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LEVELING THE PLAYING FIELD: THE STATE OF SMALL BUSINESS CONTRACTING

HEARING

BEFORE THE

SUBCOMMITTEE ON CONTRACTING AND INNOVATION

OF THE

COMMITTEE ON SMALL BUSINESS
UNITED STATES
HOUSE OF REPRESENTATIVES

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LEVELING THE PLAYING FIELD: THE STATE OF SMALL BUSINESS CONTRACTING

THURSDAY, MAY 11, 2023

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

The Subcommittee met, pursuant to call, at 2:00 p.m., in Room 2360 of the Rayburn House Office Building, Hon. Nick LaLota [chairman of the Subcommittee] presiding.

Present: Representatives LaLota, Molinaro, Bean, McGarvey, Scholten, and Thanedar.

Also Present: Representative Williams.

Chairman LALOTA. Good afternoon, everyone. I now call the Subcommittee on Contracting and Infrastructure to order.

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

The Committee is here today to hear testimony from three small business owners engaged in federal procurement. And

I now recognize myself for my opening statement.

Good afternoon, again, and welcome to today's hearing. First, I want to thank our witnesses for being here today and joining us. Your time here is very much appreciated and I look forward to hearing your testimonies.

Today, the Subcommittee on Contracting and Infrastructure will focus on several critical issues facing Main Street America. We must address the alarming decline in small business federal procurement. Small businesses eligible to contract with the federal government declined by nearly 40 percent from 2010 to 2019 and new businesses entering the procurement marketplace declined by 79 percent from 2005 through 2019. Members of this Committee from both sides of the aisle understand the crucial role small businesses play in increasing competition, innovation, and stimulating our economy, and yet, they have been systematically squeezed out of our federal contracting for decades.

This decline is exacerbated by the Biden administration steering our economy and national security in the wrong direction. At a time when the country needs a robust defense industrial base, small businesses are getting pushed out of government contracts in this space.

It is also crucial that we ensure small business contracting goals are accurately reported by the government. As we have seen in countless cases, the government does not have a true representation of small businesses in contracting. For example, contracting

methods like the SBA's SCORE card portray inaccurate assessments by allowing things like double counting which leads to inflated numbers.

Finally, we must examine the effects of ineligible firms by reevaluating issues such as self-certification. Just like any small business program across the federal government, we must ensure structure and guidance is in place to ensure firms are accurately represented. Fraud is rampant in these self-certification problems, and yet, the Biden administration seeks to expand rather than correct these actions. Our goal on this Committee is to create a pathway for small businesses to succeed. We understand the value and substance that make up each of these businesses in our hometowns and vow to continue to advocate for their successes.

In my district, Long Island is home to so many incredible small businesses and hardworking entrepreneurs who serve our community and provide exceptional goods and services. When traveling around the district, I hear each of these small businesses about the issues they are facing and the actions we can take in Congress to provide a better future for main street.

Small business contractors play a vital role in America's industrial base and national security apparatus. Your real world experiences will help the Committee work to make meaningful improvements to ensure small businesses are fully utilized in the federal procurement marketplace. It is my fear that the decline of small business contracting will continue until steps are taken to improve competition and accuracy, and accurately report on the true status of the state of small businesses in federal procurement.

Thanks again for joining us today. And I am looking forward to the conversation ahead.

With that, I yield to my distinguished colleague, the Ranking Member from Michigan, Ms. Scholten for her opening remarks.

Ms. SCHOLTEN. Thank you, Mr. Chairman, for holding today's important hearing. Thank you so much to our witnesses for taking time out of your busy days to come and share your experience.

The federal government is spending almost half a trillion dollars annually on the purchase of goods and services for its needed daily operation. In Fiscal Year 2021, 6.5 billion in defense contracting dollars were spent in Michigan alone. At least 359 million of those dollars were spent in my district. This money brings well-paying jobs to West Michigan and stimulates local economies.

The U.S. Government remains a consistent and reliable client. Yet, the federal marketplace is a hard space to break into, especially for small businesses. Recognizing the need for a diverse market, Congress included goals for small business participation in federal procurement and created a variety of contracting programs to help small firms compete in that marketplace. The SBA plays a vital role in this process.

The SBA works with agencies to help them meet the small business goals. It also implements and oversees programs used by many small firms to start contracting with the federal government, and they have been successful in these tasks.

In recent years, the government has consistently surpassed the small business goal, allowing the government to receive quality goods and services at competitive prices and strengthen its indus-

trial base. The SBA also plays an important role in ensuring that small businesses owned by women, veterans, and economically disadvantaged individuals are able to compete in the federal procurement space.

However, there is always room for improvement, and it is the role of this Committee to make sure that the SBA is doing the best it can. Oversight is a critical component of this and the hearing today will help us to help the SBA do the best job that it can.

The government as a whole and some agencies have failed to meet all of the small business participation and several individual goals, such as women-owned small business. These failures deprived small businesses of billions in contracting dollars. Additionally, the Committee has seen the average contract size increasing. On first take, this appears to be promising as larger contracts may be more profitable for small business companies. However, it might suggest that more contracts are being consolidated, resulting in fewer opportunities for small businesses.

I am particularly interested in the witnesses' perspective today on this issue. The ability of small businesses to compete in the federal marketplace has also been adversely affected by the lack of staff in critical roles.

Sadly, there are openings in the roles of procuring center representatives and commercial marketplace representatives overseeing millions of contracting actions. Small businesses cannot be adequately advocated for with such few Members promoting their use and ensuring that agencies are following the small business set-side procedures.

Lastly, the government steps, such as developing and implementing category management to deliver savings to federal agencies and eliminating unnecessary redundancies. Yet, the approach has also contributed to a decrease in the small business industrial base. I welcome discussion like today so we can identify the many factors challenging our small business contractors and develop thoughtful actions together.

What is important for this Committee to keep in mind is that these developments are part of a bigger picture, which is that the federal procurement marketplace is always evolving. Small firms bring new ideas to the table which in turn generate new jobs and even new industries. We must take steps to ensure that they can access the federal marketplace. I thank all of the witnesses for being here today, and I yield back the remainder of my time.

Chairman LALOTA. Thank you.

I now yield to the Chairman of the Full Committee, the gentleman from Texas, Mr. Williams, for his brief opening remarks.

Mr. WILLIAMS. Thank you very much. And you heard him say brief, so they will be brief, Chairman.

I want to say again thanks to our witnesses. It is good to be able to say hello to you and visit with you. And I want to thank my colleague, Chairman LaLota for holding today's Subcommittee hearing that will highlight the current state of small business contracting, and as I have said earlier, I am a small business also and very familiar with some of these problems.

Small business plays a vital role in America's industrial base and national security apparatus. As we saw during the pandemic, it is

detrimental when our country is too relied on other nations to source goods that keep America moving. The government contracting system helps solve this problem. The sides for the small businesses keep key opportunities available to build out our industrial base and diversify our supply chains. Unfortunately, the number of small businesses contracting with the federal government has been decreasing for the last decade, and this is not a missed opportunity for small businesses to expand their business operations but also weakening the overall economy. I hope that this hearing will begin to shine light on these problems and will help guide us to find solutions to strengthen or solve business contractors.

So with that, Mr. Chairman, I appreciate, again, you calling this hearing and I yield back.

Chairman LALOTA. Thank you, Chairman. I will now introduce our witnesses.

Our first witness here today with us is Mr. Rob Schroder. Mr. Schroder is a 1993 graduate of the finest of our nation's service academies, the Naval Academy in Annapolis and he is a retired Marine Corps harrier pilot. After the Marines, Mr. Schroder founded SteerBridge, a veteran-run company that provides technological and professional run services to the U.S. Government and private entities. Mr. Schroder prides himself on having a special emphasis on elevating the stature of veterans in the private sector by integrating their experience into federal projects. Rob lends his operational, congressional, and acquisition expertise developed in the Marine Corps with his management success while at the U.S. Chamber of Commerce to deliver effective results for SteerBridge customers. Mr. Schroder also holds master's degrees from the Industrial College of the Armed Forces, the Marine Corps University, and the Indiana University Kelly School of Business. Mr. Schroder, sir, thank you for your service to our country and for being here today. We look forward to the conversation ahead.

Our next witness is Ms. Jackie Ferrari. Ms. Ferrari is the founder and CEO of American Fashion Network located in Syracuse, New York. In 2005, Ms. Ferrari built AFN to be a trusted apparel supplier to major retail brands and small businesses across the country. AFN serves their partners with trend right apparel from manufacturers across the globe and prides themselves on being a reliable federal contractor. Ms. Ferrari graduated from the University of Arizona where she studied journalism and then went into apparel design and manufacturing. Ms. Ferrari, thank you for being here today and we look forward to the conversation ahead.

I now recognize my colleague, Representative Scholten to briefly introduce their constituent who is before us today.

Ms. SCHOLTEN. Sadly, not a constituent though. I wish that we could claim her. We are happy to have our witness, Ms. Jackie Lopez with us here today. Thank you, Mr. Chairman.

It is my pleasure to introduce our final witness, Jackie Lopez. Ms. Lopez is the president of Premier Enterprise Solutions, a company specializing in cybersecurity, information technology, and program management. Premier is a service-disabled, veteran-owned, and women-owned small business participating in the SBA 8(a) development program. She cofounded Premier in 2012 after serving

in the Air Force. And we thank you for your service. Prior to her time in the military, Ms. Lopez served as the director of Defense Department programs at the GSA Federal Systems and Integration Center where she oversaw the acquisition and management of large-scale enterprise information technology contracts. Jackie received her BS from the University of Southern Missouri and studied business administration as a post-graduate at Embry Riddle Aeronautical University. She is a graduate of the VA Women, Veteran-Owned Small Business Initiative, an ACTIAC fellow, and an active Member of the Women Impacting Public Policy. Ms. Lopez is also a graduate of the Veterans Institute for Procurement, Grow, and VIP Advanced Programs and he SBA's Emerging Leaders program. I am thrilled to have you here today, Ms. Lopez, and look forward to your testimony. Thank you so much for being here.

Chairman LALOTA. And once again, thank you to all of our witnesses for being here today.

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

STATEMENTS OF ROB SCHRODER, FOUNDER AND MANAGING PARTNER, STEERBRIDGE; JACKIE FERRARI, FOUNDER & CEO, AMERICAN FASHION NETWORK; JACQUELINE K. LOPEZ; PRESIDENT,PREMIER ENTERPRISE SOLUTIONS.

STATEMENT OF ROB SCHRODER

Mr. SCHRODER. Chairman LaLota, Ranking Member Scholten, Chairman Williams who recently just left, and distinguished Members of the Subcommittee. Thank you for inviting me to appear before you to discuss the importance of small business in the federal procurement, a system and how this legislative body can help to secure government agencies are fully engaging and utilizing these vital partners.

My name is Rob Schroder. As mentioned, I am the founder of SteerBridge, a government services provider and a Service-Disabled, Veteran-Owned Small Business. Our company specializes in delivering best in class solutions to the federal government.

As mentioned, I graduated from the Naval Academy. I had a career with the Marine Corps, where I also served not only as a harrier pilot but as an acquisition professional. So I got to see this from the government side.

Following that career, I spent time at the U.S. Chamber of Commerce as the vice president of International where it is there that I learned the true value that the private sector can provide to the federal government.

I launched SteerBridge with two goals in mind. One, supporting the veteran community, while providing top tier technology solutions for the federal government. I knew from my career that the best and most underutilized talent in the country can be found right here in our veteran community. I wanted to showcase and leverage that talent, acknowledge, and expertise that is largely underutilized.

Secondly, I had a deep personal knowledge of the critical need to modernize and make private sector solutions available for the fed-

eral government. Being part of the solution to these issues for the government is the focus of SteerBridge.

Currently, I am very proud of our work to help modernize the GI bill at the VA.

Alongside our VA partners and as a subcontractor to Accenture, we have taken a 30-day GI bill approval process and turned it into a 3 second button click. This has been a huge win for the VA, but more importantly it has been a big win for our veterans. And more importantly, it also shows what a small business is able to do working alongside our government partners. Speed, agility, and mission focuses, our advantages of not just SteerBridge but our small business peers in the industry.

We recently are working on an innovative solution and groundbreaking work utilizing artificial intelligence and machine learning for the Marine Corps. This shows the vital advantages that we can provide to one of our best customers. We are applying these advanced techniques to better supply the F35 on deployments. We have been successful in this contract because we are agile, we are flexible, and we are innovative at a speed only a company of our size, absent a big bureaucracy can accomplish.

While the federal government, including Congress, has spent a lot of time advocating or small businesses, those efforts many times come up short. Even though Congress sets well-intentioned goals for agencies to hire small businesses, the fact is that it has not resulted in more small businesses winning the government's businesses. For goals and good intentions to be effective, they must have teeth to them.

Instead of the government creating small business goals, I would implore this Subcommittee to consider legislation that outlines specific requirements for small business contracting. Taking this route will be more effective than advocacy and ultimately, less costly for the government.

SteerBridge deep values the partnerships we have cultivated with large businesses and the expertise we have gained by working as subcontractors is invaluable. And let's be clear; there is an absolute need for the value that big business brings to the federal government. But as I look forward to discussing with you further today, it is in the best interest of the United States Government and the industrial base to have more small businesses engaging with the government and delivering be spoke and "best in class" solutions that are difficult to find at a large company.

For Congress to truly level the playing field I would implore you to consider the following:

Completely eliminate the Mentor-Protégé Joint Ventures (MPJV) program. The program was created with all the best intentions but has been warped into simply being a path for big business to drive revenue under a small business banner. Additionally, MPJVs result in never-ending protests, confusion, and hampering the government's ability to modernize.

Second, require a specific certification process for subcontracting. While eliminating self-certification for SBA set-aside programs, but not reporting, was addressed in the most recent NDAA. There continue to be loopholes and delays that allow companies to misrepresent their ownership.

Third, clean up SBA's government-wide contract reporting. Congress should consider passing a policy that allows agencies to only count their contract spending against one category for a small business.

By bringing smaller and innovative companies further into the federal government, we will ensure the United States is leveraging the best of what small businesses have to offer. While increasing competition for contracts, which will lead to better prices for the American taxpayer.

Thank you, and I look forward to taking your questions and discussing the importance of small business in the federal government.

Chairman LALOTA. Thank you.

I now recognize Ms. Jackie Ferrari for her 5-minute opening remarks.

STATEMENT OF JACKIE FERRARI

Ms. FERRARI. Chair LaLota, Ranking Member Scholten, and Members of the Subcommittee, it is an honor to appear before you today.

My name is Jackie Ferrari, and I am the founder and CEO of American Fashion Network, a women-owned small business based in Syracuse, New York. I am also a Member of the Women's Procurement Circle, which advocates for policies that strengthen women-owned companies that do business with the federal government.

Over the last decade, I have seen first-hand how congressional and presidential attention to domestic manufacturing policies can significantly benefit small businesses like mine. I am particularly pleased that this seems to be, at least from where I am sitting, a bipartisan effort.

It has always been my goal to keep manufacturing in the United States. Born and raised in Los Angeles County, California, I was able to experience the glory of American made products in the 1970s and 1980s before many of the jobs moved overseas.

Together with the U.S. Government, I believe we can keep American manufacturing alive. I founded AFN in 2005 and we have since grown into a full manufacturing enterprise providing clothing, fabric, and promotional specialty products to the world's most prestigious retailers, corporations, and now the federal government, which happens to be my favorite customer.

At the beginning of the COVID-19 pandemic, AFN made the decision to pursue federal work as we watched the retail industry suffer under economic strain of lockdowns. When millions of dollars in sales were canceled, I knew I had to pivot to keep my business and employees afloat. We began producing masks, COVID-19 protection from design to shipping in just 5 days.

Policies like Buy American encouraged domestic preferences and small business participation that allow my business to thrive. Federal contracting opportunities give small businesses the prospect for security and long-term stability which is important in the apparel industry where there is a constant ebb and flow of business.

In 2021, AFN won a $52 million contract to produce a new line of fitness training uniforms for service members. I cannot express

enough how grateful and proud I am for the opportunity to provide garments for the U.S. military personnel. This gave me the ability to hire five additional employees at our headquarters, keep 70 workers in California and 56 workers in Mississippi employed with a workforce of 76 women waiting to work there if we have the business to give them, largely single mothers.

This contract does not come without its challenges. We anxiously wait for the contract to kick in after 2 years of delays. Speaking to my peers across industry, I know delays are commonplace. As a small business, they are also difficult to manage. To date, we have provided two wear tests and a total of 300 samples, all using AFN's resources. For apparel designers and manufacturers, delays disrupt our supply chain because we cannot hire or keep employees without a promise of work.

For example, a 5-year IDIQ contract like the one I won provides greater opportunity, but since there are no guaranteed orders or ship dates, it is challenging to finance. When we receive an order typically with a 6 month lead time delivery issue, it is difficult to find a financial partner that can accommodate the need for such significant capital in such a short amount of time. Since you do not know what to expect from delivery to delivery, it makes planning capital and employee retention challenging.

From my point of view, there are a number of changes Congress can make that would help small companies thrive in the federal market. Better utilization of all small business federal contracting programs is top of our list. According to the SBA, the government has only met its women-owned contracting goals which was established in 1996 two times and has never met its HUBZone goals.

If the government is serious about doing business with small companies, firms should no longer be allowed to self-certify their socioeconomic status, instead, requiring an SBA certification. Additionally, the overall small business goals should be increased as well as the goals for SBA's contracting assistance programs. And finally, sole source thresholds must be raised and SBA's procurement resources for small businesses adequately funded.

Broad bipartisan support for increasing small business participation dictates changes are needed to bolster these businesses. I applaud the Committee's effort to address these issues and look forward to providing further input on ways Congress can support small manufacturers.

Thank you, and I look forward to answering your questions.

Chairman LALOTA. Thank you.

I now recognize Ms. Jacqueline Lopez for her 5-minute opening statement.

STATEMENT OF JACQUELINE K. LOPEZ

Ms. LOPEZ. Thank you, Chairman LaLota, Ranking Member Scholten, and distinguished Members of the House Small Business Committee on Contracting and Infrastructure. Thank you for the opportunity to testify today on federal contracting programs important to the small business ecosystem and strategies to improve those programs.

I am Jacqueline Lopez, president and owner of Premier Enterprise Solutions, a company specializing in cybersecurity, informa-

tion technology, and program management services in the federal sector. Premier is a service-disabled veteran and women-owned small business participating in the SBA 8(a) development program.

Premier has grown into a successful firm employing personnel in six states and the District of Columbia. Much of my success is directed attributable to the 8(a) women-owned small business and service-disabled, veteran-owned small business programs, as well as many of the free resources for socioeconomic programs, the government owns or supports.

These programs are not perfect but crucial to removing barriers, creating growth opportunities, and bringing together stakeholders with private sector innovators. I believe there are challenges to the socioeconomic programs. One of the challenges is category management which conflicts with the government's goal to increase the industrial base. While well-intended, the net effect has been a shrinking of the small business industrial base.

Best in class vehicles (BICs) play a key part in category management but it is very difficult for small businesses generating less than $10 million annually and new entrants to win an award on many the BICs. Very few small businesses can compete for an award on several of the BICs without a large or mid-size joint venture partner. As BICs are recompeted or new vehicles created, they should take into account businesses that have $10 million in revenue or less and new entrants. We need more vehicles, especially GWACs, like 8(a) Stars which has a simple and inclusive bid process and the criteria is designed to get more businesses on the vehicle rather than keep them off. We also need more vehicles to include a GWAC available for women-owned small businesses. The 8(a) and service-disabled, veteran-owned programs have access to GWACs. Having such a vehicle for the women-owned small business program would help more women-owned small businesses pursue larger contracts and help federal agencies achieve their contracting goals.

The 8(a) development program has been the catalyst for many small businesses entering the federal market. However, anecdotal data has shown it takes several years for 8(a) firms to actually gain traction and win contracts. An extension of the 8(a) program from 9 to 12 years would allow 8(a)s more time to understand the complexities of the federal procurement process, increase their working capital, and sharpen competitive skills, ensuring a sustainable business upon exiting the program.

Lastly, the whole source threshold for 8(a) firms currently stands at 4.5 million except for Native American tribes and Hawaiians in which case the sole source threshold for civilian agencies is $25 million without justification, and DoD, $100 million without justification. Ideally, the threshold would be equal across all 8(a)s. But even a modest increase to the threshold for non-Native and Hawaiian firms, 10 to 12 million or more would be impactful. An increase to the threshold would promote larger awards which means more revenue for the company and subsequent job creation.

Despite these barriers, success is attainable. With these programs, my business has been successful. Without them, my ability to grow and create jobs would have been significantly decreased. These programs provide invaluable opportunities for the businesses

that are able to successfully navigate them and can be significantly more impactful with improvements. I want to see small businesses have an opportunity to be engines of job creation and economic growth.

Once again, I wish to express my deepest gratitude to this Subcommittee and the Full House Small Business Committee for its continued efforts to support America's women-owned businesses and for inviting me to share my story and thoughts.

Chairman LALOTA. Thank you. And thank you to all of our witnesses for your opening remarks.

We will now move to the Member questions under the 5-minute rule, and I recognize myself for 5 minutes.

Mr. Schroder, the first question is going to be for you, sir. Small businesses are vital to America's industrial base, especially when it comes to providing goods and services for our military. Unfortunately, fewer small businesses are choosing to do business with the government, resulting in a 79 percent decline in new businesses entering the federal procurement space from 2005 through 2019.

My question is, what did you do that helped prepare you for the federal government contracting space knowing that fewer entrepreneurs were getting involved?

Mr. SCHRODER. Thank you, Mr. Chairman.

I did it by small steps. And that would be my advice to any entrepreneur or small business that is looking to start work with the federal government. The barriers are so high and the process is so lengthy that you cannot go full into it in one step. It is an incremental approach.

And, so, that would be my advice is that you start slowly, pick any customer that you have some expertise with and go at it that way in terms of your initial start.

Chairman LALOTA. Were there dialogues that you had with the SBA, websites that you referenced, other ways that you learned tricks of the trade to get you off the ground the right way?

Mr. SCHRODER. So I did not find the SBA particularly helpful. I went straight to the agencies and started working directly with the programs as opposed to an advocacy. Every time I went to a particular advocacy group or, you know, a vendor management or any sort of, you know, technology path or innovation path or vendor path, none of those proved useful at all. The only thing that mattered was the program entity, the end user, the customer, if you will, and what they needed and what their requirements were. It was not that it could be pushed on to them.

Chairman LALOTA. Thanks. And if any of the witnesses want to add in some of their experiences I think we have a moment or two for that.

Ms. FERRARI. Sure. I would love to. Thank you.

We read a book. We decided during COVID to jump into the contracting space because we were a women-owned business and we knew that in the federal contracting arena that that was important. So we actually read a book called Government Contracts Made Easy and took a 15-minute consultation with the woman who wrote it. So we did a lot of homework and we looked at the landscape. And then we went to the DOD and presented some product

that we thought that they would like and that really started our path. So we aggressively pursued the process.

Chairman LALOTA. Thank you.

And Ms. Lopez, did you want to add anything?

Ms. LOPEZ. Absolutely. I was fortunate enough to have an understanding, some understanding of government contracting so that was very helpful. But quite frankly, what I learned even though I was a very experienced government contractor. If you are a new entrant into the government space there is still a lot you have to do. For instance, you have no access to "vehicles," right? Because you do not have past performance, though I could run $100 million projects, it did not matter to the government when it comes to actually doing them because I did not have that past experience, past performance.

One of the things though that honestly I have seen—I mentor a lot—in government contracting is that a lot of individuals cannot get started because the government is a very complex thing to navigate. I know CIOs, individuals who have been CIOs in industry, they tried and they said "forget it"; right? Because of all the procurement rules.

So one of the things that really worked for me and works for others is having programs, like the Veterans Institute of Procurement, Emerging Leaders, things like that that give significant, substantive information for free. Those programs are free but they give you every detail you need to really begin to understand and grow in the federal space.

Chairman LALOTA. Thank you.

I want to change gears for a second about self-certification and Ms. Ferrari, I want to direct the initial question to you.

The Committee is concerned about self-certification of firms and the potential for fraud or misrepresentation. And I would like for you to take a first shot at this. But what are your views on self-certification of firms?

Ms. FERRARI. Thank you, Chairman.

I think that it needs to go away. There is rampant fraud across so many areas of contracting in general, but to self-certify, there are so many companies that, you know, will list their wife as the owner of the company and that person not being involved in the day-to-day business. It happens full stop so much. So we really think that that would be a very big step in helping small businesses to actually thrive in this space by having the program where you have to be certified by the SBA with a stringent certification process. That really is a critical move.

Chairman LALOTA. Thank you. And if the Ranking Member will indulge me for 30 more seconds, Mr. Schroder, if you would not mind, the same question.

Mr. SCHRODER. Sure. And thank you for the question.

I would say that there are two reasons not to certify. Number one, you are not capable of certifying because you do not have the ownership structure and so you should be ineligible.

The second reason, you are just lazy. You do not want to go through the process. And I would say either one of those reasons are enough to require the certification process. We have encoun-

tered it multiple times and, you know, there is nothing worse than losing to someone that is misrepresenting themselves.

Chairman LALOTA. Thank you. I appreciate your feedback. My time is well expired.

I recognize Ranking Member Scholten from Michigan for 5 minutes.

Ms. SCHOLTEN. Thank you so much, Mr. Chair. And thanks again to our witnesses.

As you all know, last week was National Small Business Week, and I had the opportunity to be out and about in the district visiting a number of small businesses, one of them was R&R Mechanical, a Latino-owned HVAC business. R&R Mechanical started like so many other small businesses that grow into great businesses in Grand Rapids in a garage. It has now grown to a thriving 42 employee operation and is continuing to grow. As they grow, they have expressed interest in breaking into the federal contract's space.

As the Ranking Member of this Subcommittee, it is a top priority of mine to ensure that minority-owned businesses like R&R Mechanical are able to enter and navigate the federal contracting marketplace. As such, I am committed to protecting and strengthening the 8(a) program.

Ms. Lopez, you participate in the 8(a) program, as well as the women-owned small business program. Have these contracting programs helped your small business compete in the federal procurement space?

Ms. LOPEZ. They have. One of the things that is really good about the 8(a) program is because, again, even though you do not have significant past performance, if you can convince the customers that you can do the work you can get sole source awards. So my first multimillion dollar sole source award was critical in providing me capital that helped me to compete. So, I mean, I am proud to say most of my work is not 8(a), it is not direct, it is competed, but yes, it was very valuable.

Women-owned small business, honestly, I do have some women-owned small business work, but I would really like to see more vehicles and more efforts for sole sources for women-owned small businesses.

Ms. SCHOLTEN. Thank you.

And in your view, what would you say if there is anything missing or additional elements that could help the program, what would those be?

Ms. LOPEZ. For 8(a), I think you really need to raise the ceiling on 8(a) programs and you need to extend the number of years. Unfortunately, because there is, it takes a while to really get to know the federal sector begin to ramp up. And a program, even like myself, you know, I have done pretty well in it but I am really just at a place where I could do exceptionally well. With women-owned small business, again, I think a GWAC would be amazing. That is missing for us, a vehicle that is dedicated to women-owned small business for women-owned small businesses.

Ms. SCHOLTEN. Thank you.

Another issue that I consistently hear about as an impediment to small business contracting is category management which is a

procurement initiative, as we know, led by the Office of Management and Budget. Category management poses a barrier for many small businesses in making federal contracts too big for a small business to handle.

Ms. Ferrari, if you could talk a little bit more about how consolidation and bundling of contracts through category management has impacted your business, and talk just a little bit more in detail about what you found in terms of the lack of women-owned business small set-asides in your industry.

Ms. FERRARI. Well, thank you for the opportunity to talk about it.

A vehicle like that, category management, I am frightened to death of this coming. And when you talk about the manufacturing base shrinking, that might send me running the other direction when I have spent the last 2-1/2 years of my life advocating for small business and federal contracting. I do not believe that it works in the apparel industry because there are so many different things that our warfighters need for their safety and their security and their comfort, and I just do not think it works, number one, from a high level.

From not so high a level in so many of the agencies under these contract vehicles, they are not meeting the set-asides. They have lists and lists of set-asides that they are supposed to meet, and I do not believe that there is any governance to make sure that they are meeting those. So it really knocks the small business out of the loop. We do not get the opportunity to compete because it is owned by this large vehicle. And I can tell you it will absolutely decimate small business when it comes to apparel.

Ms. SCHOLTEN. Thank you so much. And just at time. Perfect timing.

Chairman LALOTA. The best Ranking Member.

I now recognize Mr. Bean from Florida, the home to so many former New Yorkers, for 5 minutes.

Mr. BEAN. Mr. Chairman, thank you very much.

Good afternoon, Small Business Committee. Chairman, you do look very stately in the Chairman's chair. So well done. Congratulations. And Ranking Member Scholten, you, too. Of all the Ranking Members in this Committee you are one of them.

I want to welcome our panelists to Washington, D.C. I read your bios. They are very impressive. What you have built is amazing and that is why you are here. You will be able to add you testified before Congress, which is impressive, too.

We have heard today the declining number of small businesses that are doing business with the federal government. It is getting harder to do it, especially when government is competing and government launches its own business to handle that whatever it needs, procures it itself.

What if there was a law that said before the federal government could enter this marketplace it should bid out to see if there is some small business or an entrepreneur that could do that service or procure that goods cheaper or more effectively? Would that be a good idea or a great idea? Mr. Schroder?

Mr. SCHRODER. Congressman, thank you for that question.

I would offer the VA as an example. So there is a law, a decision that was handed down a few years ago that required the VA Rule of Twos. So the VA is required to seek out service-disabled, veteran-owned small business. I would say its effect is mixed. And so, I would look to that to a guide. In theory, yes, absolutely agree it would not be good; it would be great. It would be awesome.

Mr. BEAN. It would be great. Very well said. Thank you so much.

Ms. Ferrari, what say you? Would that be a good idea or a great idea?

Ms. FERRARI. A great idea.

Mr. BEAN. That is the correct answer. Thank you so much. You nailed it.

Ms. LOPEZ. Well, I do not have any other choice. So you are saying actually putting it out to socioeconomics first?

Mr. BEAN. That is exactly right, Ms. Lopez.

Ms. LOPEZ. Well, I think that is absolutely fantastic. I love it.

Mr. BEAN. I will accept fantastic to the idea, too. It just so happens I have filed that bill. How about that to say to the federal government before we put our toe in that water, let's see what small business, see what Ms. Lopez's business can do. Let's see what Ms. Ferrari is up to. Maybe she could procure or provide that good or service cheaper, more effectively, and you are hiring people. All of you are hiring people. So I say that not only for you but I am plugging, shamelessly plugging my own bill for our Committee Members to jump onboard. There is lots of room to co-sponsor this bill. But seriously, we want to know, and you have already hit on a handful of things, the barriers, what barriers do we need removed? What pathways do we need to clear? I know the VA, Mr. Schroder, you have already had some experience and we want to make sure this bill does not run into the same trap that is currently out there. We really want them to focus on it because small business, the entrepreneurship of small business is the heartbeat of America. It is what makes America great. I throw that out there as a tossup question. Anybody want to jump in? Barriers to remove or pathways to clear to make it easier for small business to do business with the federal government?

Ms. Ferrari, jump in.

Ms. FERRARI. I am going to jump in for a second.

I just want to say, you know, there are so many barriers to entry. We are talking about them here where we can have Rule of Two. So same thing in my industry. The Rule of Two is exceptional, and if it were being adhered to it would create the pathway that you are trying to create.

Mr. BEAN. Now, everybody knows what the Rule of Two is but for those that might not know what it is, tell us about the Rule of Two.

Ms. FERRARI. They have to go out, Procurement has to go out and find two—if they can find two companies that can manufacture, let's just say it is a physical training uniform. Two companies that can do it that are small business, it has to go to small business. So it cannot go to a large vehicle. It cannot even go to prison industries because there are two small companies who can do this.

So that is critical, and I love your great idea. And if I could be here to vote for you I would.

I believe when there are these large contract vehicles, we have had several through our industry come out and say the large contract vehicle company is saying this cannot be made in America. Can this be made in America.

And by the year, here is the number you should call at DHS and tell them. And we have had four of these things in the last 2 months where we come back and say absolutely. And I will make a sample. It will be on your desk by Friday.

In the fabric, with the yarns that are barrier amendment. It is doable. But the agencies just do not know.

And I had an opportunity to attend an industry days at HHS 2 weeks ago for 2 weeks ago for PPE. You know, there is a law now that says—I am getting the light—there is a law that says you have to make——

Mr. BEAN. We both are getting the light but finish that one sentence and hopefully they will not know. Hopefully they will not know that we are over.

Chairman LALOTA. Finish that objection. You have another 90 seconds.

Ms. FERRARI. They have to make it in America so it has been passed. But we sat in front of a panel of all these people from the VA to HHS to DHS. They do not even know how to go about it. So I think there has to be something that says, something from the SBA, maybe it is a trade show where we all go and we say, hey, we exist. Here is what we do. Like, it is here and we just need to let people know we are here.

Mr. BEAN. Thank you very much.

Last thing. I was going to call this the Yellow Page bill. If it is offered it is in the Yellow Pages. But people under 30 do not know what the Yellow Pages are.

Mr. Chairman, I yield back.

Chairman LALOTA. Thank you. I now recognize Mr. McGarvey from Kentucky for 5 minutes.

Mr. MCGARVEY. Thank you, Mr. Chairman. Thank you, everyone, for being here today. I really appreciate it, especially those of you who served. Thank you for your service to our country. We appreciate that as well.

I am going to continue on some things that Mr. Bean was talking about, in fact, and you could tell he used to be an auctioneer before he came up here. He might still be available to birthdays and bar mitzvahs if you all want to.

But he was talking about some good things and how we continue to get more small businesses involved in subcontracting. I think that is something we are all interested and something we all want to see. We also all serve on other Committees. I serve on the Veterans Committee. One of the things I am working on right now in the Veterans Committee is ways to find more training opportunities for companies so that we can get more veteran-owned businesses opportunities in the space.

So Mr. Schroder, I will just start with you. You talked about the Rule of Twos already. We have heard the great idea from Mr. Bean. Give us a little bit more right now. What are some ways that

we can create more contracting opportunities particularly for veteran-owned businesses and for service-disabled veterans and their businesses.

Mr. SCHRODER. Congressman, thank you for the question and the opportunity.

I would say I would focus less on training companies and I would focus more on training contracting officers because that is where the rubber meets the road. And there are two ways that goes about. Number one is how they put the procurement out, because they construct it. They can follow multiple paths. The second is that they hold the big businesses accountable to the small business goals in each contract. They are considered goals but if you make the contracting officers hold them accountable contractually, that is when you will see a difference there because there are two areas where small businesses play both as sub and as prime. And I would offer it is more of training and holding contracting officers accountable for that. And then there is a whole laundry list of things, you know, specific barriers. We mentioned best in class. I mentioned the Mentor-Protégé program. There are several things, you know, mechanically and structurally that can be changed to help bring in businesses. That would be my suggestion as opposed to training the businesses.

Mr. MCGARVEY. What is an example that comes to mind of ways to hold contracting officers accountable to you?

Mr. SCHRODER. Number one, I would have them report their small business set-asides, and then I would force them to ensure that they are reporting accurately as to why different contracts did not come out. Congressman, there are so many ways that you can put a contract out. The myriad of ways is just astronomical and every consultant advisor that you go to, they all come back with the same answer. The federal government will do whatever the federal government wants to do. Not necessarily what they should be doing. And so there is all sorts of different ways you can get around the different small set-aside programs in order to contract.

Mr. MCGARVEY. Thank you very much.

And I will ask Ms. Lopez sort of the same thoughts on the same topics.

Ms. LOPEZ. I have to say that I agree that contracting officers, they need a lot of training. But I honestly also agree with you in that small businesses also need training because one of the things that happened is they do not know how to navigate the market. My business partner and spouse here is a former contracting officer. I cannot tell you how many times that helps us when it comes to negotiating with the government or speaking to what our rights are. We truly understand them. The procurement laws and the acquisition regs are the heart of how we do business with the government. To help educate small businesses on that would be to give them a very powerful tool.

Mr. MCGARVEY. Thank you very much.

And just in the quick time we have left for both Ms. Ferrari and Ms. Lopez, describe some of the challenges that women-owned businesses face in this space, and how can we create more contracting opportunities for companies like yours?

Ms. FERRARI. I would like to give a shout out to the DLA. I think they have done a really good job with awarding awards to small business. And we have been the recipient of four of them. So I really think that they are taking the general, you know, sentiment in the country to do that. But that is for small business. So I won four awards as a small business; not one single award as a women-owned small business. So like I said in my opening remarks, since 1996, when that was put in place, they have only met the set-aside twice, met their goals twice. So I would like to see more effort be put toward women-owned small business but not double counting it. So putting the award out as small business but then not being able to say, oh, since it is a woman we will check that box, too. So I think not only women-owned small business but service-disabled, women-owned small business, just hit those goals would help us tremendous.

Mr. MCGARVEY. Mr. Chairman, I know I am past time. Would Ms. Lopez be able to answer that question quickly? Thank you.

Ms. LOPEZ. What she said. I absolutely agree with her and I think also partnering with other agencies. Even outside of the government. I have to say organizations like WIPP really have helped me understand more about procurement. They help us navigate the government more, so partnering with those agencies which SBA does has been very helpful to me as well.

Mr. MCGARVEY. Thank you, all.

And I yield back, Mr. Chairman.

Chairman LALOTA. Thank you.

We are having a good productive dialogue so I want to open it up to a second round if the Members would like.

Ms. Ferrari, especially, I was interested in your opening statement where you discussed making uniforms for our military. And I wanted to ask you about some of the sourcing that you have experienced over the last couple of years, especially post-COVID with supply chain issues. How has that sourcing been? You are making uniforms for our men and women in uniform who are fighting for our country for the flags that are behind us right now. Are you still able to source those materials from the United States? And can you describe any challenge you have had along the way?

Ms. FERRARI. Yes. Thank you for the question.

We have had no supply chain issues whatsoever because it is made domestically. So from every component that goes into it, it is made domestically for Barry Amendment compliance and it has been great. And I can go back and say like look what happened during PPE and this is the value of the small business. During COVID, and we needed PPE and companies were standing in line waiting to get Chinese masks that were being sold out of warehouses for cash, you know, it boggled my mind. Why would we even want to be buying these? And I can tell you every single aspect of our domestic supply chain kicked it into gear and started shipping masks to everybody that needed them. It is such a long story but we did it. T-shirt factors turned upside down to become hospital gown factories and, you know, woven dress uniform factories were making masks and boot covers and all of these things. So with the resiliency of Americans and the resilience of small business in this country, we answered the call. And what we need to continue to

do is keep these companies in business so that we can answer this call. But from yarn to thread to every aspect of a uniform, we are able to get it when the government needs it. We just need the government to need it more and more consistently so we can keep our factories going.

Chairman LALOTA. And it sounds like it is productive for you to source inside the United States and from our perspective we appreciate that as well.

Ms. FERRARI. One thousand percent.

Chairman LALOTA. That ends my questioning and I yield to Ms. Scholten for some questions as well.

Ms. SCHOLTEN. Yeah, thank you so much. Thank you for your additional time.

Ms. Lopez, you mentioned raising the sole source threshold level to the playing field. I would like to give you an opportunity to elaborate on how increased thresholds can help not only your business but other small businesses and any examples that you can give would be welcome.

Ms. LOPEZ. Absolutely. Thank you.

I will give you an example. When I first came into the federal space, there was a cybersecurity program. I knew it inside and out. Right? There was no one, honestly, who could do a better job than us just because of the expertise I had in that the work I had done in the agency. But that project was $7.5 million, which meant it cannot be sole sourced to me. As a matter of fact, it was sole sourced to someone else, you know, because it was on a GWAC, really. And honestly, they did not do the kind of job I would have done. The client was not as happy. I just think that raising the threshold also allows 8(a)s as we go along. As we increase in our ability do work, to do more work for a given agency. A lot of times quite frankly agencies will give you a $4.5 million this year, $4.5 million next year, right? or $4.5 million for 2 years. Because you have done a great job they want to do work with you. Why should we be limited in that threshold? Why could it not be at least 22, 4.5 million a year for 5 years, 22.5, or 25? It only makes sense. I think the government would get better value out of the 8(a) programs and the contracting officers would honestly have less work to do rather than more.

Ms. SCHOLTEN. Thank you. That is very helpful.

I also wondered if you could elaborate on what you learned through the VIP program and the SBA's Emerging Leaders program.

Ms. LOPEZ. Wow. Both programs are absolutely phenomenal. VIP is, I have to say, probably the best program I have ever seen and it is free. I mean, everything about doing business with the government they teach you and they teach you in stages as you grow. There is a start. If you are a new entrant, you learn so many of the things that are barriers here. Right? You learn how to navigate those up front, whether it is financing or contracting, partnering, all those things. Then there is Grow; right? As you grow. And then there is Advanced. So, that program was very, very significant for me because even though I knew about the government space it gave me significantly more detail, especially on financing. Emerging Leaders was a 6-month program which accumu-

lated in a growth plan. By the time you finished, you had gone in-depth in every single area of your business and I was able at that point to put together a really sterling growth plan with smart goals. I use it now all the time. I use it for all my strategic planning. So many of my fellow businesses, when they see it, they want to use it. But those programs really gave me a lot of great education and information which helped me to not only grow but it helped me mentor others.

Ms. SCHOLTEN. That is wonderful.

And in the last minute, if you have any thoughts on how we could better integrate these programs into the contracting process that would be hugely helpful.

Ms. LOPEZ. Honestly, you could give more funding for both or either, especially VIP is free. I was actually just at a meeting where Senator Cardin helped get $2 million more so they could get 1,000 more individuals in the program. So anything you can do to get funding, those are programs that are already there. It is just a matter of getting it through.

Creating a program, SBA had begun, I am not sure what happened to it but it had looked at doing what is called an 8(a) Academy. I think you can take 8(a) Academy, which was awesome and VIP, you know, create a baby and almost all socioeconomics should be able to learn and go through something like that so that new entrants can understand how to navigate the market and how to grow quickly.

Ms. SCHOLTEN. Thank you so much. I yield back.

Chairman LALOTA. Thank you.

I now recognize Chairman Williams, small business owner from the great state of Texas for 5 minutes.

Mr. WILLIAMS. Thank you, Mr. Chairman. Again, I want to thank all of you for being here. I appreciate you taking the time to do that.

Recently, I spoke with a small business owner from Texas, my state, who lost out on a federal contract to a business that was a subsidiary of a large, multinational corporation. They did not win the contract and the decision was challenged because the winning business was part of an international company. The decision still was upheld.

So Mr. Schroder, is this type of situation common where larger companies have effective control over small businesses that compete for some of these government set-asides and what can we do to fix this issue?

Mr. SCHRODER. Mr. Chairman, thank you for the question. And I would say, yes, we absolutely do run into that and I would emphasize my number one recommendation for this Committee would be the elimination of the Mentor-Protégé program which allows the large business to take 60 percent ownership and then, thereby, competing on the small business side with 60 percent ownership of that joint venture. And so that is an immediate way to address what is a large problem in the procurement system. It causes a lot of confusion, a lot of delays, and a lot of unfair practices with the large taking advantage of the small.

Mr. WILLIAMS. Good. Inflation has been hurting small businesses across the country, and for contractors I fear that this issue

has an even more larger impact. And if you are awarded a contract that you bid on months and suddenly all your suppliers' costs have increased by 10 percent—we have all got this story, don't we? Your margins are getting squeezed tighter and tighter and it makes it harder to stay in business.

So Ms. Ferrari, how has your business been dealing with the inflation over the past year?

Ms. FERRARI. Thank you for giving me the chance to talk about it. We got hit hard with our Air Force contract. It came to us just at the time inflation hit and we went from being in the black to being in the red. And rather than putting it out for recompete or saying to the DLA that we could not do it, you know, in fear that if we said that we would never get another program again, we just looked deeply into the whole supply chain and actually went back to the DLA and asked if we could change the packing and double the amount of pieces we put in the box. And after a couple of weeks they vetted it through their sources and when they said yes, it put us back into the black, slightly. But yes, very much, it has affected small business, and four contracts that I know of went back into recompetition because they just could not handle the disparity in price.

Mr. WILLIAMS. I have talked to many small businesses who have said the federal contractor is so time consuming and expensive they stopped even trying to even hire people to try to get it done.

So Mr. Schroder, what advice would you have for these small businesses? And how can we in Congress simplify the process to bring more small businesses into the system?

Mr. SCHRODER. Mr. Chairman, I would say the best advice you can have is for them to start small and then encourage through the contracting officers with large primes, encourage those contracting goals to be requirements because then they will be out farming for the small businesses. And you can start out with just one single contract gets you up and off your feet and it is a process to get going. Little contract, by little contract, by little contract, gets to a bigger one. And so the advice is to start small. But if you are requiring small businesses set asides as opposed to just goals, you set requirements, that will force the system to be able to encourage small businesses to join.

Mr. WILLIAMS. Good. I appreciate that.

Mr. Chairman, I yield my time back.

Chairman LALOTA. Thank you, Chairman.

I now recognize Mr. Thanedar from Michigan for 5 minutes.

Mr. THANEDAR. Thank you, Mr. Chairman.

As a former business owner, I believe it is important that the federal government provides opportunities for small businesses to thrive and grow. As we all know, they contribute greatly to hiring and creating jobs and innovation, and certainly, paying taxes.

To that end, we must ensure that contracting opportunities are available for small business owners in my district and those across our country. Despite more dollars being awarded to small businesses, what is concerning really is the overall participation of small firms in government contracting has declined over the years.

Now, in Congress, we remain concerned, Ms. Lopez, especially, we remain concerned about category management. And the consolidation of requirements into a limited number of government-wide contracts. And what I am afraid of is consolidation means, what does this mean for small businesses? And is this going to keep the new small businesses out of running because the more established small businesses are going to be able to compete better in this situation. What does that do to the new small businesses coming in, especially the Black and Brown community, the small Black-owned businesses?

Ms. LOPEZ. It does absolutely make it more difficult for new entrants. Quite frankly, for those of us who are already in the federal space, we have seen the shrinkage and so we have to find more resourceful ways to compete. But for new entrants, there are very, very limited opportunities, which is why with category management, again, the keys are BICs; right? Those best in class vehicles which are tier three. Even though they give you tier two socioeconomic credit, the BICs, the tier three, that is still the highest level. So why not take those BICs, the best in class vehicles, and as we put them in place, ensure that there is a way for entrants; right? New entrants to bring in their past experience rather than just their government past performance. You can create a vehicle that allows them to participate. So I would like to see more of that in addition to thinks being so stringent. The Mentor-Protégé program, honestly, and Joint Ventures, has worked well for me and I think I have utilized it correctly, but some people absolutely have been taken advantage of. One of the trends we are seeing is that you have to be very large, almost a Joint Venture to participate in a lot of these BICs and to get awards. So I really see a large part of the answer as creating vehicles where everybody has the opportunity.

Mr. THANEDAR. Thank you.

Now, the Biden administration announced it would increase the share of federal contracts being awarded to small and disadvantaged businesses to 15 percent by 2025. And I certainly applaud this commitment by the administration. As small business owners in my district often find it difficult to pursue government contracting. Others on this panel have commented on that difficulty in obtaining capital and navigating the rules and regulations mandated by SBA. And that is a general concern that I hear in my district.

But Ms. Lopez, do you think this will expand participation or will existing businesses receive more contracting opportunity at the expense of the new small business entrants?

Ms. LOPEZ. I do not know if it at the expense of the new small business entrants. I can tell you that I have absolutely, positively seen more opportunity personally. So, I cannot honestly say that I know or can say definitively that it is at the expense of new entrants. Again, I think what limits a lot of new entrants are the vehicles and some of the procurement rules.

Mr. THANEDAR. All right. Thank you, ma'am.

I yield back.

Chairman LALOTA. Thank you.

I now recognize Mr. Molinaro, my good friend from New York for 5 minutes.

Mr. MOLINARO. Thank you, Mr. Chairman.

I do not know if there is some rule about having two Members from New York in the same place at the same time, but I do appreciate your leadership with the Subcommittee, and thank you all for joining us.

As I know has been noted, we are confronting a real challenge among small businesses entering the procurement marketplace, if you will. As was noted, the Biden administration has made several reforms to contracting policy, including those benchmarks mentioned to diversify a small business supplier base. However, without question, our small businesses continue to face both challenges and obstacles. Finding those opportunities and preparing the bids and many times lose out to larger businesses. We have covered all of this.

We know that 70 percent of new jobs are created by existing small businesses, and so the federal government doing more to break down those barriers and create opportunities for small business access to procurement is critically important.

To narrow my questions I was going to start with Ms. Ferrari, if you would not mind. We know that some of the major challenges applicants face, there are significant challenges applicants face within the economically disadvantaged women-owned small business program. Could you speak I hope a little bit to those programs and how might they be simplified, streamlined, and maybe with some note in particular rural communities?

Ms. FERRARI. Yes, thank you. Thank you for the question.

You know, small business, that is where innovation comes from. It is the heartbeat of American and it is the heartbeat of manufacturing in America.

The government needs our innovation. They need what we are bringing to the table. We need to hear the cry. We need uniforms that data moves through and how can we get there? We hear it and we develop it. And when we go to the government we just need access by adhering to the rules that are there. What could disadvantaged businesses and women-owned businesses get? We just need orders. And we can get those orders if those set asides are met and they are not.

And you know, quite often I sit and I hear things about, well, you know, can we give you a grant? What do you need? We do not need your money; we just need the orders. And it is so convoluted. It is like the rules are there, the infrastructure is there, but there is just no oversight and they are not hitting these set-asides so it is going to other things that my counterparts here are talking about. So, what can you do? Just hit the set asides and just give us the orders based on those things. Again, I go back to 1996, they have hit that set aside twice, and never hit HUBZone. So, for me it is that.

And going back to the innovation piece, like how can we bring innovation if we do and then we do not even get the contract. So, you know, it prohibits you from wanting to go out and give your best foot forward to help our warfighter in my case when it comes to apparel and say, oh, that is great and we love it and now it is

going out to bid. And by the way, you are not getting the contract and they are not hitting the set-aside. So I do not want to be just complaining all the time. They are doing some great things and they are trying. It is just we have to work harder and try harder.

Mr. MOLINARO. I appreciate that. It is very helpful. Thank you.

Mr. Schroder, I am sure others have but I want to thank you for your 20 years of service to this country. We obviously celebrate that and all those who have served. I know an area of importance is welcoming veterans into the same space.

As we discuss what further reforms can be made to the SBA's role in small business contracting and its future, what are some of those important reforms the Committee might take up to modernize the federal procurement process specifically for veterans?

Mr. SCHRODER. Congressman, thank you for the question. I would say a couple things the SBA could do in order to help veterans specifically. Number one, the SDVO speed program, which they just took over, ensure that that program is run effectively. That is kind of a pejorative statement but make that thing run effectively. It is a tough process to get through but to date it has gone rather smoothly. But that is going to take constant focus because that is the number one step that veterans take to get into federal contracting is to get themselves certified. So that is step one.

Step two is SBA has got to be constantly educating across the federal government the SDVO speed requirements, as well as the certification process. There is a lot of, based on the NDAA that went into effect with self-certification, there is still a lot of loopholes and there is a lot of ambiguity and a lot of misunderstanding. When it comes to veterans, specifically, Congressman, I would say those are the two biggest things they could do to drive home the requirement and drive home the certification process and get rid of the self-certification.

Mr. MOLINARO. Thank you, sir.

I yield back. Thanks, Mr. Chairman.

Chairman LALOTA. Thank you. And as we close I would like to thank all of our witnesses for being here today, for sharing your insights with us. It helps us as a Committee gain the right amount of information as we craft and vote on legislation. I appreciate it. To my Ranking Member for a productive and smooth meeting that helps inform us as well.

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

If there is no further business, without objection, the Committee is adjourned.

[Whereupon, at 3:15 p.m., the subcommittee was adjourned.]

APPENDIX



Statement for the Record of Rob Schroder
Founder and Managing Partner, STEERBRIDGE

United State House of Representatives
Committee on Small Business
Subcommittee on Contracting and Infrastructure

"Leveling the Playing Field: State of Small Business Contracting"

May 11, 2023

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Rob Schroder, Founder and Managing Partner, SteerBridge
Congressional Testimony
May 11, 2023

Chairman LaLota, Ranking Member Scholten, and distinguished members of the Subcommittee, thank you for inviting me to appear before you to discuss the importance of small businesses in federal procurement and how this legislative body can help to ensure government agencies are fully engaging and utilizing these vital partners.

My name is Rob Schroder, founder of SteerBridge – a government services provider and a Service-Disabled Veteran Owned Small Business. Our company specializes in delivering best-in-class solutions to the federal government. We support our government partners with a diverse set of private sector solutions spanning information technology, strategic communications, construction management, and everything in between.

SteerBridge was born over ten years ago out of my own life experiences and significantly influenced by the jump I made between military service and the private sector.

After graduating from the U.S. Naval Academy, I had a 20-year career as a Marine Corps Officer. I served in multiple combat operations as an AV-8B Harrier pilot and as the commander of the famous "BlackSheep" squadron. I spent a year in these very hallways as a Congressional Fellow for the 107th Congress. I also proudly served as a Certified Acquisition Professional and the Marine Corps Program Lead for the Joint Strike Fighter (F-35) Program. My final role as a Marine was the manager of the Global Posture, Strategy, and Plans team for the Chairman of the Joint Chiefs of Staff.

After a successful military career, I became the Vice President of International Affairs at the U.S. Chamber of Commerce. In this role I managed both long-term strategic initiatives and daily operations of the International Affairs Division, the largest of any U.S. business association. With a staff of over 100 regional and policy experts, the division represents the Chamber and its members before foreign and U.S. governments as well as international business organizations.

I made the decision to launch SteerBridge with two goals in mind: supporting the veteran community, and providing top tier modernized solutions. I knew from my career that the best and most underutilized talent in the country can be found in our veteran community. I wanted to build a company that showcased those talented individuals and ensured our nation continued to capitalize on the breadth of their knowledge and expertise. Secondly, I had a deep personal knowledge of the critical need to modernize and make private sector solutions available for the federal government. Being part of the solution to these issues for the government is the focus of SteerBridge.

SteerBridge Success Stories

Today, I am proud to sit before you and share that SteerBridge has made great strides towards those goals. Additionally, we've refined and developed new goals along the way to continue advancing our mission. We employ more than 70 professionals of which more than 30% are veterans or military spouses, and we have completed numerous successful projects alongside our federal government partners.

One of the projects the SteerBridge team is currently working truly embodies the type of impact we are striving to make. Alongside teams at the U.S. Department of Veterans Affairs and Accenture Federal Services, we are actively working on an initiative that has taken a 30-day GI Bill approval process down to a three second process - a huge win for our small business and, more importantly, a massive win for the veterans we serve.

This type of mission-driven project, coupled with our technological prowess, drives our team, and makes companies like mine uniquely qualified to have an outsized impact. But frankly, it is not just that our employees have a personal connection to projects like these - the size of our company is a significant piece of the secret to our success. Speed, agility, and mission focus are advantages of not just SteerBridge but our small business peers in the industry.

Our recent innovative and groundbreaking work utilizing artificial intelligence (AI) and machine learning (ML) for the Marine Corps shows how vital these advantages are. We are applying these advanced techniques to better supply the F35 on deployments. We have been successful in this contract *because* we are agile, flexible, and innovate at a speed only a company of our size - absent a big bureaucracy - can accomplish.

How Congress can support small businesses

There is no mistaking the profound impact small business has had on advancing the federal government. But even with our own successes, we, like so many other small companies in this space, struggle to win federal contracts.

While the federal government -including Congress - has spent a lot of time advocating for small businesses, those efforts often come up short. Even though Congress sets well-intentioned goals for agencies to hire small businesses, the fact is that it has not resulted in more small businesses winning the government's business. For goals and good intentions to be effective, they must have some teeth to them.

Instead of the government creating small business goals, I would implore this subcommittee to consider legislation that outlines specific requirements for small business contracting. Taking this route will be more effective than advocacy, and ultimately, less costly for the government.

Somewhere along the way, federal contract officers came to believe that large, 'Best In Class' government contract vehicles were ideal. These vehicles represent an unnecessary and unfair barrier to entry for small businesses. The time costs, the financial costs, and the scorecards have become incredibly onerous for small businesses of all types to try and win a seat on them. This committee could effectively shine a spotlight on this type of small business barrier.

SteerBridge deeply values the partnerships we have cultivated with large businesses and the expertise we have gained by working as subcontractors is invaluable. And let's be clear, there is an absolute need for the value that big business brings to the federal government. But as I look forward to discussing further with you today, it is in the best interest of the U.S. government, and the industrial base, to have more small businesses engaging with the government and delivering bespoke and best-in-class solutions that are difficult to find at big companies.

For Congress to truly level the playing field, I would implore you to consider:

- **Completely eliminate the Mentor-Protégé Joint Ventures (MPJV) program:** The program was created with good intentions but has been warped into simply being a path for big business to drive revenue under a small business banner. Additionally, MPJVs result in never-ending protests, hampering the government's modernization and cybersecurity efforts. For example, the Court of Federal Claims stopped the Polaris source selection due to a recent protest. Polaris is supposed to be the small business vehicle of the future, and you may recall that its predecessor, Alliant 2 Small Business, was awarded and rescinded. It has been over four years since Alliant 2 Small Business was a viable solution for agencies to work with small businesses.

- **Require a specific certification process for subcontracting:** While eliminating self-certification (for SBA set-aside programs, but not reporting) was addressed in the most recent NDAA, there continue to be loopholes and delays that allow companies to misrepresent their ownership. I urge this committee to support legislation that would only allow federal and prime sub-scoring against their goals if the firm is certified, which would help create a fair process for small businesses trying to compete for these contracts. One such bill is The Stop Stolen Valor for Service-Disabled Veteran-Owned Small Business Contractors Act, introduced in the Senate by U.S. Senator Joni Ernst (R-IA) 's, would stop self-certified, service-disabled veteran-owned small businesses (SDVOSB) from being included in the count toward a governmentwide goal of 3% of federal contracting dollars going to SDVOSBs.

- **Clean up SBA's government-wide contract reporting**: Congress should consider passing a policy that allows agencies to only count their contract spending against one category for a small business. Agencies are currently achieving their goals by counting multiple credits for the same contract dollars and eliminating this practice will help spur even more small business engagement. Additionally, self-certified firms continue to be included in government reporting, bringing into question their reliability.

I am very thankful this committee is exploring more ways to help grow the small business community's engagement and partnership with the federal government. By bringing smaller and innovative companies further into the federal government, we will ensure the United States is leveraging the best of what small businesses have to offer, while increasing competition for contracts which will lead to better prices for the American taxpayer.

Thank you and I look forward to taking your questions and discussing the importance of America's small businesses further.

Testimony of

Jackie Ferrari

CEO and Founder, American Fashion Network
East Syracuse, NY

House Committee on Small Business Subcommittee on Contracting and Infrastructure

"Leveling the Playing Field: The State of Small Business Contracting"

May 11, 2023

Chair LaLota, Ranking Member Scholten and Members of the Subcommittee, it is an honor to appear before you on behalf of my company, American Fashion Network (AFN). My name is Jackie Ferrari and I'm the Founder and CEO of AFN, a women-owned small business based in Syracuse, New York. I am also a member of the Women's Procurement Circle, which advocates for policies that strengthen women-owned companies that do business with the Federal Government. Over the last decade, I have seen firsthand how Congressional and Presidential attention to domestic manufacturing policies can significantly benefit small businesses like mine. I am particularly pleased that this seems to be, at least where I am sitting, a bipartisan effort. I am deeply engaged in the movement to balance global manufacturing and reduce our dependency on China. At the beginning of the COVID-19 pandemic, AFN made the decision to pursue federal work, as we watched the retail industry suffer under the economic strain of lockdowns. Thanks to these policies, AFN is able to support American workers in the process.

It has always been my goal to continue to keep manufacturing in the United States. Born and raised in Los Angeles County, California, I was able to experience the glory of American-made first-hand in the 1970s and 1980s, before many of the jobs moved overseas. Together with the U.S. government, I believe we can keep it alive. I founded AFN in 2005, and have since grown into a full manufacturing enterprise, providing clothing, fabric and promotional specialty products to the world's most prestigious retailers and corporations including, but not limited to: Amazon, Kohl's, JCPenney, American Eagle, Lucky Brand, H&M, Express, Comcast, Charter/Spectrum, Syracuse University, PETCO, and WESCO. Collectively in our supply chain, AFN fuels more than 650 jobs in the U.S. and Central America.

AFN is committed to quality and innovation through customization to our corporate partners. Our domestic manufacturing footprint features three offices in Syracuse, New York, Milwaukee, Wisconsin, and Los Angeles, California. Despite AFN's monumental growth and success in the corporate retail industry, the COVID-19 pandemic was a major setback for us. When millions of dollars in sales were canceled, I knew I had to pivot to keep my business and employees afloat. I decided to enter the federal market to diversify my business model. With the help of my partners, we began producing masks for COVID-19 protection, from design to shipping— in just five days. Domestic mask recipients of our masks included the U.S. Postal Service, Charter/Spectrum, Comcast, and America's retail sector. AFN kept Americans safe from week one of the pandemic by manufacturing Centers for Disease Control and Prevention (CDC) compliant, reusable, and washable masks.

Policies like "Buy American" that encourage small business participation and give domestic preferences in the federal procurement marketplace have allowed my business to thrive. Federal contracting opportunities provide small businesses with security and long-term stability, and an emphasis on domestic production allows us to participate in serving the federal sector.

In the fashion industry, there is a constant ebb and flow of business. In 2021, AFN won a $52 million contract from the U.S. Marine Corps to produce a new line of fitness training uniforms for service members. I cannot express enough how grateful and proud I am for the opportunity to provide garments for U.S. military personnel. This is the biggest federal contract AFN has won to date, giving me the ability to hire an additional five employees at our headquarters, and I am looking to hire even more. This apparel is manufactured Garden Grove, California, which employs

workers 70 workers and Rochester, New York which employs 56 workers. Our contract with the Marine Corps lays the foundation and provides opportunity to steadily build our federal work.

However, this contract has not come without its challenges. We are anxiously waiting for the contract to kick-in – there have been delays and redesigns that have taken two years, and we still have not delivered a single uniform to the Marine Corps. I know this is not the only contract that experiences long delays. Speaking to my peers across industry, I know delays are commonplace. Yet, from a small business perspective, they are difficult to manage. Over these two years we have delivered two wear tests, a total of 300 pieces of samples, which required AFN's resources. For apparel designers and manufacturers, delays disrupt our supply chain because we cannot hire or keep employees without a promise of work. Additionally, in my sector and for many small federal contractors, it is challenging to obtain capital for an indefinite delivery, indefinite quantity (IDIQ) contract. Although a five-year IDIQ provides great opportunity, since there are no guaranteed orders, it is a challenge to finance. When we receive an order – typically with a three-to-six-month delivery date – it is challenging to find a financial partner that can accommodate the need for significant capital in a short amount of time. Additionally, you do not know what to expect after delivery, which makes planning, capital, and employee retention a challenge.

On that note, a way to help U.S. apparel manufacturers stay strong is to require federal contractors to use apparel and uniforms made in the USA. While the Congress should without a doubt require all uniforms for federal employees, contractors should be required to do that as well. Not only is this a matter of pride (who wants to see a "Made in China" label on a patrol cap). Some Members of Congress have expressed interest in looking at this requirement further and I hope it will come to fruition.

From my point of view, I see a number of changes across all industries that would help increase the number of small companies that want to do business with the government, and increase the contracts awarded to small businesses:

Better Utilization of the WOSB/EDWOSB Federal Contract Program. According to the SBA, the government has only met its women-owned contracting goal twice since its inception. If the government is serious about doing business with women-owned companies, it should take the following steps:

- Remove the ability for firms to self-certify that they are owned and controlled by a woman by requiring an SBA certification. The SBA established a women-owned small business (WOSB)/economically disadvantaged women-owned small business (EDWOSB) certification in 2020 due to Congressional direction, as well as in response to a concern about the integrity of the program voiced by the SBA's Office of Inspector General (OIG)[1]. An SBA certification is only required for WOSBs/EDWOSBs that want to use the set-aside program, which totals a relatively small number of women-owned companies—around 10,000. The number of women-owned companies listed in SAM as WOSBs, is closer to 70,000.[2] Congress should move to close this discrepancy and require all WOSBs/EDWOSBs who want to do business with the Federal Government to obtain this

[1] U.S. Small Business Admin. Office of Inspector Gen., Report No. 18-18, *SBA's Women-Owned Small Business Federal Contracting Program* (2018)
[2] 85 Fed. Reg. 27650 (May 11, 2020)

certification. In the Senate, S.1470, the *Accountability in Women-Owned Small Business Contracting Act* does just that – increases the integrity of the program and gives federal buyers assurance that these companies are ready to do business. I encourage Members of this Committee to consider introducing similar legislation.

- Increase the goal for women-owned companies and establish a separate goal for EDWOSBs. The 5% goal for women-owned companies has only been met twice since established in 1996. It is time to raise the goal – as well as raise the total small business goal to accommodate the increase. In addition, economically disadvantaged women-owned companies deserve their own goal, considering governmentwide goals for other socioeconomic groups have increased.

Properly Fund the Women-Owned Small Business Program Office. The WOSB program has undergone several changes – one of the most significant is the ending of self-certification, required by the FY2015 National Defense Authorization Act (NDAA). Despite this mandate, the SBA's WOSB program has never been appropriated designated funding to ensure efficient implementation of a certification and recertification process. Currently, the program has a 6-month backlog of new applications and many pending recertification submissions. The SBA estimates the program needs 14 additional positions and approximately $1.5 million dollars in pre-screening application and call center help desk contracts, for a total of $3.6 million in dedicated funding for FY2024.

Increase Utilization of Small Businesses to Counteract the Impact of Category Management. The practice of category management, pushed by the Office of Management and Budget's (OMB) Office of Federal Procurement Policy (OFPP), has resulted in a shrinking industrial base. While I understand the attractiveness and efficiencies of large, government-wide contracts to the acquisition teams at federal agencies, this practice has decimated the number of prime awards to small businesses. Due to the growing popularity of category management, the government has begun to favor large, long-term contracts, in lieu of smaller, direct contracts. For example, Best in Class (BIC) contract spending totaled a record $51 billion in FY2020, up 74% since FY2016. These long term governmentwide contracts require substantial resources to bid and win task orders, creating a barrier to entry for many innovative small businesses to enter or remain competitive in the federal marketplace. Additionally, the President directed a rollback on this acquisition practice in memo M-22-03. However, there does not appear to have been significant implementation of these five management actions governmentwide, and I would encourage the Committee to request a progress report on these initiatives.

Expand Sole Source Contract Opportunities for Women, Veterans and HUBZone companies. As government buying continues to trend toward buying through large vehicles and moving away from direct contracts, the ability for small companies to win sole source awards is more critical than ever. Sole source thresholds must be increased to make them a viable contracting solution. The current thresholds of $4.5 million/$7 million for manufacturers are too low to be utilized by agency acquisition teams. For a 5-year contract, these thresholds equate to less than $1 million a year. Given the size of a typical government contract which far exceeds this amount, the justification required to award a sole source through these programs requires more time and effort than contracting officers can devote to make these small awards. Thus, dollars are pulled away

from small businesses and are increasingly awarded through larger contract vehicles and vendors. There are countless examples of small businesses missing out on sole source awards because the contract awards exceed the current sole source thresholds. WOSB, service-disabled veteran-owned small business (SDVOSB), HUBZone and individually-owned 8(a) companies are missing out on opportunities, as these limits have not kept pace with government buying.

The thresholds should be raised to allow the amounts each year, which was passed by the House via the bipartisan bill H.R. 190 in the 116th Congress. I would note that other programs like those for tribal 8(a) companies, allow much higher awards – more than $100 million – so $4.5/$7 million pales in comparison. Additionally, the WOSB, SDVOSB and HUBZone programs require contracting officers to jump through too many hoops and justifications to make awarding sole source contracts in these socioeconomic categories a practicable option. Sole source authority is an important tool contracting officers can use to award contracts to small businesses expeditiously. Small businesses and the federal government will benefit from this change.

Accurately Report Contract Set-Asides and Increase Data on WOSB Awards. I recommend agencies report progress toward small business goals based on how the contract was solicited. Agencies often count the same contract award value towards multiple socioeconomic program goals, even though the contract was only set-aside through one small business contracting program. For example, if a contract is set-aside for the WOSB program and the winning company is also a certified 8(a), those contract dollars count toward the agency's small business goals for each of the programs. This results in an inaccurate picture of agency spend for WOSBs each year in the annual small business scorecard. Last Congress, H.R. 9016, the *Small Business Scorecard Enhancements Act of 2022* fixed this issue, but it was not enacted. Further, the *WOSB Transparency Act* requires the SBA to report extensive data on the utilization of the WOSB/EDWOSB program. By furthering transparency of the utilization of the program, SBA can work with agencies to increase contracts awarded to women-owned small businesses.

In summary, all of the specific changes requested in my testimony will give much needed transparency and data necessary to make good policy decisions for small business contractors. It is no surprise to this Committee that being a successful federal contractor comes with unique challenges, especially with the acquisition workforce's inherent bias toward favoring large vendors. With respect to women-owned companies, we need the government to procure goods and services from WOSBs/EDWOSBs at a much higher level. Increasing utilization of these firms will strengthen the U.S. industrial base and the U.S. manufacturer base. As we learned during COVID, a heavy reliance on foreign sources for critical needs ends up in a supply chain disruption, at a cost to the U.S. taxpayer. Small businesses built a strong industrial base previously and will build it up again with help from Members of this Committee.

Broad bipartisan support for increasing small business participation in the federal marketplace dictates changes are needed to bolster awards to these businesses. Thank you for considering my testimony on this important matter. I applaud the Committee's effort to address these issues and look forward to future opportunities to share my input on ways Congress can support small manufacturers.

WOMEN IMPACTING
PUBLIC POLICY

U.S. House Small Business Subcommittee on Contracting and Infrastructure
Leveling the Playing Field: The State of Small Business Contracting

Testimony of Ms. Jacqueline Lopez
Premier Enterprise Solutions, LLC
Thursday, May 11, 2023

Chairman LaLota and Ranking Member Scholten,

On behalf of Women Impacting Public Policy, and Premier Enterprise Solutions, LLC, I thank you for your leadership and commitment towards ensuring that federal contracting and procurement programs are more accessible to women, veteran and minority owned businesses like mine. I also wish to thank you for inviting me to share my experiences with the 8(a), Women Owned Small Business, and Veteran Owned Business certification programs.

My name is Jacqueline Lopez, and I am President and owner of Premier Enterprise Solutions. I started my business more than 10 years ago specializing in cyber security, information technology and program management services. We support the missions of the Department of Defense and Civilian departments such as the Air Force, Veterans Affairs, Health & Human Services, and Transportation to name a few. Premier is a Service-Disabled Veteran Owned and woman-owned Small Business participating in the SBA 8(a) development program.

Since starting Premier over 10 years ago, we've grown into a successful firm employing personnel in six states and the District of Columbia. I've become both a business leader and mentor to other groups of socioeconomic businesses like mine helping them utilize the services the federal government has to offer. Much of my success would not have been possible if it were not for the opportunities afforded me by the 8(a), WOSB program and SDVOSB programs-which helped me secure my first multi million contract and created new opportunities for my business. I'm also deeply grateful to the amazing work of groups like Women Impacting Policy (WIPP), that have connected me with a passionate community of women business owners who support each other's success. While these programs are not perfect, they are crucial to creating jobs, providing revenue streams, networking, and business growth opportunities. They also provide a means of collaborating with the federal community by bringing together government stakeholders with private sector innovators in fields such as infrastructure development, technology, STEM, construction and so much more.

My entrepreneurial journey began several decades ago and was built upon a career spent in both the private and public sectors, where I experienced the best and worst of public and private sectors enterprises. I was inspired to start Premier Enterprise Solutions because I realized there

must be a better way to foster public and private sector collaboration, consistently deliver value and be a premier employer and business partner. I envisioned launching a business in which collaboration and delivering value with every engagement would be the new business model.

My experience with both the WOSB and SDVOSB programs has been both positive and praiseworthy. The certification processes were seamless, comprehensive yet easy to understand. Because of my participation in these programs, my professional network has grown exponentially, and, as any business owner knows, you're only as strong as your network. Once Premier became 8(a) certified it took 18 months to secure our first sizeable contract which represented a turning point for my business. The contract provided much needed working capital to grow my business and win more contract awards. We were fortunate to have worked with a phenomenal customer who was committed to supporting 8(a) businesses.

I was fortunate to attend Veteran Women Igniting the Spirit of Entrepreneurship, or (V-WISE) in 2013, a year into starting my business. V-WISE was instructive in assisting business strategy development, building financial competence, providing tool sets, and much needed encouragement. I left V-WISE armed with the knowledge and tools to move in the direction of my dreams.

Our small business generated just over $50,000 in our first year of operation. By the end of 2020 we generated $5.5M and today, we are on track to exceed $11M in revenue in 2023. With current opportunities in the pipeline, we could easily double this years' revenue by 2025. A significant part of our growth has been attributed to learning about and taking advantage of the many FREE programs and resources the Government owns or supports for socio-economically disadvantaged entrepreneurs. These federal programs include the SBA 8(a) development program and the SBA 7(a) loan program, Emerging Leaders, SDVOSB certification, WOSB certification, Mentor Protégé and JV program, VA OSDBU's Women Veteran Owned Small Business Initiative, and state programs such as Montgomery County, Maryland's Veteran's Institute for Procurement. Each of these programs provided the information and resources that I needed to get to the next level. I was able to capitalize on access to opportunities, potential business partners, industry experts, and contracts. My first multimillion dollar contract came about because I was an 8(a). It gave us an opportunity to showcase our capabilities which led to 2 additional multimillion dollar prime contracts. Most importantly, we learned how to compete and win.

Barriers within Federal Contracting and Procurement Programs:

Although federal contracting programs have helped my business and many others grow and become sustainable, it doesn't mean that they aren't without their flaws. Some of those flaws include an unwillingness to consider an entrepreneur's extensive private sector experience in the decision-making process to award contracts, instead relying solely on previous government experience. Another would be the application of Category Management which conflicts with the government's goal to increase the industrial base. While well-meaning to improve the efficiency and effectiveness of acquiring goods and services, the net effect has been a shrinking of the

industrial base. It is very difficult for small businesses who generate less than $10-$15 million annually to become a Best-in-Class contractor. Very few small businesses can compete for an award on most of the BICs without a large or mid-size joint venture partner.

These vehicles should lower the barriers to BIC and Governmentwide Acquisition Contracts (GWAC) awards. There should be BIC and GWAC tiers of competitors for businesses that are $10M or under with less stringent requirements. It would also better serve small businesses and new entrants if the number of awardees on the BICs and especially GWACs is increased. We need to have more vehicles, especially GWACS, like 8(a) STARS III which has a simple bid process and is designed to get entrants an award rather than keep them off the vehicle. There also needs to be vehicles, such as the GWAC, available for WOSBs. Several federal procurement programs, including 8(a) and the SDVOSB programs have access to GWACs, and it serves as a major value add for those businesses. Having such vehicles available for the WOSB program would help more WOSBs pursue larger contracts, and more than likely help federal agencies achieve their contracting goals. Taking the necessary steps to improve contracting and procurement programs makes it simpler for more businesses to work with the federal government, and it would level the playing field by giving new entrants more equal footing to experienced firms.

Barriers within the 8(a) Program:

The 8(a) development program has been the catalyst for many small businesses entering the federal market. However, anecdotal data has shown that it takes several years for 8(a) firms to gain traction and win contracts. My business has been in the program for nearly 8 years, and we're only starting to win significant contracts. While I was able to secure a contract within 18 months of certification, I, and we must recognize that most firms are not this fortunate, and my story is an exception to the rule. An extension of the 8(a) program from 8 to 12 years would allow me to pursue more strategic projects, increase my working capital and sharpen my competitive skills that would ensure a long-term, sustainable business upon exiting the program. Extending the 8(a) program would provide firms with a longer 'ramp up' period as well, which is necessary for new entrants to ensure they have the time necessary to build up their knowledge of the program and to learn how to best leverage it for their business. Most businesses that enter the 8(a) program win their first contract after they've been in the program for 2-3 years, offering very little time for them to truly benefit, secure significant contracts and grow their businesses before exiting the program. Lastly, the sole source threshold for 8(a) firms currently stands at $4.5 million, except for Native American Tribes and Hawaiians, in which case the sole source threshold is $22 million. In a perfect world, the threshold would be equal across all 8(a)s, but even a modest increase to the threshold for non-Native and Hawaiian firms ($10-$12 million) would be impactful for 8(a)s. An increase to the threshold would promote larger awards which means more employees and revenue for the company and their respective states in which employees reside.

Looking to the Future:

Despite these barriers, success is attainable. It is through the assistance of these programs, WOSB, SDVOSB and 8(a) that I have created a successful business, for without them I would have a significantly smaller business and my growth trajectory would be far less significant than it is today. These programs are one of the main drivers behind my business's success and that of many others. These programs provide invaluable opportunities for the businesses that are able to successfully navigate them. As stated throughout this testimony, federal contracting programs need improvements to provide a success platform for underserved socioeconomic groups and for the industrial base. I believe that this could be done by expanding the 8(a) program thresholds, stratifying category management so that it promotes awards for smaller contracts enabling participation by new entrants and smaller firms on a more level playing field.

As my business and network continues to grow, I look forward to continuing to leverage the tools, skills, and capital that have gained through the WOSB, SDVOSB and 8(a) programs to pursue more contracts and keep building my business.

Once again, I wish to express my deepest gratitude to this Subcommittee, and the full House Small Business Committee for its continued efforts to support America's women owned businesses and for inviting me to share my story.



Testimony for the Record

On Behalf of

GovEvolve

For the

House Committee on Small Business
Subcommittee on Contracting and Infrastructure Hearing

"Leveling the Playing Field: The State of Small Business Contracting"

May 11, 2023

GovEvolve is pleased to submit the following testimony for the record. GovEvolve is the leading advocacy organization for small and midsize businesses that support government innovation. The organization works to support the technology industry by promoting public policies that encourage innovation and competitiveness.

As the voice for these diverse businesses, GovEvolve's mission is to help ensure that the Government has access to the most modern technology. Even though governmentwide information technology ("IT") spend totals billions each year, the Government continues to support IT equipment well beyond its intended lifecycle. As federal agencies adopt emerging technologies, they often struggle to keep pace with issues such as cybersecurity threats. GovEvolve supports mitigating the impediments to federal procurement and ensuring a robust acquisition landscape through engagement with Congress and Federal agencies.

There have been significant changes in the way the Government buys IT services in the past decade. As the focus of federal spending shifts towards innovative, comprehensive solutions, small businesses are providing the Government with IT including hardware, software, and cloud computing, more than ever before. In many cases, these small businesses are resellers that provide efficient and cost-effective solutions for complex IT procurements, including beneficial value-added services. However, frequent misclassification of IT procurements by the acquisition workforce creates missed opportunities for small businesses to compete.

The most viable solution to address these issues is to fully review the current North American Industry Classification System ("NAICS") and create a new NAICS code that accurately captures the core competency of the IT value-added reseller. Below is a white paper expanding on the importance of creating this new classification and the potential impact on small businesses.

New NAICS: Opportunities for Small Businesses in the Federal IT Market

As the focus of government spending shifts more and more towards innovation and meeting agencies' burgeoning technology needs, small businesses are providing the Government with IT, including hardware, software, and cloud computing, more than ever before. In many cases, these small businesses are resellers that can provide efficient and cost effective solutions for complex IT procurements. These small businesses provide beneficial value-added services, help the Government meet its small business goals, and create more competition in the market. The Federal Government depends on small businesses to round out its supply chain and facilitate achievement of important procurement goals, and small business IT resellers are critically important to federal government procurement.[1] In 2019, out of a total of about $500 billion spent on federal contracting, $132.9 billion (or 26.5%) went to small businesses.[2]

However, issues and restrictions surrounding small business procurements have led to frequent misclassification of IT procurements and potential liability for contractors. The current regulatory landscape includes a patchwork of rules and regulations for small businesses, including recent rules specific to the IT industry, that are unworkable in many cases. This, coupled with contractor misunderstanding of the rules and unwillingness by agencies to grant necessary waivers, has made it challenging – and in many cases impossible – for small business IT resellers to participate in federal procurements without potentially violating the law. In many instances, small business IT resellers are forced to choose between missing out on federal business opportunities and potentially opening themselves to considerable liability. As IT evolves, so too should the rules applicable to IT procurements, particularly where this will allow more opportunity for small businesses to compete. This paper seeks to highlight these issues and to propose a plausible solution.

I. Benefits of the Small Business IT Reseller in Federal Contracting

Due to changes in how the Federal Government uses and procures IT, the number of small businesses providing IT to the Government has increased considerably, resulting in a new category of small business – the small business IT reseller. The small business IT reseller has been able to fill an important role where, generally, the Government (1) prefers to obtain IT equipment and supporting services from a single source; (2) regularly uses a single acquisition to obtain numerous IT products that typically are not produced by any one original manufacturer; and (3) requires the contractor to customize computer hardware or software to meet an agency's

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[1] U.S. SMALL BUSINESS ADMINISTRATION, FY 2020 Goaling Guidelines, 2 (Oct. 2019), *available at* https://www.sba.gov/sites/default/files/2020-05/FY20_Small_Business_Goaling_Guidelines_Draft_2020.pdf; *See* Small Business Act of 1958 § 2(a), 15 U.S.C. § 631. Each year, Congress sets Federal small business procurement goals in order to ensure "small businesses have the maximum practical opportunity to participate in providing goods and services to the Federal Government."

[2] U.S. SMALL BUSINESS ADMINISTRATION, *Federal Government Exceeds Small Business Contracting Goals By Awarding Record-Breaking $132.9 Billion to Small Businesses*, (Aug. 12, 2020), *available at* https://www.sba.gov/about-sba/sba-newsroom/press-releases-media-advisories/federal-government-exceeds-small-business-contracting-goals-awarding-record-breaking-1329-billion.

specific needs.[3] IT resellers purchase IT products from the original manufacturer (or from another distributor) and resell the products to end users.[4]

Rather than acting solely as an intermediary, IT resellers provide valuable, customized IT solutions. Many of these services are provided pre-award, and thus are not directly reflected in eventual contract award amounts. Specifically, IT resellers provide access to engineers and architects with subject matter expertise that assist the Government in creating and implementing customized, scalable solutions. They serve to strategically connect Government with original equipment manufacturers (OEMs) in innovative ways. Further, IT resellers provide pre-contract services to include access to demonstration centers, which allows the Government customer to conduct proof of concept testing to ensure the proposed solutions and equipment work as expected prior to making a final purchasing decision. Due to their industry position and structure, IT resellers can ensure that Government-required cybersecurity and supply chain risk management standards are in place to safeguard Government data and systems. These critical services are provided with minimal cost to the government because they are included in overhead costs, covered by narrow margins on the IT products. As such, IT resellers exist as a trusted and cost-effective conduit for original manufacturers to reach Government customers, and they pass these savings along to the Government.

II. North American Industry Classification System (NAICS) Codes

The North American Industry Classification System ("NAICS") is the standard hierarchical classification system used by the Federal Government to classify businesses and establishments into specific industries.[5] Although the NAICS Codes in many cases do not entirely mirror their specific requirements, agencies have adopted NAICS codes for – and these codes have a substantial impact on – federal procurements.[6]

In federal contracting, NAICS codes have two primary purposes: (1) to identify the purpose of the procurement, and (2) to identify the size standard an entity must meet to qualify as a small business for that procurement. When issuing solicitations, contracting officers are required to designate a single NAICS code that "best describes" the primary purpose of the procurement.[7] Often, a procurement for IT-related acquisitions may be a mixed procurement, involving both products and services. For these mixed procurements, the contracting officer still must assign a single NAICS code according to the "component that accounts for the greatest percentage of contract value."[8] This causes problems for IT resellers because in many cases these

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[3] *See* Small Business Size Standards: Industries With Employee Based Size Standards Not Part of Manufacturing, Wholesale Trade, or Retail Trade, 81 Fed. Reg. 4436, 4443 (Jan. 26. 2016), *available at* https://www.govinfo.gov/content/pkg/FR-2016-01-26/pdf/2016-00922.pdf.

[4] Anne Pilon, *How to Become an IT Reseller*, SMALL BUSINESS TRENDS (Sept. 11, 2018), available at https://smallbiztrends.com/2018/09/it-reseller.html#:~:text=An%20IT%20reseller%20is%20a,intermediary%20in%20the%20distribution%20process.

[5] U.S. Census, North American Industry Classification System: Introduction to NAICS, *available at* https://www.census.gov/eos/www/naics/#:~:text=The%20North%20American%20Industry%20Classification,to%20the%20U.S.%20business%20economy (last visited Oct. 20, 2020).

[6] *Id.*

[7] 13 C.F.R. § 121.402(b).

[8] 13 C.F.R. § 121.402(b)(2).

entities provide a combination of products and services not contemplated by traditional NAICS codes, and offer new technology, *i.e.*, software and/or cloud, that reasonably can be classified as a product or a service.

The existing traditional NAICS codes used for federal contracting, and the corresponding SBA size standards, generally are not appropriate for small business IT resellers. Establishments that are "primarily engaged in" providing services can properly be classified under a Service Code.[9] Small business IT resellers provide hardware, software, and related products (supplies) that are manufactured by other companies along with services related to those products. Thus, the primary focus of the offerings available from IT resellers are not services and IT resellers generally cannot properly be classified under the Service Codes. Likewise, the Supply Codes used for federal procurements cover establishments that *manufacture* each specific product. Since the products IT resellers provide often are manufactured by other companies, small business IT resellers do not fit neatly under the NAICS Supply Codes either.[10] In sum, traditional NAICS Supply Codes and Service Codes present unique problems in the federal procurement context.

III. Unique Challenges for IT Small Businesses

Recognizing the traditional rules and regulations cannot properly be applied to IT resellers, federal agencies have sought numerous workarounds. The rules have not adapted to quickly changing technology-related procurements and ultimately this piecemeal approach has failed. As a result, at least one government agency now is attempting to acquire a blanket waiver that will allow it to circumvent the onerous requirements.[11] This clearly demonstrates the need for a more complete solution, specifically tailored to meet the unique requirements of the Government and enable contractors to provide the best possible solutions with respect to IT procurements.

A. ITVAR Code 541519 (Footnote 18)

The SBA created a new sub-industry category for Information Technology Value Added Resellers ("ITVARs") under NAICS code 541519, with a corresponding size standard of 150

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[9] Each NAICS code description begins with "This industry comprises establishments primarily engaged in ....." *See, e.g.*, NAICS Association, NAICS Code Description for 334111 – Electronic Computer Manufacturing, *available at* https://www.naics.com/naics-code-description/?code=334111 (Last visited Oct. 21, 2020).

[10] Many small business IT resellers could be appropriately categorized under the Wholesale Trade NAICS codes (*e.g.*, 423430 – Computer and Computer Peripheral Equipment and Software Merchant Wholesalers). However, SBA regulations explicitly prohibit the government from classifying acquisitions for supplies under Wholesale Codes. *See NAICS Appeal of Global Precision Systems, LLC*, SBA No. NAICS-5681 (2015) (explaining 13 C.F.R. § 121.402(b)(2) requires that "[a]cquisitions for supplies must be classified under the appropriate manufacturing or supply NAICS code, not under a Wholesale Trade or Retail Trade NAICS code." Thus, even though the solicitation called for the contractor to distribute items manufactured by others, because the "heart of the procurement" is for supplies, it must be categorized under a manufacturing or supply code.); *see also* https://smallgovcon.com/naics-code-appeals/no-wholesaler-naics-codes-for-set-aside-contracts-sba-oha-confirms/

[11] DHS currently is seeking a waiver for its FirstSource III contract. *See* FirstSource III information at https://beta.sam.gov/opp/1d1105e4b3c440f5822ce86892fb5db1/view.

employees.[12] To accomplish this, it amended 13 C.F.R. § 121.201 by adding a footnote (Footnote 18), which provides a definition of ITVAR and describes the circumstances under which a procurement could properly be classified under the industry code 541519. The stated purpose of establishing this industry category was to "better apply small business eligibility requirements under Federal contracts that combine substantial services with the acquisition of computer hardware and software."[13] SBA believed establishing the ITVAR industry category was a "more effective approach to addressing the size eligibility requirements of nonmanufacturers providing substantial services along with IT products."[14] However, the ITVAR exception under NAICS code 541519 is not working as intended.

Specifically, Footnote 18 requires an ITVAR classified under 541519 to "provid[e] multi-vendor hardware and software along with significant value added services. Significant value added services consist of, but are not limited to, configuration consulting and design, systems integration, installation of multi-vendor computer equipment, customization of hardware or software, training, product technical support, maintenance, and end user support."[15] As set forth in the regulation, the percent of value added services under Footnote 18 is measured as follows:

> For purposes of Government procurement, an information technology procurement classified under this exception and 150-employee size standard must consist of at least 15% and not more than 50% of value added services, as measured by the total contract price.

Thus, to qualify, a small business IT reseller must provide and charge the Government for value added services equivalent to between 15% and 50% of the total contract price. As discussed above, much of the value-added services provided by IT resellers occur prior to contract award and/or are built into existing pricing and not separately charged. Under the current rule, measuring the percent of value added services as compared to the total contract price, the 15-50% requirement is unrealistic and will serve to unnecessarily increase the costs to the Government of meeting its small business goals.

The ITVAR exception under NAICS code 541519 is insufficient to categorize the products and services required in recent complex agency IT procurements.

B. Potential Liability for Small Businesses Under the Current System

The Government regularly issues solicitations under inappropriate NAICS codes, and many times small businesses do not fully understand the complicated rules. Since there is little compliance oversight by the Government with respect to NAICS codes, the onus has shifted to small businesses to use already scarce time and resources to police government agencies via

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[12] Small Business Size Standards; Information Technology Value Added Reseller, 68 Fed. Reg. 74833 (Dec. 29, 2003), *available at* https://www.govinfo.gov/content/pkg/FR-2003-12-29/pdf/03-31795.pdf.
[13] *Id.*
[14] *Id.* at 74841.
[15] 13 C.F.R. § 121.201 n. 18.

protests. Relying on protests to check this frequent misuse is unrealistic, costly, and unfair for small businesses.

Misapplication of the ITVAR Code by assigning 541519 to solicitations when it is not appropriate is specifically problematic for small businesses in the IT space. In this situation, small businesses that otherwise meet the value-added requirements are stuck between a rock and a hard place. They can choose to bid, knowing they will not provide services that account for 15-50% of the total contract price as required by 541519, and thus potentially setting themselves up for an allegation that they have violated the law or made a false certification. Or, the small business can forgo the opportunity altogether, while less risk-averse competitors are awarded the work.

Ultimately, where a small business contractor is not compliant with the SBA regulations, it is susceptible to size protests, potential suspension or debarment, or False Claims Act liability. Relatedly, if a small business submits a bid or proposal for a small business set-aside contract based on a false statement about its size or status, this is likely to be viewed as a *willful and intentional* false certification.[16] Thus, simply by submitting a proposal where the business cannot comply with the 15-50% service requirement under the ITVAR Code – even in situations where the contractor did not understand or know the rules – a small business contractor could potentially expose itself to liability, suspension or debarment, a size-based protest by a competitor, contract termination, and loss of business.

IV. Solution: Create a Separate ITVARS NAICS

The current system for classifying and executing procurements involving IT resellers has serious flaws that should be addressed. The most viable solution to address these issues is to create a new NAICS code that accurately captures the core competency of the IT reseller. The new code should focus on the IT reseller's role as a consultant that provides pre-sales engineering and subject matter expertise on a variety of software and hardware products.

The Office of Management and Budget and Economic Classification Policy Committee should create a new, stand-alone NAICS code for IT value-added resellers. Once established, the SBA should then revise its current size standards accordingly and eliminate 541519 Footnote 18. Suggested language for the new NAICS code description (suggested as code 541520) includes the following –

> **541520 – Information Technology Value-Added Reseller (ITVAR) Services**
>
> This U.S. industry comprises establishments primarily engaged in providing a total solution to information technology acquisitions by providing commercially available multi-vendor hardware and software items manufactured by original equipment manufacturers (OEMs), along with significant value-added services. The value-added services are the primary function of the IT reseller, and are

[16] *See* 13 C.F.R. § 121.108(b) (Submission of a bid or proposal for a contract that is set aside for award to small businesses "shall be deemed affirmative, willful and intentional certifications of small business size and status.")

provided both before and after the item reaches the end-user. Significant value added services consist of, but are not limited to, configuration consulting and design, systems integration, installation of multi-vendor computer equipment, customization of hardware or software, training, product technical support, maintenance, and end user support.

As soon as practicable after this new NAICS code is implemented, SBA should revise its size standards to account for the new NAICS code and institute an appropriate employee-based size standard of 300 employees. Recognizing that IT resellers typically operate on low margins even though their annual receipts may be high, the size standard should be based on employee count rather than annual revenue.

V. Conclusion

Small business IT reseller participation is critically important to the federal government's ability to acquire and implement COTS IT solutions. Yet, a patchwork of rules and regulations specific to small businesses and the IT industry have led to frequent misclassification of IT procurements and have made it challenging, and in some cases impossible, for small business IT resellers to participate without potentially violating the law. The current landscape clearly demonstrates the need for a more complete solution. Creating a new NAICS code specifically tailored to account for the unique aspects of the IT reseller industry, would enable small contractors to provide the best possible IT solutions to the Government.

GovSmart.

Testimony of

GovSmart, Inc.

House Committee on Small Business
Subcommittee on Contracting and Infrastructure

"Leveling the Playing Field: The State of Small Business Contracting"

May 11, 2023

Chairman Lalota, Ranking Member Scholten, and Members of the Committee, I am pleased to submit the following testimony to the Subcommittee for the record. My name is Brent Lillard, and I am the CEO and co-founder of GovSmart, Inc., an Information Technology Value-Added Reseller (ITVAR) and HUBZone Small Business concern. In late 2009, my business partner and I started the company out of our kitchen in a rented house in the HUBZone of Charlottesville, VA. Today, GovSmart has successfully completed over $1 billion dollars in federal prime contracts and hundreds of millions of dollars in federal subcontracts. We currently have 72 full-time employees and continue to grow thanks to the federal opportunities for small businesses.

Information technology presents the greatest advantage – and the greatest risk – to government operations, and not just any product can be used on government networks to store or process government data. Only the most well-built, heavily tested, and highly certified products meet current government standards. Accordingly, government agencies can only buy these industry-leading products – nearly all of which are manufactured by large businesses. Few small business products can qualify under the ever-more-stringent cybersecurity and supply chain risk management regulations applicable to these products.

One of the challenges to growing my business is due to the misunderstanding of IT resellers in the use of the Non-Manufacturer Rule (NMR). The NMR requires that any small business reseller bidding on a contract set-aside for small business be either the manufacturer of the goods it offers, or to supply only goods made by another small business.[1] At first glance, this statutory rule is important to support small business manufacturers against the encroachment of large businesses that could offer lower prices based on lower production costs. As applied to resellers of normal commodities, such as office chairs or military uniforms, this requirement makes intuitive sense – as does the possible penalties for violation. A violation of this rule carries with it a minimum fine of $500,000 and potential debarment. One infraction could therefore be insurmountable for a small business. As applied to the ITVAR industry, the NMR has become increasingly irrelevant and problematic to companies like GovSmart.

This puts GovSmart in a tough position. Subject to the nonmanufacturer rule, we must either manufacture the computers we sell or offer to sell computers manufactured by another small business. However, our customer can only purchase computers made by large businesses that can ensure their products are tested and certified as safe. The same concern applies to software manufactured by large businesses. Increasingly, small business resellers cannot comply with the nonmanufacturer rule and still provide the products the Government needs.

Small businesses are not the only bearers of this risk. Federal agencies risk Government Accountability Office (GAO) protests if the agency awards the solicitation to an unqualified small business due to the NMR. Additionally, if there are not small business manufacturers who offer the products in the solicitation, then the GAO protests will find the small businesses awarded in violation of NMR and the solicitation award would likely be voided. If the solicitation award is voided, then the agency will be met with many administrative setbacks; a void to fulfill the solicitation requested products; and a lack of small business credit to support the agency's goal.

[1] 15 U.S.C. 637(a)(17) (2020).

The NMR issue has now been recognized by many Government agencies that are moving to address the problem. For example, the SBA itself issued in 2019 a waiver of the NMR with respect to laptop and tablet computers after research demonstrated conclusively that no small businesses make laptops and tablets in quality and quantities sufficient to supply the Federal market.[2] Two large Government Departments have now also recognized the inherent problems with enforcing the NMR against IT resellers. These agencies sought and obtained from the SBA waivers of the NMR for their information technology government-wide acquisition contracts (GWACs) known as First Source III (DHS)[3] and Information Technology Enterprise Solutions – 4 Hardware (ITES-4H, Department of the Army).[4] Together, resellers like GovSmart will sell close to $20 billion in products to these agencies, but without the unnecessary threat of heavy fines and company-ending debarment.

IT resellers face a unique problem with respect to the NMR, and these organizations have recognized these challenges. I therefore respectfully request that this Committee examine the use and need of the NMR for all information technology procurements, especially those impacting IT resellers, across government. This would allow us to fulfill both our customer's needs and our duty to comply with all procurement laws and would be a welcome change across the IT reseller industry. With respect to other industries, there are two additional improvements to the NMR that would help other industries when it comes to compliance. First, the SBA should be required to provide justification if an NMR waiver is not granted. Second, the SBA should provide a list of elements to agencies that must be included in the waiver so that all parties are clear on the application of the waiver.

Another issue that continues to harm small business IT resellers is the misclassification of procurements under the North American Industry Classification System, or NAICS. GovSmart is a reseller of information technology goods and services. We perform a critical function for the government as an interface with the expertise and connections to assess a government technology requirement and match that need to quality products or services offered by literally thousands of manufacturers. With our help, the agencies do not need to directly survey the universe of available solutions to a given tech problem – they can instead pose the requirement to us and our competitors, and with our amassed knowledge and experience, we can compete to recommend the best technology solution. Resellers are not manufacturers, or, under most circumstances, direct service providers. We are more analogous to wholesalers, leveraging the benefits of volume and supplier relationships to provide prices to the government that are well below the manufacturer's suggested retail price (MSRP). We are also full-spectrum prime contractors with project management capability, ongoing customer support obligations, and expertise in architecting solutions that will meet our customer agency's needs.

The SBA currently prohibits the use of industry codes that are the most descriptive of our industry. For various reasons, including the need to track categories of government spending, the SBA requires us to classify ourselves as either manufacturers or service providers under the NAICS codes appropriate for those industries. For example, computer manufacturers are generally

[2] 85 Fed. Reg. 13692 (Mar. 9, 2020).
[3] DHS Solicitation # 70RTAC21R00000003, available at www.sam.gov.
[4] Solicitation # W52P1J-20-R-0082, available at www.sam.gov.

classified under NAICS code 334111, *Computer Device Manufacturing*. Computer service providers are generally classified under NAICS code 541519, *Other Computer-Related Services*. By forcing resellers to classify themselves falsely as either manufacturers or service providers, all procurement dollars awarded to resellers can be used to capture overall government spending on supplies and services. However important the benefit of such data, or however difficult it may be to acquire otherwise, this system results in very serious harm to the very small businesses the SBA is chartered to shepherd.

If a reseller classifies itself as a manufacturer, it falls under the rules applicable to manufacturers, including size standards that are formulated to be relevant to companies engaged in manufacturing, not resale. These are generally employee-based size standards. For services companies, small businesses must not exceed a specified amount of annual revenue. As a reseller is not a manufacturer or a service provider, neither yardstick properly measures companies in our industry. The SBA has attempted to fix this issue by creating an exception within the 541519 NAICS code for ITVARS, known as footnote 18, but this exception falls short of a wholistic solution. The footnote continues to deny the reality that resellers are primarily wholesalers and not service providers or manufacturers.

One of the biggest hurdles with respect to NAICS codes for ITVARS is the misassignment to procurements that are aimed at reaching our industry. Although NAICS codes in many cases do not entirely mirror their specific requirements, these codes have a substantial impact on federal procurements. Often, a contract for IT-related acquisitions may be mixed, involving both products and services. For these mixed procurements, however, the contracting officer still must assign a single NAICS code according to the "component that accounts for the greatest percentage of contract value." This causes problems for ITVARS because in many cases these entities provide a combination of products and services not contemplated by traditional NAICS codes. The ITVAR exception under NAICS code 541519 is also unfortunately insufficient to categorize the products and services required in recent complex agency IT procurements.

The government regularly issues solicitations under inappropriate NAICS codes. Due to minimal compliance oversight, the onus has shifted to small businesses to use already scarce time and resources to hold government agencies accountable on proper NAICS utilization via protests. Relying on protests to check this frequent misuse is unrealistic, costly, and unfair for small businesses. The OMB Economic Classification Policy Committee (ECPC) should create a new, stand-alone NAICS code for IT value-added resellers to remedy this problem. Additionally, SBA should institute an appropriate employee-based size standard of 300 employees for this new NAICS. Recognizing that IT resellers typically operate on low margins even though their annual receipts may be high, the size standard should be based on employee count rather than annual revenue. With an information technology reseller industry in the billions of dollars annually, this harm affects many companies like mine, and their employees. I respectfully request that this Committee consider urging OMB to create an ITVAR-specific NAICS code and its subsequent size standard resulting from an honest evaluation of our industry. I would welcome the chance to discuss this issue more fully in a hearing focused on the NAICS code system, as I believe that is the only way to fully explore the complex consequences that follow from forcing the use of inaccurate codes.

Thank you for considering my testimony on these important matters. I applaud the Committee's effort to address these issues and look forward to future opportunities to share my input on ways Congress can continue to support small business federal contractors.



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Ho-Chunk Incorporated
Written Testimony for the Record
House Small Business Committee
Subcommittee on Contracting & Infrastructure
"Leveling the Playing Field: The State of Small Business Contracting"
May 11, 2023

Ho-Chunk Inc. (Ho-Chunk or HCI), a wholly owned subsidiary of the Winnebago Tribe of Nebraska, submits this testimony on the recently held Subcommittee hearing on small business contracting. Officials from HCI were able to attend the hearing in person because the subject matter is so important to our company. We thank Chairman Nick LaLota, Ranking Member Hillary Scholten, Committee and the Subcommittee members, and staff for their work and efforts on behalf of the small business community.

Tribes, like the Winnebago, utilize proceeds from government contracting to build, sustain, and operate their communities, for the betterment of their people in terms of education, healthcare, public works, and other community needs. Government contracting is the principal revenue generating activity for HCI, and we believe the Small Business Administration (SBA)'s 8(a) Business Development Program has been one of the most successful and consistent government contracting programs to date. Our comments draw on our experience as a parent company to successful small businesses with a depth of experience in government contracting with supply, professional services, and construction contracts.

Ho-Chunk agrees wholeheartedly with the Subcommittee's statements in the Hearing memo that small businesses play an important role in America's industrial base, and that the number of small businesses in that base have been rapidly declining in recent decades. This decline presents a significant risk to the defense industrial base and to America's military.

Chairman LaLota's statement that small businesses play a crucial role in "increasing competition, innovation, and stimulating our economy" is absolutely correct, as is the fact that "they have been systematically squeezed out of federal contracting for decades."[1] We agree with the statements made by the witnesses in the hearing that category management contract vehicles are a significant barrier to small businesses and their growth. However, we believe excessive regulations are one of the most significant barriers to entry into government contracting and access to contracts Congress envisioned when creating small business programs.

Category management diminishes the opportunities for small businesses to participate in government contracting as category management vehicles generally have only a limited number of spaces for small business. In the Small Business Administration (SBA)'s response to a

[1] House Committee on Small Business Subcommittee on Contracting and Infrastructure. (2023, May 11). *Leveling the Playing Field: State of Small Business Contracting* [Press release]. https://smallbusiness.house.gov/news.

Government Accounting Office (GAO) report on Category Management[2], SBA stated that 53 percent of the contracts eliminated by category management were small business contracts. According to a 2019 Bloomberg report, the Federal supplier base had a 32% decline of small federal contractors working on unclassified prime contracts from 2009 to 2018[3]. This was compared to a 4% decline for large vendors during that same time period.

During a 2019 hearing of the U.S. Committee on Small Business & Entrepreneurship on the Reauthorization of the Small Business Administration's Contracting Programs, then Associate Administrator for the Office of Government Contracting and Business Development at the SBA, Robb Wong, in his response to the questions regarding the decline of small businesses in government contracting stated that "Category Management has a deleterious effect on small businesses because when contacts go to a large and complex contract vehicles for which small businesses do not qualify, or miss a short onboarding window, those small businesses don't have many contracts to replace those they lost. This in turn leads small businesses to quit seeking Federal contracts which in turn hurts the country's industrial base."[4] And he was correct in his statement as the decline in the small business participation in the industrial base since then shows, and the Committee's concern with this decline.

In May of 2021, the U.S. Women's Chamber of Commerce issued a report entitled "Stop the Loss of Small Business Federal Suppliers", with a subtitle "The use of "Best-In-Class" contracting vehicles under the guise of Category Management is driving small businesses out of the federal marketplace."[5] This report echoed the statements made by the witnesses during the Subcommittee's hearing, and called upon President Biden and Congressional Leaders to stop the "overwhelming loss of small business suppliers". The report indicated that "the unregulated process called Category Management through Best-In-Class contracts purposely suppresses competition, thereby driving up costs." That BIC contracts "leave out the vital competitive contributions that small business suppliers bring including agility, innovation, services and more." And that the "federal government should be "Open for Business" for small businesses as well as large firms."

Category management vehicles were created with the intent of providing the federal acquisition community with a more streamlined acquisition process based on major categories of federal procurement. The process has been streamlined and cost savings are touted. However, the darker side of the cost savings of these BIC contracts is not just the loss of contracting opportunities for small businesses. For example, to date there have been 270 protests involving the National Institutes of Health CIO-SP4 contract vehicle that date back more than a year.[6] There needs to be

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[2] General Administration Office (GAO). *Federal Buying Power OMB Can Further Advance Category Management Initiative by Focusing on Requirements, Data, & Training.* GAO-21-40 at 73 (Washington, DC. November 30, 2020).
[3] Murphy, Paul. "Fed[3] Murphy, Paul. "Federal Supplier Base Continued to Shrink in Fiscal 2018", Bloomberg Law, Bloomberg L.P. May 23, 2019. Web June 26, 2019
[4] *Reauthorization of the SBA's Contracting Programs.* Hearing before the Senate Committee on Small Business and Entrepreneurship (June 12, 2019). 116th Congress (2019-2020) (testimony of Robb Wong)
[5] U.S. Women's Chamber of Commerce. (May 2021) *Stop the Loss of Small Business Federal Suppliers. uswcc.org/stop-the-loss*
[6] Wakeman, N. (2023, April 10). More than 100 Protests Greet CIO-SP4. *Washington Technology, pg. 1.* More than 100 protests greet CIO-SP4 - Washington Technology

Congressional action to allow small businesses greater access to category management vehicles or the loss to the small business industrial base will become greater than it already is.

Excessive regulations stifle small business participation in government contracting to a greater degree than even category management practices. A 2017 report from the U.S. Chamber of Commerce Foundation, "The Regulatory Impact on Small Business: Complex. Cumbersome. Costly"[7] is still relevant to the issues facing today's small businesses. That report found that "these job creators [small businesses] are increasingly strangled by a growing net of complex and cumbersome regulations at the federal, state, and local levels", and that the "regulatory costs of just the largest federal rules totals more than $40 billion, with small businesses shouldering a full 82% of the costs."[8] We would imagine with today's runaway inflation those numbers are even higher.

An example of an unnecessary burdensome regulation is a recent SBA final rule in the 8(a) Business Development program related to category management vehicles and 8(a) sole source awards. That final rule states:

> "Sections [13 CFR] 121.404(a)(1)(i)(B) and 121.404(a)(1)(ii)(b) provide generally that a business concern that qualifies as small at the time of an offer for a multiple award contract that is set aside or reserved for the 8(a) BD program will be deemed a small business for each order issued against the contract, unless a contracting officer requests a size recertification for a specific order."[9]

This part of the final regulation tracks with the long-standing SBA rule that the size and status of a business generally relate back to the time of the initial offer on a contract. And that the small business generally stays small for the duration of a federal contract, with a few exceptions, one being the contracting officer can request a size recertification under certain circumstances.

However, SBA in this final rule singles out sole source 8(a) orders "issued under a multiple award contract (MAC) set-aside for exclusive competition among 8(a) Participants."[10] Not the competitive 8(a) task orders, only the sole source task orders. Note that the intended MAC would be set aside for only 8(a) Participants, whose size and status would be verified during the procurement process, and as part of the set-aside MAC process there would be an opportunity for competitors to protest the size and status of all the Participants in the 8(a) exclusive MAC, such as the STARS III GWAC. That process protects the protest rights of any challengers, and based on long-standing contract rules, the size and status of the contract holder should continue to qualify as small during the life of the contract. However, SBA sees a need to add an "extra" check only on those types of task orders.

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[7] U.S. Chamber of Commerce Foundation. (March 2017). *The Regulatory Impact on Small Business: Complex.Cumbersome.Costly*

[8] Id. pg 4

[9] United States, Small Business Administration. RIN 3245-AH70 "Ownership and Contractual Assistance Requirements for the 8(a) Business Development Program." 88 Fed. Reg 81, 26168 (Sept 9, 2022).

[10] Id.

This ability to protest had been a concern for SBA in unrestricted MACs, stating "A firm's status as a small business does not generally affect whether the firm does or does not qualify for the award of an unrestricted multiple award contract."[11] And that "competitors are very unlikely to protest the size of a concern that self-certifies as small for an unrestricted" MAC. But this additional rule targets set-aside contracts where the size and status of the bidders is thoroughly checked before contract award. This excessive regulation will cause many small businesses that actually get onto a category management vehicle reserved for 8(a) Participants to lose the ability to market themselves for a direct award because they have been successful and grown during the length of the contract term. A rule which most find counter to longstanding contract rules, and is just one example of excessive regulation strangling small business participation in category management vehicles.

Ho-Chunk Inc. recommends that the Subcommittee address this rule and others like it to reduce the regulatory burden on small businesses, one of the many reasons that small businesses are either leaving or not entering the government contracting arena.

Thank you for your consideration of our comments, and please do not hesitate to contact us if you would like any further information.

[11] Id.



Testimony for the Record

On Behalf of

HUBZone Contractors National Council

House Committee on Small Business Subcommittee on Contracting and Infrastructure Hearing

"Leveling the Playing Field: The State of Small Business Contracting"

May 11, 2023

The HUBZone Contractors National Council submits the following testimony for the record on the important topic of this hearing – small business federal contracting.

The HUBZone Council is a non-profit trade association providing information and support for companies and professionals participating in the Small Business Administration's (SBA) Historically Underutilized Business Zones (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 Council's membership includes HUBZone-certified small businesses, other small businesses, large businesses, and organizations interested 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. The underlying principle behind the HUBZone program, established 25 years ago, remains the same today – to decrease unemployment and revitalize low-income communities by encouraging businesses to locate in these HUBZone areas. Congress, in its creation of the program, stated that the creation of new jobs in economically distressed areas presented a challenge to all levels of government. The HUBZone program was designed to incentivize businesses to locate in these areas, creating wealth creation through much needed jobs.

We thank the Committee for its continued commitment to support small businesses doing business with the federal government. It is because of this Committee's strong commitment to improving the HUBZone program that a substantial modernization effort was signed into law in 2018. However, substantial challenges and barriers continue to impact HUBZone companies. Since the program's inception, the Federal Government has never met its goal to obligate 3% of eligible prime contract dollars to HUBZone small businesses. This represents over 25 years of missed opportunities and unawarded dollars for companies that operate and employ workers in HUBZones. To date, the HUBZone program is the only SBA contracting program where the government continually fails in meeting its established goal.

Therefore, we recommend the following actions to increase awards to HUBZone companies and the communities they serve:

Remove the 20% Cap on Metropolitan Census Tracts: Effective July 1st, thousands of census tracts will lose their HUBZone eligibility due to the 20% cap on metropolitan statistical areas. While some of these areas may have improved and no longer qualify for the program, not all fall under this category. The statute limits the qualification of metropolitan statistical areas to no more than 20%, regardless of their current economic state. The council believes this limit should be lifted, and areas meeting the statutory criteria should qualify for the program. This criteria states an area should have "50 percent or more of the households with an income less than 60 percent of the area median gross income for such year or which has a poverty rate of at least 25 percent."

Apply the HUBZone Price Evaluation Preference to Task Orders: The HUBZone price evaluation preference helps level the playing field for HUBZone firms in full-and-open competition, as well as affords 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. We urge Congress to direct federal agencies to amend their interpretation to follow the law as Congress intended. As the federal government increasingly drives its spending through IDIQ contracts, such as the "Best in Class" (BIC) contracts, a significant opportunity for HUBZone spending is being lost because the HUBZone price evaluation is not being applied in the award of task orders. Included in the House-passed version of the *FY2021 National Defense Authorization Act* (NDAA), applying the price preference would significantly benefit the SBA, federal agencies, HUBZone firms and the communities they serve.

Amend the Criteria for Maintaining HUBZone Status: The HUBZone program provides flexibility for the requirement that 35% of its employees must be located in a HUBZone if a company holds a HUBZone contract awarded through the set-aside program. As employees and contracts change, a company may temporarily fall below the 35% threshold. The Council believes this flexibility should be applied to all HUBZone firms, regardless of whether they hold a prime contract awarded through the HUBZone set-aside program. If "attempt to maintain" is redefined to include all contracts, the program will significantly benefit by providing HUBZone companies more stability.

Redefining the Workspace in the Age of Telework. In the last three years, we have seen how crucial it is for government programs to adapt to changing realities, and the HUBZone program should be no exception. Therefore, flexibility should be established around the principal office requirement in the program. To account for the large percentage of contractor employees teleworking due to the COVID-19 pandemic, the Council recommends embracing telework by allowing employees to count toward the principal office requirement if they are teleworking in a HUBZone and report to the principal office. One of the objectives of the principal office requirement is to build wealth in HUBZone communities by having HUBZone employees spend money locally. Modifying the requirement to embrace telework satisfies this intention.

Change Reporting Requirements to Accurately Reflect Contract Set-Asides. Each year, 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%. Despite this small number, the federal government has never met its goal – in FY2021, only 2.53% of prime contract dollars went to HUBZone certified businesses. The Council believes that even fewer contracts have gone 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 WOSB program, and the winning company is also a certified HUBZone and SDVOSB, those contract dollars count toward the agency's goals in each of the 3 programs. This practice ultimately inflates the data reported on small business contracting awards. The Council recommends agencies report progress toward small business based on how the contract was solicited. In other words, if an agency set a contract aside for the HUBZone program, then the dollars should only count as a HUBZone award.

Expand Sole Source Contract Opportunities for HUBZone Companies. 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. The Council supports eliminating option years for sole source contracts to allow for $4.5/$7 million each year, instead of over the life of the contract—as changed in House-passed H.R. 190 during the 116th Congress. The Council also believes that creating parity among SBA socioeconomic contracting programs, as it relates to sole source contracts, would incentivize agencies to increase their awards. A current impediment to awarding sole source contracts is the requirement that a contracting officer must show that they do 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. Additionally, SBA's Office of Government Contracting and Business Development (GCBD) should develop guidance to clarify how the acquisition workforce can award sole source contracts to small businesses.

Increase Utilization of Small Businesses to Counteract the Impact of Category Management. The Council continues to work to minimize negative impacts of category management on small businesses. These efforts resulted in a requirement in the FY2020 NDAA of annual reporting of small business participation on BIC vehicles, and governmentwide reforms issues by the Administration in December 2021. The Council remains dedicated to finding opportunities that ensure maximum participation of HUBZone businesses, as the government has never met its 3% goal. While we were encouraged by the guidance issued by the Office of Management and Budget (OMB) directing agencies to consider the effect of category management and contract consolidation on small businesses, it is unclear if any of the Administration's reforms have been adopted. We encourage OMB to issue an update on the implementation of these reforms.

Align the Rulemaking Processes of SBA and the FAR Council. Pervading inconsistencies exist in government contracting due to discrepancies between final rules issued by the SBA and the Federal Acquisition Regulatory (FAR) Council. This causes confusion for both companies and federal agencies on which guidance they should ultimately follow. Many in the acquisition workforce do not follow changes in small business rules unless it is in the FAR, despite that final rulemaking by SBA is sufficient. In addition, the time lapse between FAR Council action and final rules promulgated by the SBA can span many years. To remedy this problem, the Council suggests adding the SBA to the FAR Council, and requiring the FAR Council issue its rulemaking simultaneously with SBA.

Expand Highway Trust Fund to include HUBZone Small Businesses. Presently, HUBZone small businesses are excluded from competing for opportunities funded under the Department of Transportation (DOT) Trust Fund, which is approximately $2.3 billion dollars annually. Allowing HUBZone firms to compete would invest many of these dollars back into underutilized communities.

Adopting these changes will benefit both HUBZone businesses and the federal government. Increased opportunities for HUBZone businesses create greater opportunities for utilization of SBA programs and a more efficient procurement system, all which build resiliency of the industrial base. The HUBZone contractor community is optimistic that the Congressional actions providing more certainty, flexibility, and fair requirements for the program will help companies across the country meet the program's mission. Our member companies and all HUBZone certified firms are ready to compete on federal contracts to bring jobs, innovation, training, and economic empowerment to HUBZones. We appreciate the Committee's leadership on issues related to small business federal contracting and look forward to working with Congress to advocate for procurement policies that benefit HUBZone and other small business federal contractors.

Testimony for the Record

On Behalf of

The Montgomery County Chamber of Commerce (MCCC)
GovConNet Council

House Committee on Small Business Subcommittee on
Contracting and Infrastructure

"Leveling the Playing Field: The State of Small Business
Contracting"

May 11, 2023

The Montgomery County Chamber of Commerce (MCCC) GovConNet Council is pleased to submit the following testimony for the record. The Chamber would like to thank the Committee for working tirelessly to support small business contractors and pass policies that strengthen the industrial base.

Montgomery County has the second highest total number of small businesses engaged in federal contracting in the country, creating tens of thousands of local, high paying federal contracting jobs. A champion of federal procurement policy initiatives. MCCC's GovConNet Council promotes policies beneficial to federal contractors with an emphasis on small and midsize companies. Comprised of government contracting industry experts, the Council has worked extensively to move forward sound legislation and policies that are crucial to the success of the government contracting community. Below are policy changes we believe will greatly strengthen the industrial base and ensure maximum participation of small businesses.

Create A More Favorable Environment for Small Business Federal Contractors

Promote accountability, transparency, and best practices in subcontracting.

We believe that the government must work to promote accountability, transparency, and best practices in subcontracting. Amid a decline in awarding direct contracts and contract consolidation, it only makes sense that subcontracting is one of the best opportunities for small businesses to enter and grow in the federal market. Since the government does not have a relationship with subcontractors, small businesses have very little leverage to remedy this problem. We believe Congress should adopt changes to the subcontracting ecosystem to expand the importance of subcontracting plan performance in agency evaluation of offerors and make subcontracting plan performance a more important factor in winning future work. Introduced in the 117th Congress, H.R. 7694, *Strengthening Subcontracting for Small Businesses Act of 2022*, as well as any additional adaptations made in future legislation, are key to ensuring small business subcontractor success.

Expand the Rule of Two to include contracts above the simplified acquisition threshold.

The industrial base has significantly decreased over the past ten years – around a 40% decline in the number of small businesses receiving prime contract awards. The strength of the industrial base is a concern to the entire federal contracting community, as well as civilian and defense agencies. We believe it is time for Congress to amend the Rule of Two to increase contracting opportunities for small businesses.

The Rule of Two was created to support the ability for small businesses to compete for federal contracts. The rule requires all federal agencies to determine if there are at least two small businesses that could do the work for a fair price, and if so, the acquisition must be set-aside for small businesses to compete. This rule has been confirmed by the courts in several cases, including Kingdomware Technologies and Tolliver.

In the Tolliver decision, the Court of Federal Claims affirmed that agencies are required to apply the Rule of Two in all federal acquisitions over the simplified acquisition threshold (SAT) of

$250,000. This ruling is not reflected in current law, which states that the Rule of Two only applies to acquisitions above the micro-purchase threshold, $10,000, but not greater than the SAT. In FY2022, the federal government awarded approximately 120,000 contracts over the SAT. Given such a large number of contracts above this threshold, it is critical to ensure that agencies are properly applying the Rule of Two, which could lead to increased small business set-asides.

While the Rule of Two has been confirmed by the courts, we believe legislative changes should be made to bring acquisition rules and court rulings into agreement. The 15 USC 644(j) Small business reservation, 15 USC 644(r) Multiple award contracts and 15 USC 657s(a) In general, should be changed to reflect judicial rulings.

Removing the restriction that the Rule of Two only applies to contracts under $250,000 will require agencies to complete the same market research on all contracts above the micro-purchase threshold. Agencies already know how to perform market research; therefore, this expansion would not cause an undue burden to the acquisition workforce. By amending the necessary legislation to conform with the court cases cited above, small businesses will have a better opportunity to win contracts and provide innovation and flexibility for federal buyers.

Raise sole source thresholds to allow amounts to be awarded each year.

The Chamber supports ongoing Congressional efforts to raise sole source thresholds to $4.5 million generally and $7 million for manufacturing contracts and eliminate inclusion of option years, which would allow these amounts to be awarded each year. 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. The Chamber supports eliminating option years for sole source contracts to allow for $4.5 million/$7 million each year, instead of over the life of the contract.

Increase utilization of small businesses to counteract the impact of category management.

The Chamber also continues the effort to minimize the negative impacts of category management on small businesses. 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 – according to Bloomberg Government, the count of active federal prime contractors fell 17.5% from 123,790 in FY2016 to 102,047 in FY2020. The Chamber remains dedicated to finding opportunities that ensure maximum participation of small businesses.

Fill the Office of Federal Procurement Policy (OFPP) Administrator vacancy.

We believe that confirming an OFPP Administrator is essential to fulfilling OFPP's mission to provide overall direction for governmentwide procurement policies, regulations, and procedures and to promote economy, efficiency, and effectiveness in acquisition processes.

[1] https://www.gao.gov/assets/gao-21-40.pdf

In December 2021, the Biden Administration released a set of reforms geared toward increasing equity for underserved small business contractors. These reforms implemented significant changes to the federal government's use of "category management" to boost contracting opportunities for underserved small businesses. We support these reforms and applaud the Administration's goal to increase new entrants to the federal marketplace and reverse the decline in the small business supplier base. However, we are concerned that the absence of an OFPP Administrator is hindering the implementation of these reforms. In sum, we want to ensure that small businesses have a seat at the table when it comes to federal acquisition issues, which requires clear direction from an OFPP Administrator.

Allow deduction of research and development (R&D) expenses and expenditures from total revenue for size determination.

Small businesses play an important role in the revitalization of domestic competitiveness and strengthening supply chains through R&D. However, 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. The numbers bear out how difficult such competition can be.

To better assist companies in the ability to compete for R&D investment, we propose to permit businesses to subtract Independent R&D expenses and expenditures from that business'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.

Definition: 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.

Exclusion Cap: 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.

While these proposals only tackle certain components of our procurement system, we believe they are necessary steps to strengthen the small business industrial base. Increased resiliency of small businesses benefits both taxpayers and the federal government, while supporting the job creators and critical employers across our country. We are eager to continue our work with the Committee to address these issues and look forward to working together to achieve solutions that will strengthen the industrial base.

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