

**Written Testimony**  
**Anthony Crescenzo, Chief Executive Officer, IntelliDyne, LLC**

**Hearing on "Effects on Federal Contractors of the Recent Partial Government Shutdown"**  
**Subcommittee on Government Operations**

**May 6, 2019**

Chairman Connolly, Ranking Member Meadows, and distinguished Members of the Committee:

My name is Tony Crescenzo, Chief Executive Officer (CEO) of federal contractor, IntelliDyne, LLC. It is my pleasure to appear before you today to provide testimony on how federal government shutdowns on federal contractors, and recommendations to address the issues created by federal government shutdowns.

IntelliDyne is a mid-sized federal contractor in Falls Church, Virginia, with over 200 employees. All of IntelliDyne's contracts are federal government contracts, and therefore, every one of our employees supports, directly or indirectly, our federal contracts. IntelliDyne has been in business for twenty years, providing enterprise information technology (IT) consulting services to the federal government. The agencies IntelliDyne predominately supports are the Defense Health Agency (DHA), the Department of Justice (DOJ), the Department of Homeland Security (DHS) and other Department of Defense (DOD) activities and organizations. IntelliDyne is proud to provide highly skilled personnel to manage and secure the critical agency IT infrastructure and networks of our federal clients against the existential cybersecurity threats they face daily. We have protected and maintained the vital, evolving IT network of one of our clients for nearly 20 years. Like many federal contractors, IntelliDyne's commitment to our federal government clients isn't simply a contract for services. We take on our federal government clients' missions as our own and we know the risks that arise immediately with any failure to maintain a continuously secured agency infrastructure.

I commend this Subcommittee for undertaking an examination of this important topic. Federal government shutdowns have significant and lasting, negative impacts on federal contractors and the contracts they perform, that have long gone under-recognized and unaddressed. These negative impacts can profoundly affect many different business and performance areas for federal contractors, among them – financial stability and necessary credit facilities, human resources and ability to maintain qualified personnel, contract and quality performance management, and ability to ensure continuity of services and security posture.

**Impacts to Financial Stability and Credit Facilities**

Government shutdowns have immediate, significant adverse financial effects on federal contractors, as they lose billable labor revenue, with no eventual reimbursement. Contractors are faced with the decision of retaining furloughed employees during a shutdown period and

continuing to pay them to minimize the financial impact to the employees and their families, or laying furloughed employees off, resulting often in life-altering, negative financial impacts for these employees and their families. Either option presents an untenable hardship for the party bearing the financial burden – employer or employee. For federal contractors, particularly small and mid-sized contractors, retaining furloughed employees represents an out-sized financial burden, as payroll costs may be in the hundreds of thousands or millions of dollars bi-monthly, with no corresponding revenue. Covering unreimbursed salary and benefit costs puts contractors in the position of needing to use and exhaust capital reserves or borrow against credit lines (risking failed compliance to bank lending covenants), or resort to using sub-prime credit facilities just to meet payroll and other costs of business during a shutdown. Smaller contractors with large proportions of furloughed employees can readily be driven into a weakened financial position that lasts long after a shutdown ends. The disproportionately large and lasting financial impact of government shutdowns on small and mid-sized federal contractors undermines the efforts of small business programs throughout the government to expand and sustain opportunities for small businesses in federal contracting.

Understanding the lasting financial impacts of government shutdowns on federal contractors, IntelliDyne respectfully recommends that the Subcommittee consider the following suggestions as means to mitigate adverse financial impact associated with unreimbursed, furloughed employees.

- (i) Build a reimbursement contingency into contracts that either guarantees Line of Credit loans with banks working with organizations that have “non-essential” contracts or reserves funds (approximately 5% of the total contract value) to minimize the effects of shutdowns.
- (ii) Expand the definition of “essential work” to include contracts designated for the “common good” (those reasonably necessary to prevent greater eventual losses and risk to continuity of security and order).
- (iii) Minimize financial impact to contractors by allowing Other Direct Costs (ODCs) to be paid out during shutdowns to permit contractors to conduct required training without billing labor.
- (iv) Make provision to keep government personnel supervisors on-site for all contracts so productive work of federal contractors can continue.

Federal contractors also experience negative financial impacts owing to the inability to receive timely reimbursements from the government for hardware/software receivables during shutdown periods. Hardware, equipment, and software purchases, especially those with commercial suppliers, require timely payments. During shutdown periods, the government may not have the ability to reimburse a contractor for money already spent by the contractor on

Contractor Acquired Property<sup>1</sup>. Contractors must then either bear the financial burden of paying suppliers without corresponding reimbursement, or risk jeopardizing their supply chain relationships and credit facilities by failing to timely pay suppliers. The inability of federal contractors to timely pay suppliers during shutdowns will have the expected, eventual effect of decreasing the number of suppliers willing to accept contracts with federal contractors under reasonable terms, resulting in less, beneficial competition and higher prices paid by the government for hardware, equipment and software.

IntelliDyne respectfully recommends that the Subcommittee consider the following as means to mitigate negative financial impacts associated with delays in reimbursement for hardware/equipment/software purchases during shutdowns.

- (i) Make provision to allow reimbursement for Other Direct Costs (ODCs) for hardware, equipment and software during shutdowns to maintain beneficial supply chains and reasonable pricing.

#### **Impacts in Human Resources Area and Ability to Maintain Qualified Personnel**

Government shutdowns create substantial and long-lasting negative effects in human resources areas and federal contractors' ability to retain highly qualified personnel. Perception of lack of "pay security" for federal contractor employees leads to a tendency for them to pursue employment outside of federal contracting once a shutdown occurs. When threatened with losing their paychecks through no fault of their own, professionals, particularly those that are highly sought-after and those in positions difficult to fill, begin to look elsewhere, often in commercial positions. For the recent government shutdown, in the three months leading up to the shutdown, IntelliDyne's employee turnover (voluntary termination) rate was just 3%, but in the period immediately after the shutdown, the rate jumped to 7%. Exit interviews of employees bore out that the shutdown measurably, negatively impacted employee morale and increased job insecurity fears. With the issues of increased employee turnover rates, negative impact to staff morale and difficulty retaining highly qualified employees contributed by government shutdowns, federal contractors face greater long-term difficulties meeting contract Service Level Agreements (SLAs), particularly those requiring labor positions to be filled with highly qualified personnel in short amounts of time. Further, longer term difficulty filling positions as they become billable leads to greater revenue loss for federal contractors.

For employees that do face lay-off during a shutdown, few have the personal resources to withstand a prolonged period without pay without suffering lasting negative, financial consequences, particularly in this Greater Washington, DC and surrounding area. Some of the lasting financial impacts of government shutdowns for these employees may include exhaustion

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<sup>1</sup> Contractor Acquired Property means property acquired, fabricated, or otherwise provided by the contractor for performing a contract and to which the Government has title. 48 C.F.R. § 45.101 (2012)

of leave balances and savings and 401K accounts, difficulty meeting financial commitments, lowered credit scores, and difficulty getting or keeping a security clearance.

As means to mitigate negative impacts of government shutdowns in the area of human resources, IntelliDyne respectfully recommends that the Subcommittee consider the following suggestions.

- (i) Establishment of reserve funds under federal contracts for possible shutdown contingencies for all “non-essential” contracts (5% in escrow—de-obligated at contract end, if never used).
- (ii) Federal guaranty of Line of Credit loans for the banks funding federal contractors under “non-essential” contracts.
- (iii) Expansion of the definition of “essential work” to include more federal contracts and provide greater predictability of which contracts will be “essential” or “non-essential” during a shutdown.
- (iv) Shutdown plans, as a contingency, should be required for all “non-essential” procurements going forward, as a Contract Line Item Number (CLIN). This plan should identify key functions, personnel, systems and funding requirements to continue operations during a shutdown.
- (v) Establishment of agency communications plans for shutdowns to provide federal contractors reasonable information about the scope of a potential shutdown – to include essential functions, personnel, systems and funding required to continue operations. Uncertainty and lack of information impairs effective decision-making for federal contractors, and for their employees, lack of definitive information leads to job insecurity fears, speculation and a tendency to look for a position outside federal contracting.
- (vi) Expansion of IRS eligible leave-sharing programs beyond medical emergencies and natural disasters, to include government shutdowns for furloughed employees. This would allow employees to donate accrued leave time to their peers impacted by government shutdowns, without incurring a negative tax consequence.

### **Impacts to Contract Performance and Continuity of Services and Security**

Government shutdowns tangibly and negatively impact the performance of federal contracts. Oftentimes, the determination of particular functions as “non-essential” in a shutdown overlook the critical nature of these certain elements to contract performance. This can lead to higher costs of performance, loss of continuity and duplication of efforts under a contract during contract shutdown and performance restart.

An example relayed by one of IntelliDyne's subcontractors related to the area of quality assurance. As our subcontractor noted, quality is a 24/7/365 job; it is essential to ensuring repeatable, successful performance, and it is nearly always a performance requirement under a federal contract. Despite its importance, quality assurance functions are frequently deemed "non-essential" to varying degrees during a shutdown. Even cutting quality assurance function resources by just 10-20% during a shutdown can result in demonstrable loss of quality assurance.

IntelliDyne, with our subcontractors have noted that duplication of efforts, inefficiencies, and delays are common in government shutdowns. Preparation for shutdown, followed by the shutdown, followed by the eventual re-start of operations take time, none of which typically serves the productive, mission-related activities of the agency. One subcontractor described their experience in the latest shutdown of first supporting approximately four weeks of preparation when it appeared shutdown was inevitable, followed by ten weeks of shutdown, and then approximately four more weeks to effect full resumption of performance. The shutdown affected 18 weeks – more than 1/3 of the year. During that time, not only were normal operations disrupted, but innovation, proposals, solutioning and advanced planning were all suspended. The ultimate effects of this type of work disruption under a shutdown would predictably be diminished performance quality, shorter research & development periods, a poor environment for thoughtful decision-making, and an overall preference for speedy resolution of arising issues rather than lasting process improvement.

Maintaining continuity of operations and the knowledge-base of federal contractors' government clients are two vitally important areas that suffer during government shutdowns. As discussed earlier, lack of job security leads highly qualified contractor employees to look for other positions. When these highly qualified employees depart, important knowledge and specific expertise to support performance go with them, leaving contractors to re-staff, re-orient and re-train new personnel. Attrition of top-quality staff challenges the ability of an organization to maintain performance, let alone implement innovation or best practices for continual improvement.

In the area of continuity of security operations, cybersecurity has become critically important in the last several years. Maintaining the security of agencies' IT systems and data should be a foremost consideration in preparing for, managing and recovering from government shutdowns. IT systems with reduced oversight are susceptible to security breaches and data leakage. During a shutdown, those systems within the security purview of the contractor are likely no longer receiving the same attention as before the shutdown. This leads to a higher probability of security breaches and the eventual increase of labor required to remediate a breach or data loss event.

As with areas of impact noted earlier in this written testimony, IntelliDyne recommends that the Subcommittee consider the following suggestions to mitigate the negative impacts of government shutdowns on contract performance and continuity of operations. Some of the recommendations below are similar or the same as ones made to address other areas of impact.

- (i) Shutdown plans, as a contingency, should be required for all “non-essential” procurements going forward, as a CLIN. This plan should identify key functions, personnel, systems and funding requirements to continue operations during a shutdown.
- (ii) The definition of “essential work” should be expanded to include those involved in the maintenance of the security of all IT systems, regardless of the contract designation
- (iii) Certain agency acquisition personnel should be designated as “essential” on all contracts, so communications, guidance and continuity of critical services can be effected during shutdowns.
- (iv) A shutdown reserve of funds should be provided under every “non-essential” contract to fund shutdown contingencies (5%, for example).
- (v) Provision should be made for guaranty Line of Credit (LOC) loans for banks working with federal contractors under “non-essential” contracts.

Finally, I would like to share with you my personal experience with an agency that, in my opinion, handled the shutdown with professionalism, fairness and alacrity.

The day before the shutdown began I met with Mr. Todd Miller, Deputy Chief Information Officer, Civil Division, at the Department of Justice. Mr. Miller stated that in his view the government team and the contractor team were working as a single, unified organization and he was concerned that a long-term shutdown would have a deleterious affect on both productivity and retention of contractor staff. He told me that he understood that government employees who would be furloughed would be receiving back pay and were at minimal risk for personal financial hardship or turnover. Further, given his understanding of the importance of the contractor team, and the high risk of turnover, his plan was to furlough as few contractors as possible. As a result, IntelliDyne and its subcontractors were only moderately impacted. Not a single contractor employee on the program lost pay or benefits, and not a single contractor employee resigned or was terminated due to financial constraints. Thanks to Mr. Miller’s insight and dedication to the agency mission, continuity of operations was maintained and the quality of support to the essential mission of the Justice Department was unaffected. Mr. Miller set the example for others to follow.

On behalf of IntelliDyne, I thank the Subcommittee for its leadership and efforts to address the impacts of government shutdowns on federal contractors. I appreciate the opportunity to provide testimony and recommendations to the distinguished Members of the Subcommittee on Government Operations. I would be happy to provide further testimony on this important subject, at your request.