(a) program participant, I can't speak highly enough of the opportunities it gave me to strengthen my business and gain access to the federal market. However, after graduating, I continue to be a WOSB company and have found that customers are less willing to award sole source contracts to us because of the J&A requirement. The contracting community has interpreted the J&A requirement very narrowly – basically requiring that only one company in world is able to perform the work. Changing this stringent requirement would help harmonize the standards and allow graduated 8(a) companies to continue to thrive and grow, despite the adverse impacts of category management.

³ Defense Health Agency DAD IO/J-6 Geographic Services Providers (GSP) Scope Document

In both cases mentioned previously, large businesses use high rates they receive from the government to steal the workforce from small businesses. There are numerous instances where members of my team have been hired by the large business that was awarded my previous contract – all due to consolidation efforts. Unfortunately, my experience is that government clients are unhelpful in resolving these disputes.

Primes have also bullied small businesses, leveraging their existing network and relationships with government clients to try to steal contracts from successfully performing smalls. For example, we received a sole source contract to create a minimum viable product for an organization under DHA. The contract is still ongoing, and the customers are very satisfied with our performance. But, because the contract is very important and could potentially become a very large contract, we were contacted by many large businesses to be a part of this effort. One of them is Google. When Google found out we were not able to bring them on the team, Google wrote a “letter of concern” to DHA complaining that DHA awarded this contract to a small business. This type of behavior is common and increasingly concerning.

Although we have grown to a larger small business, newer and smaller entrants are particularly hard-hit with category management. Even for mature, well-established small businesses with a diverse portfolio, contract bundling and consolidation is hurting these businesses. Multiple Award Contract (MAC) spending grew 42% over five years to a record \$159 billion in FY2020. There are now more than 2,000 MAC vehicles, accounting for nearly one of every four federal contract dollars.⁴ The cost of getting on a Best In Class (BIC) contract is substantial and requires significant investment just to get a slot. Category management continues to shift an increasing number of dollars to these large vehicles, specifically BIC contracts. BIC spending totaled a record \$51 billion in FY2020, up 74% since FY2016.⁵ As a result, small businesses are spending an increasing amount of bid and proposal dollars to attempt to get slots on these larger vehicles.

These numbers highlight the cause for concern with this acquisition strategy. Category management has accelerated the decline in diversity of vendors, with large dollar amounts held by only a few companies. GAO⁶ found that the number of small business vendors providing common products and services decreased each year, continuing a decade-long trend affecting both small and larger businesses. Further, as the government moves away from direct contracts with businesses (Tier 0), opportunities decrease for smaller businesses. The vehicles (agency-wide, government-wide or BICs) used in category management require substantial resources to bid and win task orders. This creates a barrier to entry for innovative small businesses to enter or remain competitive in the federal marketplace.

⁴ <https://about.bgov.com/news/staffing-spending-trends-feed-appetite-for-high-value-contracts/>

⁵ *Id.*

⁶ <https://www.gao.gov/assets/gao-21-40-highlights.pdf>

The Chamber makes the following recommendations to address the impact of this governmentwide initiative:

1. Mitigate the impacts of CM by exempting contracts awarded to small businesses classified as Tier 0 from CM or successor strategies for contract consolidation.
2. Since CM goals were exceeded in FY2020, put a pause on CM to let small business participation in the federal marketplace increase.
3. Measure spend under CM with small businesses by the number of small businesses, not the percentage of small businesses.
4. As recommended by the GAO,⁴ OMB should approve tailored training for the acquisition workforce responsible for utilizing small businesses, instead of the current one-size-fits all training method for CM.
5. Require OMB to review the impact of CM on small business participation.

The Chamber applauds inclusion of provision in the FY2022 NDAA to combat the effects of category management and any future bundling strategies. MCCC also understands additional factors are contributing to the supplier base decline in addition to category management.

Outlined below are two additional recommendations.

Transparency and Accountability in Subcontracting

Although reports by federal agencies show that dollars are being awarded to small businesses at consistent levels in BIC contracting vehicles, the number of small businesses being awarded prime contracts is shrinking drastically. Category management undoubtedly plays a role. Consequently, subcontracting is now incredibly important for small businesses – many are not prime awardees of BIC vehicles, and many may not have the qualifications or resources to even bid on these contract vehicles. Transparency in the context of BICs should include whether prime contractors have aggressive small business goals in their subcontracting plans. In addition, we believe the following data should be made public: (1) Number of subcontractors on BICs broken down by small business and the socio-economic set-aside programs listed under the Small Business Act; (2) Compliance of primes in achieving goals set forward in subcontracting plans; and (3) Percentage of subcontracting work performed by small business concerns on task orders.

The criteria for BIC contract designation includes transparency. There have been multiple reports showing that while dollars are being awarded to small businesses at consistent levels, however the number of small businesses being awarded prime contracts is shrinking drastically. This simply means that more contract dollars are going to fewer businesses. Category management undoubtedly plays a role. Consequently, subcontracting is now incredibly important for small businesses. Many small businesses are not prime awardees of BIC vehicles, and many may not

have the qualifications to even bid on these contract vehicles. Transparency in the context of BICs should include whether prime contractors have aggressive small business goals in their subcontracting plans. Additionally, compliance with respect to a prime's subcontracting goals should be publicly available so that the public and policymakers can determine whether category management is, or is not, detrimentally impacting the industrial base.

We are well aware of concerns in releasing this data, as it could contain proprietary information. However, we are not asking for data identifying specific prime contractors. We are instead requesting aggregate data that will facilitate a better understanding of the role that small business subcontracting, generally, is playing in the government's category management initiative. Without such data, we are left to speculate about the utilization of small businesses subcontractors and the small business socio-economic programs such as women-owned small businesses (WOSBs), HUBZones, service-disabled veteran-owned small businesses (SDVOSBs) and 8(a)s.

As the small business community seeks to understand the role of subcontracting in large contracting vehicles such as BICs, the role of accessible data is key to making policy and business decisions. The small business community will not only benefit from this data – we believe the government will be better equipped to make acquisition decisions and informed efforts to secure the federal supply chain.

Importance of Research & Development

The Chamber recognizes the importance Research & Development (R&D) investment plays in maintaining and growing the small business supplier base. As our country emerges from the COVID-19 pandemic, we are acutely aware of the need for investment in American workers and American innovation. The current Administration has placed significant importance on R&D investment in the United States, leveraging billions of dollars in spending toward R&D in legislation such as the *American Jobs Plan* and the *U.S. Innovation and Competition Act*. Provisions in these bills call for the establishment of new R&D programs at various government agencies, such as the Department of Commerce, the Department of Defense, the Department of State, and the SBA. These programs will be dedicated to supporting and funding investments to aid the production of goods, new investments in manufacturing, research and development, small business commercialization and biosecurity.

Small businesses play an important role in the revitalization of domestic competitiveness and strengthening supply chains through R&D. According to the National Science Foundation, "small and young firms are more innovative, more productive R&D performers, and perform research that is more radical."⁷ Data collected from 2008 – 2015 shows that smaller companies exceed the "intensity" of larger companies. R&D "intensity," which is measured by R&D in

⁷ Indicators of R&D in Small Businesses: Data from the 2009–15 Business R&D and Innovation Survey, 1

percentage of sales, was nearly 11% for micro companies in 2015. For large companies with 25,000 employees or more, the R&D “intensity” was just over 3%.⁸

The clear evidence of the small business contribution to R&D does not discount the costs that small businesses assume when they take on innovative ventures. Investing in new technologies is expensive and often risky for businesses that lack significant expendable resources. Small business programs, such as the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) administered by the SBA, provide a pathway to success for America’s most inventive entrepreneurs by allowing them to continue to drive innovation and create jobs. However, due to the total revenue for size determination standards for small businesses, many entrepreneurs who expend significant resources toward R&D find themselves no longer qualifying as small businesses, thus limiting participation in the benefits these programs provide. For example, a business with an average revenue of \$39 million is expected to compete with large businesses with billions in revenue.

To better assist companies in the ability to compete for R&D investment, we urge the Committee to consider allowing entities to subtract Independent Research and Development (R&D) expenses and expenditures from that entity’s “receipts,” as defined by 13 CFR 121.104, for the purpose of calculating size. This supports the government’s initiative to stimulate technological and biomedical innovation and allows companies to continue to pursue and develop new products and processes, without undue penalty. The definition of R&D expenses (as defined by the IRS) encompass the allowable costs of basic research, applied research, development, plus systems and other concept formulation studies. Costs cease to be R&D when preparing for the manufacturing or service delivery phase. However, an exclusion cap should also be put into place – the revenue deduction should be limited to no greater than two times the NAICS size standard. For employee-based standards, for every \$50,000 spent in R&D dollars, a single employee may be removed for the calculation to determine size.

This proposed change to SBA’s size determination supports 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 and 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 will support innovation and remove a barrier to small business contractors who invest in future growth.

⁸ Indicators of R&D in Small Businesses: Data from the 2009–15 Business R&D and Innovation Survey, 3

In conclusion, small businesses like mine are asking for equity – a fair chance to compete for contracts. Exhibiting excellence is our job. But breaking down government policies, such as aggressive category management goals and enforcement of subcontracting plans, is beyond our ability to change. It requires Congressional action. We are asking for action from this Committee to change the trajectory of contract consolidation, which in our view creates opportunities for large businesses but results in fewer opportunities for small businesses. We need your help and appreciate the opportunity to bring these issues before you today.

Committee on Small Business
 Subcommittee on Contracting and Infrastructure
 “Growing the Small Business Supplier Base in Government Contracting”
 Wednesday, October 13, 2021, 12:00 P.M.
 Questions for the Record from Rep. Fitzgerald

(1) You mention in your testimony the importance of subcontracting for small businesses since it can be difficult to compete with larger companies for prime contracts. Besides the 23% annual set-aside for small businesses, do you think there should be more incentive for Agencies or large businesses to hire small businesses as subcontractors? That way, if we direct the large companies to spend a certain percentage of their needs on small businesses, the burden of responsibility shifts to those companies to provide documented proof that they can’t meet this requirement.

Absolutely. Although reports by federal agencies show that dollars are being awarded to small businesses at consistent levels in best in class (BIC) contracting vehicles, the number of small business concerns that are awarded prime contracts is shrinking drastically. Category management undoubtedly plays a role. Consequently, subcontracting is now increasingly important for small contractors. Many small businesses are not prime awardees of BIC vehicles, and many may not have the qualifications to even bid on these contract vehicles.

Transparency in subcontracting with respect to BICs should include whether prime contractors have aggressive small business goals in their subcontracting plans. In addition, we believe the following data should be made public:

- a. Number of subcontractors on BICs broken down by small business and the socioeconomic set-aside programs listed under the Small Business Act;
- b. Compliance of primes in achieving goals set forward in subcontracting plans;
- c. Percentage of subcontracting work performed by small business concerns on task orders.

Compliance with respect to a prime’s subcontracting goals should also be publicly available to help determine how detrimentally category management is impacting the industrial base. The Chamber is aware of concerns in releasing this data, as it could contain proprietary information. Therefore, aggregate data should be available that facilitates a better understanding of the role that small business subcontracting plays in the government’s category management initiative. Without it, businesses and policymakers are left to speculate about the utilization of small businesses subcontractors and the small business socioeconomic programs. As the small business community seeks to understand the role of subcontracting in large contracting vehicles, the role of accessible data is key to making policy decisions and business decisions. The small business community will not only benefit from this data – we believe the government will be better equipped to make acquisition decisions and informed efforts to secure the federal supply chain.

Further, it is important to address the challenges small businesses face as subcontractors. Large primes often take a substantial cut when utilizing smalls as subcontractors, often giving unrealistically low rates, making it difficult for a subcontractor to meet requirements with fewer

resources. This pass-through problem makes it often impracticable for a small to perform as a subcontractor – the margins are too thin. Additionally, small businesses lose the close relationship they had with the government client when they become subcontractors, which impacts their ability to get additional prime work in the future. We urge the Committee to pass legislation that will make subcontracting a more successful and viable option for small businesses.

- (2) Employee-owned small businesses have partnered with the federal government for decades on a myriad of projects ranging from supplying parts and maintenance for federal vehicle fleets like my constituents Jasper Engines & Transmissions provide, to cutting edge defense contracts. However, industry consolidation and cumbersome regulatory processes, particularly in the small business defense contracting space, has led to a diminished supply base. What opportunities do you see where contracting officers could be given broader authorities or flexibilities to more regularly work with employee-owned businesses?**

While I can't speak specifically about employee-owned businesses (since my company is not one) removing barriers for small business contractors cuts across industries and business type. The governmentwide push to increase use of category management shuts businesses out of opportunities to contract across the government. As government buying continues to trend toward buying through large contracting vehicles and moves away from direct contracts, the ability for small companies to win sole source awards is more crucial than ever.

Contributing factors to small business contracting difficulties are the low thresholds for awarding small business sole source contracts which have contributed to us losing this vital business. The Chamber applauds the Committee for its recent inclusion of raising sole source thresholds to make them easier to utilize in the House-passed FY2022 National Defense Authorization Act (NDAA). However, eliminating the J&A requirement for sole-source contracts for small businesses other than 8(a) would also be of great help to small companies like mine. As a former 8(a) program participant, I can't speak highly enough of the opportunities it gave me to strengthen my business and gain access to the federal market. However, after graduating, I continue to be a WOSB company and have found that customers are less willing to award sole source contracts to us because of the J&A requirement. The contracting community has interpreted the J&A requirement very narrowly – basically requiring that only one company in the world is able to perform the work. Changing this stringent requirement would help harmonize the standards and allow graduated 8(a) companies to continue to thrive and grow, despite the adverse impacts of category management.

Defense Health Agency (DHA) market research is now also underway to identify parties to support an initiative that consolidates military healthcare IT support services. The objective is to maximize efficiency and effectiveness by optimizing acquisition strategies, processes, staffing, and tools. Currently, the "on contract" IT support capabilities are decentralized and predominantly managed at the local level. There are approximately 103 contracts with a total value of \$146 million, with 85 of the 103 contracts (~83%) performed by small businesses. Small businesses are currently successfully executing these IT support capabilities contracts and at this time, typical agency small

business participation goals (~40% small business goal) are being used to guide the effort. If the contract is competed as full and open because of the size of the contract after consolidation, the small business utilization goal (~40%) will be significantly lower than current percentage (~83%). This would be devastating to the small businesses that support DHA's mission.

(3) Another reason we're seeing a shrinking supplier base is companies are growing past their small business size standards or being bought out by larger companies and consolidated. The abrupt graduation cliff where small businesses go from small to competing against large businesses overnight forces small businesses to keep their employee figures down, so they're not forced to compete with companies several times their size. Do you believe Congress should look for ways to ease the transition for small businesses through this "Valley of Death?"

Definitely – this is a cause of continued anxiety for many small companies. As small businesses and government contracts become larger through initiatives like category management, 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.

The Committee discussed this issue in a 2018 hearing where MCCC member Steve Ramaley testified, called “No Man’s Land: Middle-Market Challenges for Small Business Graduates.” We are thrilled at the change in the law that resulted from that hearing and the Committee’s work via the *Small Business Runway Extension Act*. Many firms have been helped by this change. However, more can be done to help small companies build competitiveness and successfully transition out of their small business size status.

Small businesses play an important role in the revitalization of domestic competitiveness and strengthening supply chains through Research and Development (R&D). To better assist companies in the ability to compete, we urge the Committee to consider allowing entities to subtract Independent R&D expenses and expenditures from that entity’s “receipts,” as defined by 13 CFR 121.104, for the purpose of calculating size. This supports the government’s Research and Development (R&D) investment initiative to stimulate innovation and allows companies to continue to pursue and develop new products and processes, without undue penalty. The definition of R&D expenses (as defined by the IRS) encompass the allowable costs of basic research, applied research, development, plus systems and other concept formulation studies. Costs cease to be R&D when preparing for the manufacturing or service delivery phase. However, an exclusion cap should also be put into place – the revenue deduction should be limited to no greater than two times the NAICS size standard. For employee-based standards, for every \$50,000 spent in R&D dollars, a single employee may be removed for the calculation to determine size.

The clear evidence of the small business contribution to R&D does not discount the costs that small businesses assume when they take on innovative ventures. Investing in new technologies is expensive and often risky for businesses that lack significant expendable resources. Small business programs, such as the Small Business Innovation Research (SBIR) and Small Business

Technology Transfer (STTR) administered by the SBA, provide a pathway to success for America's most inventive entrepreneurs by allowing them to continue to drive innovation and create jobs. However, due to the total revenue for size determination standards for small businesses, many entrepreneurs who expend significant resources toward R&D find themselves no longer qualifying as small businesses, thus limiting participation in the benefits these programs provide. For example, a business with an average revenue of \$39 million is expected to compete with large businesses with billions in revenue.

Additionally, agencies should bring Multiple Award Contracts (MAC) requirements in line with the capabilities of midsize firms. It is essential to sustain midsize businesses, to both reduce monopoly problems and diversify the types of businesses engaging in the federal market. However, many of the most lucrative federal opportunities have been structured in a manner that excludes many midsize businesses. This initiative will involve educating agencies on structuring MAC requirements to enable midsize firms to compete. For example, with GSA's Alliant 2, MAC requirements that were problematic for midsize firms included the exclusion of joint ventures, cost reimbursement, and a prohibition on using third party audits. On the other hand, best practices also exist for midsize firms on MACs. With GSA's Oasis, the on-and-off-ramping mechanism allows midsize firms that have outgrown their small businesses status to move from the Oasis small business contract to the Oasis unrestricted contract, without requiring a re-compete. This would help ease the transition for small businesses through this "Valley of Death."

Committee on Small Business
Subcommittee on Contracting and Infrastructure
“Growing the Small Business Supplier Base in Government Contracting”
Wednesday, October 13, 2021 12:00 P.M.
Questions for the Record from Rep. Mfume

Ms. Tong,

- Are you an employee-owned company? Do you have any experience contracting or performing as an employee-owned business?

A: T&T is not an employee-owned company and I have no prior experience contracting or performing as an ESOP company.



**Written Testimony of Scott Jensen
Executive Director
National Veterans Small Business Coalition**

**Before the
House Committee on Small Business
Hearing on "Growing the Small Business Supplier Base in
Government Contracting"**

**Preserving Veteran Small Business Federal Contracting
Opportunities Under Category Management**

October 13, 2021

**Written Testimony of Scott Jensen
Executive Director
National Veterans Small Business Coalition**

Thank you for the opportunity to provide written testimony for the hearing on “The Importance of Growing the Small Business Supplier Base in U.S. Government Contracting.” For over the past decade, National Veteran Small Business Coalition (NVSBC) leads the way as the largest national membership-based Veteran Service Organization serving the needs of Veteran entrepreneurs and small businesses working as Federal contractors. Our mission is to provide nationally recognized training, networking, and advocacy for Veteran small business entrepreneurs to ensure they are procurement ready and understand opportunities to start, operate, sustain, and grow competitive and strong businesses in the federal market. We have invested in resources to advance our ability to monitor, review and understand the wide variety of issues that impact Veteran Small Business Owners.

Not only do we represent 500 specific member firms across 42 states, the District of Columbia and Puerto Rico, but NVSBC serves as the voice for all Veteran small business owners serving as Federal contractors. As the leading trade association for this constituency, we advocate for change in a positive direction on behalf of 50,000 firms in this category.

More specifically, I appreciate the opportunity to address how Category Management is impacting Veteran Owned Small Businesses. Category Management refers to the business practice of buying common goods and services as an enterprise to eliminate redundancies, increase efficiency, and deliver more value and savings from the Government's acquisition programs. Category Management emerged in 2014 with the Office of Management and Budget's (OMB) directive to transform the federal marketplace by eliminating duplicate contracts for things like office supplies, construction equipment, information technology and janitorial services. The policy objectives of Category Management are to promote agency collaboration on common contract solutions and acquisition best practices, create cost savings, avoid unnecessary contract duplication, and reduce the workload of the acquisition workforce, whose talents and time could produce greater return if they could focus on mission critical acquisitions.

In 2017 through an executive order, the federal government implemented the federal acquisition process known as Category Management through Best-In-Class (BIC) contracts, which introduced the concept of “Tiered” procurements. There are four Tiers (Tiers 0-3), and Tiers 1-3 are all considered Spend Under Management (SUM). Each year, the 24 Chief Financial Officers Act Federal Agencies are assigned annual goals for SUM and BIC spending.

- Tier 0 - Unaligned Spending by an Agency. This involves contracting in a decentralized manner and not conforming to Category Management principles.
- Tier 1 - Spending Managed at the Agency-wide Level. Contracting is conducted with supporting mandatory-use policies and strong contract management practices.
- Tier 2 - Spending Managed at a Government-wide Level. Contracting is through multi-agency or Government-wide solutions that are not BIC solutions.
- Tier 3 - Spending Managed at the Government-wide Level Through Use of BIC Solutions. Contracting that has been identified through a collaborative interagency process by acquisition category experts within the Government as offering the best pricing and terms and conditions within the Federal marketplace and reflecting the strongest contract management practices. Currently there 38 contracts designated as BIC (OASIS, Army CHESS, and VETS2 are some well-known BICS).

The implementation of Category Management is managed by the OMB's Office of Federal Procurement Policy (OFPP) in concert with the General Services Administration (GSA) and the Category Management Leadership Council (CMLC) which is comprised of representatives from the Departments of Defense (DOD), Energy (DOE), Health and Human Services (HHS), Homeland Security (DHS), Veterans Affairs (VA), the National Aeronautics and Space Administration (NASA), and the Small Business Administration (SBA). The most current Category Management policy guidance is outlined in the March 20, 2019, OMB Memorandum for the Heads of Executive Departments and Agencies entitled "*Category Management: Making Smarter Use of Common Contract Solutions and Practices*" (M-19-13).

While the goal of Category Management is well intentioned, the Federal Government has struggled to reconcile implementing these initiatives while maintaining the protections and opportunities for Small Businesses. Our major areas of concern include the loss of small business contracting opportunities and the compliance to laws and regulations.

Loss of Small Business Contracting Opportunities. While M-19-13 specifically addresses small business and states, "this guidance does not change an agency's responsibility to meet its small business contracting goals, including its socioeconomic goals", federal government small business contractors have consistently maintained that in practice Category Management has increased barriers to entry, decreased small business opportunities, and eroded the federal contractor industrial base. In November 2020 the US Government Accountability Office (GAO) in its analysis of Category Management reported that "from fiscal years 2016-19, the overall number of small business vendors receiving awards for common products and services declined" (GAO 21-40). In response to GAO 21-40 the SBA stated that "of the tens of thousands of contracts eliminated by category management, 53 percent of them were small business contracts" and that "the number of small business new entrants has dropped nearly 60% from 23,000 in FY12 to just 9,400 in FY19". In May 2021, the US Women's Chamber of Commerce published a paper entitled "*Stop the Loss of Federal Government Small Business Suppliers*" that concluded that between FY17 and FY20 America lost 21,500 (24%) of its small business federal suppliers, including the loss of 17% of Veteran-Owned Small Businesses.

Compliance to Laws and Regulations. Specifically, the NVSBC is concerned the current federal government Category Management acquisition policy is not addressed in the Federal Acquisition Regulations (FAR) and is in opposition to the requirements of 15 U.S.C section 644(e)(1) that states: "To the maximum extent practicable, procurement strategies used by Federal department or agency having contracting authority shall facilitate the maximum participation of small business concerns a prime contractors, subcontractors, and suppliers."

Case Study. NVSBC board member and CEO of MIRACORP, Ms. Cynthia Miracle, recently spoke to me of the negative impact that Category Management is having on her business. MIRACORP has been a federal government contractor providing professional, facility management, and project management services to several federal agencies for over 20-years. MIRACORP employs nearly 200 people and has performed on federal contracts worth approximately \$200 million. The company has a long resume of exceptional past performance and is a Service-Disabled, Woman-Owned, Small Disadvantaged Business. Over the last several years, MIRACORP was recognized with several industry awards including the "Stellar Award" from the U.S. Women's Chamber of Commerce, the "Arizona SBA Small Businessperson of the Year", and the "SBA District Minority Small Businessperson of the Year." In short, MIRACORP is the very example of an established, highly respected and successful Service-Disabled Veteran-Owned Small Business (SDVOSB) federal government contractor.

Category Management, while well-intentioned, has resulted in the loss of over 40% of small business contractors and reduced new entrants to the federal marketplace. Category Management has unproportionally limited Small Disadvantaged Business (SDB), SDVOSB, and Women-Owned Small

Business (WOSB) from access to federal contracts. Reducing the availability of cost effective, innovative solutions that small businesses are known for, runs counter to the intention of the Small Business Act. MIRACORP has experienced the loss of revenue and, more importantly, limitations to competition, as a direct effect of the federal focus on Best-in-Class (BIC) promotion. MIRACORP's prime small business contracts were redirected to BIC contract vehicles in support of Category Management. BIC vehicles ultimately stifle competition and reduce small business opportunity, benefiting the few to the detriment of many. Access to BICs require an advanced business maturity model that is not generally attainable by small businesses. It is apparent that a significant portion of BIC primes are the result of joint venture teaming arrangements, ultimately to the benefit of the large business partners.

Undeterred by hard work and challenging times, MIRACORP has weathered many storms including budget reductions, government shutdowns, and most recently the COVID-19 pandemic, while diligently continuing to serve customer's missions. Ms. Miracle's experience is one example of how Category Management is reducing opportunities for small businesses, limiting competition, hindering innovation, and ultimately costing taxpayer dollars. If this is the experience of a mature, highly qualified government contractor, then it is no wonder that the number of small business federal suppliers has declined. Less mature firms are going out of business and Category Management is proving to be a significant obstacle for new Veteran-Owned federal suppliers

To address these concerns, NVSBC recommends the following courses of action

- Exempt contracts awarded under section 8(a), 8(m), 31, or 36 that are classified as Tier 0 from the procedural requirements of any Federal rule or guidance on category management or successor strategies for contract consolidation.
- Exclude contracts awarded under section 8(a), 8(m), or 36 that are classified as Tier 0 when measuring the attainment of any goal or benchmark established under any Federal rule or guidance on category management or successor strategies for contract consolidation.
- With respect to a requirement that was previously satisfied through a contract awarded under section 8(a), the head of a Federal agency shall not remove such requirement from a contract eligible for award under section 8(a) and include such requirement in a contract that is classified as Tier 1, Tier 2, or Tier 3 without the Administrator's approval.
- Require all BIC's include a sufficient number of businesses in all socio-economic categories.

Thank you for this opportunity to provide written testimony. I look forward to continuing collaboration with you. I can be reached at 703-889-5742 and scott.jensen@nvsbc.org, for additional follow up on this matter.

