



Testimony of

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House Committee on Small Business

“Under the Microscope: Reviewing the SBA’s Small Business  
Size Standards”

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Chairman Williams, Ranking Member Velázquez, and Members of the Committee, thank you for the opportunity to testify today. My name is Erin Allen and I am the President of Contemporaries, Inc., a Small Business Administration (SBA) certified women-owned small business (WOSB) located in Silver Spring, Maryland. I am also the Chair of the Montgomery County Chamber of Commerce (MCCC) where I am proud to represent the many businesses that make up our robust local economy in Maryland. An important part of the Chamber is its GovConNet Council, which is comprised of industry procurement experts. The Council meets monthly to tackle federal contracting issues that affect small and midsize firms. Additionally, I'm a member of the Women's Procurement Circle (WPC), a group that advocates for policies that strengthen women-owned companies that do business with the federal government. I appreciate the Committee's focus in this hearing on the important topic of size standards and pathways to growth for small business federal contractors. This issue is one that has become increasingly relevant to Contemporaries as we have grown significantly over the last several years.

I am a second generation business owner. My parents started our company in 1991 when they cashed in their retirement savings and took out a home equity loan. As a family, we have worked hard to grow our business, bootstrapping every part of it. Now we find ourselves teetering on the edge of our small business size standard, which puts our business in a very difficult position. While we have maintained our small business status a little longer than we expected due to some setbacks – but also thanks to this Committee's work on the *Small Business Runway Extension Act* – we only expect to remain small for another year or two.

My company is at a crossroads and we only see two options: sell off part of our business or find a small business to team with. Teaming means only retaining 49% of the contracts we have worked so hard to earn. By every measure we are still a small business, with only 95 employees. While this might seem like a large employee count for your local mom and pop shop, in my industry this is still very small. If we lose our small business status, I anticipate I will have to lay off 30% of our employees. While some may get picked up by another contracting firm, others may not. This is especially hard to consider as we figure out what to do next.

I don't have all the answers to this problem. All I know is I can't compete with the large contractors like the Booz Allen and the Lockheed Martin type companies of the world. I'm too young to retire, and too old to start over. Adjusting size standards isn't just about maintaining my business, it's about helping my employees earn a sustainable living in the middle class, some of whom have been with me for over 15 years.

As a result of that steady growth, we find ourselves at the top of our size standard, which is revenue based. Revenue is not an indicator of present competitiveness – it is an indicator of future competitiveness. A challenge in my industry is that the size standards vary across our set of NAICS codes. We primarily win contracts under NAICS 561110 - Office Administrative Services, which has a \$12.5 million size standard. The other NAICS that contracts for my services can fall under,

such as 561320, have a size standard of \$34 million. Wide disparity in my NAICS presents an issue for opportunities. The *Small Business Jobs Act of 2010*<sup>1</sup> requires SBA to review all small business size standards every five years and make adjustments to ensure they reflect current industry and market conditions. The SBA should look at industries more holistically and seek additional engagement with businesses through forums and roundtables. Relying solely on a mathematical formula and limited engagement with businesses isn't giving the agency an accurate picture of small business markets.

Bigger small businesses that are about to graduate from the set-aside world need time to recruit talented employees, develop their intellectual property and build infrastructure to compete at the next level. Small businesses face enormous infrastructure hurdles especially if they grow very quickly or win larger federal contracts with big task orders. Some refer to this as the Powerball effect, leaving businesses scrambling to stay ahead of the demands of their growth and simultaneously trying to compete in the open market. A firm like mine simply can't compete with the large federal contractors overnight. Government contractors experience a unique pattern in their growth that is causing a "midsize" business crisis. This pattern of sudden growth is increasingly common because of the government's more frequent use of large multiple award contract vehicles under which contractors can be awarded huge task orders.

The SBA program I have been able to take advantage of during my time as a small business is the Women-Owned Small Business Federal Contract (WOSB) program. The WOSB program, with a component of the program designated as the Economically Disadvantaged Women-Owned Small Business (EDWOSB) program, allows for agencies to set-aside contracts for women-owned companies to bid. The governmentwide goal of awarding 5% of all federal prime contracts to WOSBs (yes, just 5%) has only been met twice since the program was put into place in 2011. Agencies are authorized to sole source contracts to WOSBs; however, those awards are few and far between. According to The Pulse of GovCon, a women-owned federal market data intelligence company, in FY22, the federal government only awarded 135 WOSB sole source contracts, totaling \$90.1 million. As for EDWOSB sole source contracts in FY22, there were 25 awards for a total of \$13 million. As I teeter on the edge of sizing out of being a small business, increased effectiveness of this program would really help. It would enable me to secure more contracts faster, thus allowing me to be in a better position to make the transition into the full and open marketplace.

As part of WPC, we applaud the Committee for passage of the *WOSB Certification and Opportunity Expansion Act* on January 31. Moving away from self-certification will reduce fraudulent companies from claiming to be women-owned. Our hope is that federal agencies will be compelled to meet their WOSB goals, since they will only be able to count awards to companies that are SBA certified. WPC believes three additional policy changes would further increase awards to women-owned companies: maximize WOSB awards on governmentwide contracts,

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<sup>1</sup> *Public Law 111-240, 124 Stat. 2504, September 27, 2010*

expand sole source contract opportunities for WOSBs and properly fund the WOSB Program Office at the SBA.

While there are many contracting policies that contribute to small business contractor success and growth, there are also numerous areas where the federal government needs to improve. It is important that taxpayer dollars are used to provide opportunities for the companies that are the engine of the U.S. economy. Amid a decline in awarding direct contracts to small businesses and contract consolidation, subcontracting is one of the best opportunities for small companies to enter and grow in the federal marketplace. However, working as a subcontractor comes with its own set of challenges. Too often, small businesses that help a prime contractor win a proposal receive little or no work once the contract is awarded. Since the government does not have a relationship with subcontractors, smalls have very little leverage to remedy this problem.

MCCC has worked with the Congress and industry over the past six years to find a solution. H.R. 7694, *Strengthening Subcontracting for Small Businesses Act of 2022*, which passed the House last Congress, improves the subcontracting ecosystem to help ensure that federal government contractors are utilizing small businesses in subcontracts. I encourage the Committee to introduce a similar bill that makes prime contractor performance on their subcontracting plans a more important evaluation factor in winning future work. Further, although reports by federal agencies show that dollars are being awarded to small companies at consistent levels in best in class (BIC) contracting vehicles, the number of small businesses being awarded prime contracts is shrinking drastically. Category management undoubtedly plays a role. Since many small businesses are not prime awardees of BIC vehicles, subcontracting is increasingly important for small contractors trying to grow their federal business.

Included in a recent memo<sup>2</sup> from the Office of Management and Budget (OMB) Office of Federal Procurement Policy (OFPP) was important clarification on the rule of two<sup>3</sup> as it applies to orders. The memo states that besides some limited exceptions, agencies should set-aside orders for small businesses when the rule of two criteria is met. This clarification is an important step in increasing awards to small businesses on large contract vehicles. However, an expansion of the rule of two to require analysis for all acquisitions above the micro-purchase threshold (MPT) would be a game changer for small businesses.

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. The rule of two was created to support the ability for small businesses to compete for federal contracts. This rule has been confirmed by the courts in several cases, including

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<sup>2</sup> [https://www.whitehouse.gov/wp-content/uploads/2024/01/REV\\_Increasing-Opportunities-to-Small-Businesses-under-MACs-CATS-Final-Copy-1-25-24.pdf](https://www.whitehouse.gov/wp-content/uploads/2024/01/REV_Increasing-Opportunities-to-Small-Businesses-under-MACs-CATS-Final-Copy-1-25-24.pdf)

<sup>3</sup> 15 USC 644(j)

Kingdomware Technologies and Tolliver.<sup>4</sup> In current law, the rule of two only applies to acquisitions above the MPT, but not greater than the Simplified Acquisition Threshold (SAT). In FY23, the federal government took over 5,700,000 actions that were over the SAT.<sup>5</sup> Given such a large number of contracts above this threshold, a change is critical to ensure that agencies are applying the rule more broadly. While the recent guidance will be impactful, removing the restriction that the rule of two only applies to contracts under \$250,000 will be a turning point for small contractors. 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. H.R. 6320, *Increase Small Business Utilization Act of 2023*, introduced by Ranking Member Nydia Velázquez (D-NY) accomplishes this goal. It is time for Congress to amend the rule of two to increase contracting opportunities for small businesses.

An underappreciated tool for small businesses is Procurement Center Representatives (PCRs) and Commercial Market Representatives (CMRs). The Office of Government Contracting at the SBA employs a team of Area Directors, PCRs and CMRs that continually work with federal agencies to increase federal contracts awarded to small businesses. These specialists are in constant contact and collaboration with federal agency contracting personnel. PCRs increase the small business share of federal procurement awards by initiating small business set-asides, reserving procurements for competition among small business firms, providing small business sources to federal buying activities and counseling small firms. In addition, PCRs advocate for the breakout of items for full and open competition that could instead be competed amongst small businesses. There is a significant portion of small business eligible contract dollars that are not tapped for small businesses due to the lack of PCR/CMR coverage, as well as significant eligible small business spend and buying activities with limited or no PCR/CMR coverage. The recent OFPP memo requires federal agencies to take steps with respect to increasing small business participation on multiple-award contracts, and the value of engaging PCRs is mentioned. Additional funding for these positions would do wonders to increase awards to small businesses across government.

I appreciate the Committee's continual efforts to support small businesses and am grateful for the opportunity to share my experience with you today. While there are many improvements to be made to increase contract awards to women-owned, growing, and all small businesses, I applaud your dedication to these issues. Thank you and I look forward to answering any questions.

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<sup>4</sup> TOLLIVER GROUP, INC. v. USA

<sup>5</sup> Pulse of GovCon analysis