



Testimony of
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On behalf of the Montgomery County Chamber of Commerce

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

“Helping Small Businesses Compete: Challenges and Opportunities in
the Federal Procurement Marketplace”

July 16, 2019

Good morning Chair Golden, Ranking Member Stauber and Members of the Subcommittee, my name is Bruce Lansdowne. I am the President and CEO of Trinity Technology Partners, which develops and offers information technology services and solutions. We are based in Greenbelt, Maryland and I am here today to testify on behalf of the Montgomery County Chamber of Commerce (MCCC). MCCC is a 500-member organization located in Montgomery County Maryland, of which I am a member of its Board of Directors. Thank you for inviting me to testify today on this very important segment of our economy.

I would like to share a few observations based on my experience, which I hope the Committee will find helpful as you examine opportunities and challenges in the federal marketplace for small and midsize businesses. After I started my business, it was challenging to obtain opportunities to participate in the federal marketplace. Fortunately, I was given an opportunity to support as a subcontractor through a professional relationship that I had previously established with a large company. While we were given low-level, low-margin work, the work had high visibility with officials at the senior level of the agency. We took this work very seriously as we could not just do a good job, we had to do an exemplary job – and that we did. As a result, we began to receive so many accolades from the government customer that it almost became incomprehensible to our prime contractor. Despite all of this, it was still a five-year journey to receiving a prime contract with this agency. Unfortunately, this in large part due to the agency's deference to large companies.

I'll share one such example with you. I received frantic calls and emails from a large prime contractor requiring a small business on their team. My company actively participated in all the proposal activities and we learned that the large contractor was awarded the work. Post-award, we were pressured by the large contractor to further reduce our pricing. In the end, the prime contractor did not give us the opportunity to participate in the workshare as previously agreed upon and as a result, I placed a call to the small business director of the agency. Despite these efforts, the large contractor was not held accountable regarding their small business goals. While the small business director empathized, it was a costly lost opportunity for my company.

I certainly realize that small businesses must also do their part in providing exemplary services in the federal marketplace. It has been an amazing journey serving the missions of our nation's

government. We are very grateful for every opportunity to serve and we look at each challenge as an opportunity to make things better, not just for my company, but for the government customers and all businesses participating in the federal marketplace. It is due to my passion for the success of small businesses that I joined the MCCC Board of Directors to make a more impactful contribution.

The Chamber has been at the forefront of finding solutions to tackle the problems in the federal marketplace that exist around subcontracting. As background, an important part of the Chamber is its GovConNet Council, which is comprised of industry procurement experts and practitioners. The Council meets monthly to discuss federal contracting issues that affect small and midsize firms. Large companies are also an important part of the Chamber membership and they support efforts to assist small and midsize companies to obtain success in federal contracting. Last year, the GovConNet Council identified subcontracting as an issue that continues to be problematic for small businesses and prime contractors alike.

The Council convened four roundtables with industry, both large prime contractors and small subcontractors, as well as government officials to pinpoint the pain points for all sides of the equation. We enlisted the help of Bloomberg Government to identify what data exists on subcontracting, its accuracy and its purpose. Through these roundtables, the Council identified a lack of reliable data at the root of finding a solution to the problem of underutilized small businesses identified in small business subcontracting plans filed by prime contractors. As a result, the Council began to explore government databases such as USA Spending, the GSA Electronic Subcontracting Reporting System (eSRS) and other federal tools that monitored subcontracting plans and compliance. Our initial thought was to add additional capabilities to the system used to file subcontracting plans. However, we learned that eSRS is being modernized and GSA is open to input which appears to at least solve the problem of an outdated database.

The recommendations we bring to you today are a result of extensive discussions and consultations with our members and policymakers. Our goal is to improve accountability and transparency in subcontracting for small businesses.

I. Empower OSDBUs to monitor and improve subcontracting compliance.

Currently, every federal agency has an Office of Small and Disadvantaged Business Utilization (OSDBU) or an Office of Small Business Programs (OSBP). These offices are tasked with promoting the use of small businesses within their agency and helping the agency meet its annual small business goals. Their advocacy on behalf of small businesses within their agencies should include subcontracting compliance. Therefore, we are asking the Congress to give OSDBUs the authority and direction to coordinate with contracting officers (CO) to both monitor compliance and assist on remedial actions for primes falling short of their subcontracting plans. Currently, contracting officers must review every prime contractor's report within 60 days of the report's end date, and accept or reject the report. They also are required to provide an explanation for rejection. Since contracting officers have a vast amount of responsibilities, adding the support of OSDBUs would benefit both the CO's and small businesses. We note that in the past, SBA could not issue a rule giving OSDBUs the authority to monitor subcontracting plan compliance,¹ which is why it is critical that Congress grant this authority.

II. Require SBA to report subcontracting dollars on their annual scorecard, not just percentages.

The Small Business Administration's annual procurement scorecard is used to assess agency performance on reaching their small business contracting goals. Every year, the SBA works with each agency to set prime and subcontracting goals and their grades are based on the agreed upon goals. Each federal agency has its own small business contracting goal, negotiated annually in consultation with the SBA. The SBA ensures that the sum total of all of the goals meets the 23 percent target for the federal government as well as the socio-economic goals established by statute.² According to the SBA, an agency's overall grade consists of a number of factors, including: prime and subcontract awards to small business concerns, the comparison of the number of small business prime contractors in each of the five Small Business categories in the agency's top 100 Small Business North American Industrial Classification System (NAICS) compared to the prior year, and a peer review of the Office of Small and

¹ 13 C.F.R. § 121- 25, (2013).

² U.S. SMALL BUS. ADMIN., *Small Business Procurement Scorecard Overview*, (last updated Mar. 15, 2019), <https://www.sba.gov/document/support--small-business-procurement-scorecard-overview>.

Disadvantaged Business Utilization (OSDBU) office compliance with Section 15(k) requirement of the Small Business Act.

However, a large gap in this data is the reporting of subcontracting dollars at each agency. While the scorecard lists the percentage of achievement of subcontracting at each agency, it does not list the dollar amount. This leaves both industry and government with an incomplete understanding of dollars flowing through subcontracts. It is critical that these numbers are made available, as the number of federal contractors working on unclassified prime contracts is at its lowest level despite a steady rise in government contract spending.³ Additionally, in FY18, the vendor count of 115,000 contractors reflected a 27% drop in a 10-year period.⁴ These statistics highlight both that prime contracts and task orders are growing larger, and that “Best-in-Class” designated contracting vehicles under the governmentwide category management initiative are being utilized more frequently. Therefore, small businesses must adapt to this way of buying, requiring them to be more open to subcontracting. Adding this component to the SBA scorecard would give small businesses much better information on which agencies to target for subcontracting opportunities.

III. Direct GAO to conduct a study of subcontracting authority, processes, systems and the reporting of subcontracting performance against established goals.

The U.S. Government Accountability Office (GAO), according to its mission, “examines how taxpayer dollars are spent and provides Congress and federal agencies with objective, reliable information to help the government save money and work more efficiently.” In that vein, we believe a GAO report on subcontracting would be helpful in identifying subcontracting issues and providing additional recommendations. We suggest that GAO prepare and submit the report within 120 days to include the following components: (1) analysis of statutory requirements/authority to set aside contracts for small businesses to the maximum extent practicable and if adequate authority is provided to the SBA to enforce subcontracting goals and performance; (2) analysis of goaling methodology for subcontracting and identification of inconsistencies; (3) analysis of the public availability and detail of data collected by the government in multiple federal data systems and (4) provide recommendations on how data accuracy and integrity can be improved.

³ Paul Murphy, “Federal Supplier Base Continued to Shrink in Fiscal 2018,” Bloomberg Government (May 23, 2019).

⁴ *Id.*

IV. Maintain and enhance data collected through the Federal Subcontract Reporting System (FSRS).

The Council reviewed multiple tools and federal websites and in consultation with Bloomberg Government, sought to identify the most accurate subcontracting data. The system we believe that contains the best data is the Federal Subcontract Reporting System (FSRS). This system was created in the Federal Funding Accountability and Transparency Act (FFATA), which was signed on September 26, 2006. The intent is to empower every American with the ability to hold the government accountable for each spending decision and reduce wasteful spending in the government.⁵ The FFATA legislation requires information on federal awards (federal financial assistance and expenditures) be made available to the public via a single, searchable website, which is www.USASpending.gov. The FFATA Subaward Reporting System (FSRS) is the reporting tool Federal prime awardees (i.e. prime contractors and prime grants recipients) use to capture and report subaward and executive compensation data regarding their first-tier subawards to meet the FFATA reporting requirements. Prime contract awardees will report against sub-contracts awarded and prime grant awardees will report against sub-grants awarded. The sub-award information entered in FSRS is displayed on www.USASpending.gov associated with the prime award furthering federal spending transparency.

Prime contractors awarded a federal contract or order that is subject to Federal Acquisition Regulation clause 52.204-10 (Reporting Executive Compensation and First-Tier Subcontract Awards) are required to file a FFATA subaward report by the end of the month following the month in which the prime contractor awards any subcontract greater than \$30,000. This reporting requirement is phased-in and subcontracts must be reported under federally-awarded contracts and orders valued greater than or equal to \$30,000.⁶

This tool is critical for transparency of government spending and gives both industry and government an understanding of the entire picture of the federal marketplace, which includes

⁵ Federal Funding Accountability and Transparency Act Subaward Reporting System, <https://www.fsrs.gov> (last accessed July 20, 2019).

⁶ *Id.*

subcontracting. Additionally, it allows the federal government's extensive supply chain to make informed, data-based decisions about whether to prime, team or subcontract an upcoming opportunity, as well as understand the broad structure and subcontract trends of major government markets like IT and Professional Services. We strongly recommend the FSRS data tool continues to be funded because of its importance to this issue.

V. Improve Utilization of Small Business Set-Asides

We encourage this Committee to look at meaningful changes to improve agency utilization of SBA's socio-economic contracting programs, such as WOSB/EDWOSB, HUBZone, SDVOSB and 8(a) programs. As evidenced by the fact that the government has never met its HUBZone goal and only met the WOSB goal once, federal agencies continue to struggle to work with small businesses. Reluctance to award work to small businesses was illustrated in a recommendation offered by the Section 809 Panel, established by Congress to review ways to streamline DOD's acquisition policies. The Panel recommended eliminating small business programs for readily available products and services purchases under \$15 million, and instead instituting a 5% price preference for small businesses. It is no surprise that MCCC led the effort to dissuade Congress from implementing this recommendation. Commissioners stated publicly that small business programs are too complex to be utilized by DoD – we agree. But rather than eliminate these programs, we recommend changes be adopted to simplify and streamline small business purchasing programs, making them easier to use.

One of the ways to change these programs to better reflect the trends in federal buying is enhancing the use of sole source authority. The Chamber supports H.R. 190, the “Expanding Contracting Opportunities for Small Businesses Act of 2019,” which this Committee shepherded through the House in January 2019. We believe this legislation is a good start to increasing utilization of sole source contracts for small businesses given the reluctance of federal contracting officers to use this authority, due to the small dollar amount permitted. This legislation allows for WOSB sole source awards of \$4/7 million per year of a contract rather than the current one-time award of \$4 million/\$6.5 million. We support this legislation but suggest a change to the bill that would provide clarification to the acquisition community. We suggest amending H.R. 190 each time it reads “anticipated award price” to read “anticipated base year award price.” The term,

“anticipated award price” always means total price for all programs to both contracting officers and agencies. Therefore, in order to make sure that it is clear that these amounts should be awarded each year, this change should be made. In addition, we ask the Committee to consider agreeing to higher dollar thresholds that have been proposed in the draft Senate reauthorization bill.

H.R. 190, while expanding opportunities, cannot be construed as parity. Currently, individually-owned 8(a) companies can currently obtain sole source contracts at \$4/7 million without market research or justification. Small businesses owned by Native entities, such as Native Hawaiian Organizations (NHOs), Tribes, and Alaska Native Corporations (ANCs), are authorized to participate in the SBA 8(a) program under special rules. These companies can be awarded contracts under \$22 million without justification and above \$22 million with justification. WOSBs, HUBZones and SDVOSBs, on the other hand, require that a contracting officer must justify through market research that not two or more offers at a reasonable price are expected. The contracting community has interpreted this as “you are the only company in the world that performs this work,” leading to exceedingly few sole source awards. The Chamber recommends putting all socioeconomic contracting programs on equal footing.

VI. Implement the Runway Extension Act

We would like to thank this Committee for passing the “Small Business Runway Extension Act” last year, championed by the Chamber, which give companies the ability to count an average of five years of revenue instead of the current three years to determine size. Companies are eagerly awaiting its implementation by the SBA. This change will give small businesses a longer time period to progress from small to midsize businesses by greatly assisting businesses experiencing growth in the federal marketplace. However, many businesses are in limbo while waiting on the SBA to complete its rulemaking, including federal agencies that are in the process of structuring contracting vehicles. This has caused bewilderment for small and midsize companies. We urge the Committee to continue holding the SBA accountable in order to expedite this process.

In conclusion, we would like to thank this Subcommittee for its continued efforts to improve federal contracting access for small and midsize businesses. The Chamber will continue to work

with this Committee to strengthen the role of these businesses in the federal marketplace. This concludes my testimony and I am happy to answer any questions.