



# SOUTHEAST CHEROKEE CONSTRUCTION, INC.

July 7, 2025

The Honorable Nick LaLota  
Chairman, Subcommittee on Contracting and Infrastructure  
S. House of Representatives  
Washington, D.C. 20515

The Honorable Gil Cisneros  
Ranking Member, Subcommittee on Contracting and Infrastructure  
S. House of Representatives  
Washington, D.C. 20515

Dear Chairman LaLota and Ranking Member Cisneros,

I am writing on behalf of my company, Southeast Cherokee Construction, Inc., a proud SBA-Certified Women-Owned Small Business headquartered in Montgomery, Alabama. I wish to express my deep concern regarding the process and cumulative impact of the Revolutionary FAR Overhaul (RFO) on my small business and the broader federal industrial base.

Southeast Cherokee Construction, Inc. is a federal general contractor for the Department of Defense and NASA under NAICS 236220, which carries a small business size standard of \$45 million based on the average annual revenue over five years, as reported to the IRS. While I support the federal government's broader agenda to streamline operations and reduce regulatory burdens, I am alarmed by the recent proposal to eliminate the "Rule of Two" from the Federal Acquisition Regulation (FAR) and SBA regulations. The Rule of Two has long served as a critical safeguard, ensuring that small businesses have a fair opportunity to compete for federal contracts. Its removal would severely disadvantage firms like mine and jeopardize progress made toward equitable participation in federal procurement.

## 1. Personal Experience

As a small business owner, the market research provisions outlined in FAR Part 10 have long played a critical role in ensuring visibility and access to federal contracting opportunities—supporting employment and economic development in mission essential communities. Just today, we received notification of a Sources Sought notice from SAM.gov for a potential Total Small Business Set-Aside under FAR 19.5: a Multiple Award Construction Contract (MACC), Indefinite Delivery, Indefinite Quantity (IDIQ), for MacDill Air Force Base in Florida. While we are already performing work at MacDill, we had no prior indication that this IDIQ opportunity was forthcoming—highlighting the importance of transparent and proactive market research practices. The recent changes directly threaten these outcomes and impair my ability to compete fairly in federal procurement.

With over 38 years of experience delivering federal and state projects—including for the U.S. Army Corps of Engineers (Mobile and Fort Worth Districts), U.S. Air Force, U.S. Army, NAVFAC Southeast and Mid-Atlantic, NASA (Stennis, Redstone, Kennedy, and Langley), ALDOT and other agencies—Southeast Cherokee Construction has consistently demonstrated that women-owned small businesses can provide excellent performance and reliability. Since 2012, we have been awarded twenty-four (24) Small Business IDIQ contracts and have successfully performed work across Alabama, Mississippi, Georgia, Tennessee, Florida, North Carolina, and Virginia.

## **2. Flawed “Adopt First, Finalize Later” Implementation**

The use of rolling class deviations to implement sweeping government-wide policy changes undermines the legally required notice-and-comment process mandated by the Administrative Procedure Act. This “adopt first, finalize later” approach deprives stakeholders of a meaningful opportunity to contribute before rules take effect—rendering public input ineffective and the rulemaking process largely symbolic.

## **3. Systemic Removal of Procedural Safeguards**

The RFO does more than revise isolated rules; it dismantles the interconnected safeguards that support small business participation. The removal of explicit small business provisions from FAR Parts 10 (Market Research), 6 (Competition), and 11 (Describing Agency Needs) has created a procedural vacuum. Contracting officers are no longer required to actively identify and document small business capabilities, consult with the SBA on bundling, or avoid restrictive specifications. Without these prompts, contracts may be structured in ways that systematically exclude small businesses, reducing competition and equity. The burden now falls unfairly on small businesses to monitor and challenge an increasingly opaque acquisition process.

## **4. Direct Economic Harm to Local Communities**

This is not just a regulatory matter—it is an economic issue with immediate implications for jobs and local economies across the country. *Over 300 congressional districts generate more than \$100 million in small business federal contract revenue annually. In nearly three-quarters of all districts (325 of 435), more than half of small business contract awards stem from set-asides made possible by the Rule of Two.*

Southeast Cherokee Construction currently employs forty-four (44) individuals and has contracts with one hundred fifty-one (151) local subcontractors for active projects at Redstone Arsenal, Fort Rucker, MacDill AFB, Langley AFB, NASA Langley Research Center, and NASA Stennis Space Center. Changes to FAR Part 10 threaten these jobs and the economic stability of the communities we serve.

## **5. Risk Transfer to Contractors Will Increase Costs and Reduce Competition**

The shift from enforceable standards to non-binding guidance increases financial and operational risk for small businesses. Contracting officers are now steered toward using large, government-wide contract vehicles dominated by large business firms, severely limiting access to new opportunities for small businesses. As a Federal General Contractor that depends on Small Business IDIQ contracts, this shift is detrimental to our survival and stifles competition. With over twenty-two (22) years of experience as a General Contractor, we are firmly committed to maintaining our prime contractor status and have no intention of reverting to a subcontractor role.

## Specific Comments on FAR Part 10

### Additions and Refinements:

- Introduction of a new hierarchy in §10.001(f) that prioritizes the use of existing government-wide contracts. This inherently favors large incumbents and restricts fair access for small businesses.
- Replacement of mandatory requirements with discretionary guidance, reducing accountability and weakening oversight mechanisms that ensure fair competition.

### Critical Removals:

- Elimination of mandatory language requiring contracting officers to actively seek and document small business capabilities.
- Removal of market research triggers tied to small business set-asides and the Rule of Two.
- Deletion of requirements for SBA consultation on bundling.
- Elimination of protest rights based on inadequate market research.

### ***Recognition of USDA Deviation***

We commend the USDA for deviating from the broader FAR Council changes. USDA's retention of small business considerations, mandatory documentation, and SBA consultation requirements demonstrates a strong commitment to meaningful small business participation. Their approach should serve as a model for other federal agencies.

### **Conclusion and Recommendation**

FAR Part 10 must explicitly require contracting officers to evaluate and document small business capabilities, ensuring that the Rule of Two remains a viable and enforceable mechanism. SBA oversight and protest rights must be reinstated to safeguard fair competition and prevent exclusionary practices. Immediate corrective action is needed to restore integrity to the federal acquisition system and protect small businesses that are vital to our national economy.

Sincerely,

 Digitally signed by Lynn M  
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cc     The Honorable Gary Palmer  
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NOTE: *Data from USWCC*