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**WRITTEN TESTIMONY OF ODYSSEUS LANIER**

**ON BEHALF OF THE**

**AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS**

**BEFORE THE**

**SUBCOMMITTEE ON ECONOMIC GROWTH, TAX AND CAPITAL ACCESS**  
**COMMITTEE ON SMALL BUSINESS**

**U.S. HOUSE OF REPRESENTATIVES**

**HEARING ON**

**PROPOSED CHANGES TO SBA SIZE STANDARDS**

**MAY 5, 2011**

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Good morning Chairman Walsh, Ranking Member Schrader and Members of the Subcommittee. My name is Odysseus Lanier. I am a partner in the firm of McConnell Jones Lanier & Murphy LLP, located in Houston, Texas. There are 180 professionals in my firm and we have annual revenues of \$17 million. I lead my firm's Federal Services Group and specialize in working with federal, state and local government agencies by providing strategic planning, financial management, and operations review and support services. I am a member of the American Institute of Certified Public Accountants ("AICPA"). The AICPA ([www.aicpa.org](http://www.aicpa.org)), founded in 1887, is the world's largest association representing the accounting profession, with nearly 370,000 members in 128 countries. AICPA members represent many areas of practice, including business and industry, public practice, government, education, and consulting; membership is also available to accounting students and CPA candidates. The AICPA sets ethical standards for the profession and U.S. auditing standards for audits of private companies, non-profit organizations, federal, state and local governments. It also develops and grades the Uniform CPA Examination.

I would like to thank this Subcommittee for the opportunity to appear at today's hearing which focuses on the appropriate small business size standard for Professional, Scientific and Technical Services. I am here specifically to discuss a suitable small business size standard for North American Industry Classification (NAICS) codes 541211 (Offices of Certified Public Accountants) and 541219 (Other Accounting Services) as they most directly affect the work performed for the Federal Government by CPA firms. Prior to any changes as contemplated by the Small Business Administration (SBA) in their current proposed rulemaking (RIN 3245-AG07), the current size standard for those industry codes is \$8.5 million.

To allow small business to compete for the billions of dollars spent by the federal government to procure goods and services, Congress mandates a 23 percent small business contracting goal for federal agencies. This ensures that a fair proportion of the government's purchases go to small businesses which have historically generated the most new jobs and are the engine of growth for our economy.

SBA's size standards define whether a business is small and thus eligible for government programs and preferences reserved for small business concerns. To determine eligibility for Federal government small business programs, SBA establishes small business size definitions (referred to as size standards) for most private sector industries in the United States. SBA's existing size standards use two primary measures of business size—receipts and number of employees. Size standards are critical in the government-contracting process because they ensure a level playing field for small businesses.

Accounting firms contract with the Federal government to provide accounting and attest services as well as a wide array of consulting services such as strategic planning and financial management. The services small accounting firms provide to the Federal government have a strong public interest component. These services

include, among others, implementation and maintenance of financial and accounting systems ensuring that taxpayer resources are effectively and efficiently utilized, and independent audits of government organizations and programs to provide reasonable assurance of compliance with appropriate laws and regulations. As such, AICPA believes that SBA should focus on the experience and qualifications of the accounting firms performing the services and ensure the small business size standard for accounting firms is closely aligned and appropriate.

We commend the SBA for undertaking a comprehensive review of the existing small business size standards for NAICS codes assigned to the accounting profession. We further commend the SBA for thoughtfully applying a statistically valid size standards methodology that considers both primary and secondary industry factors to calculate the proposed \$14 million small business size standard for NAICS codes 541211 (Offices of Certified Public Accountants) and 541219 (Other Accounting Services).

The SBA's methodology for considering primary industry factors is data-driven and the source of industry data used in calculating the recommended small business size standards in its proposed rule is a special tabulation of the *2007 County Business Census Patterns* and data from the *2007 Economic Census* prepared by the U. S. Bureau of the Census (Census Bureau) specifically for the SBA. This source data for key variables in the size standard calculation includes the following:

1. Average firm size within the industry,
2. The four-firm concentration ratio (the share of industry receipts generated by the four largest accounting firms in the industry and is used to measure industry competition), and
3. Distribution of firms by size within the industry (the shares of industry receipts accounted for by firms of different receipts and employment size classes in the industry to determine equality of distribution within the industry).

Based on the formula, the calculated small business size standard in the SBA's proposed rule is most sensitive to the four-firm concentration ratio and the distribution of firms by size.

During a recent meeting between the SBA's size standards team, representatives from the AICPA, and a team of CPAs (including myself), it became evident that the source data referenced above used in this calculation did not adequately reflect the accounting profession. To further aid the SBA's Office of Size Standards in their efforts to determine an appropriate small business size standard for the accounting profession, after that meeting the AICPA provided a breakdown of estimated firm revenues by size segment. This analysis uses data compiled from surveys of CPA firms conducted by *Accounting Today* and the leading benchmarking survey for CPA firms conducted by the AICPA (*PCPS/TSCPA National Management of an Accounting Practice Survey*). The letter from the AICPA to the SBA's Office of Size Standards outlining this information is attached herewith for reference and identifies estimated firm revenues and the number of professionals by firm size segment.

Also after the meeting with SBA, I went through the exercise of replacing the source data for key variables the SBA used in their size standards calculation, with the applicable data from AICPA's analysis for the key variables and re-performed the calculation under SBA's Size Standard Methodology. This recalculation that uses the AICPA's industry data as the source data for key variables confirmed that, at a minimum, the proposed size standards would increase to the intermediate level of \$19 million, not \$14 million as calculated by SBA.

Given that the objective, data-driven calculation warrants an increase to a \$19 million small business size standard for the accounting industry, we propose further increasing the small business size standard to \$25.5 million to compensate for several other secondary factors that inhibit the ability of accounting firms classified as small to compete for larger contracts in the Federal marketplace. These secondary factors include:

1. Changes in Federal acquisition policy to reduce the number of vendors and increase the size of federal procurements, and
2. Federal agencies' use of Sources Sought/Request For Information (RFI) notices to conduct market research as part of an acquisition planning strategy designed to determine the availability, capabilities, and capacity of qualified small business sources before issuing an RFP.

Reducing the number of vendors and simultaneously increasing the size of procurements, commonly referred to as contract bundling, requires small businesses to effectively make substantial investments in their business development infrastructure to compete with the larger firms in the industry. This is despite the fact that small businesses have substantially lower receipts from which to generate the necessary net income and available cash flow to enable them to reinvest in this infrastructure to be a competitively viable alternative to large businesses for Federal contracting officials making procurement decisions.

The use of Sources Sought/RFI notices provide prima facie evidence supporting an increase in the small business size standard to the \$25.5 million limit because Federal procurement specialists often conduct market research to determine if a potential acquisition should be restricted to small businesses or available to large businesses in "full and open competition." For example, a particular Federal agency will issue a Sources Sought/RFI notice requesting information from the small business community to assist procurement officials with developing an acquisition strategy and approach for a large-scale financial systems implementation and related services requiring knowledge and expertise specific to the system being implemented. The notice will ask for "evidence of the interested firm's proven capability and experience in performing work identical or similar to the contemplated services," including *current* relevant qualifications and experience as a *prime contractor* as it relates to the anticipated work. While small accounting firms between the current \$8.5 million small business size standard and the proposed \$14 million small business size standard would likely be able to demonstrate the knowledge and capability to satisfy the contemplated requirement, they would likely not be able to reference, to the procurement official's satisfaction, contracts of similar size/scale or the capacity to perform the contract as a prime contractor because of a lack of infrastructure to compete with large accounting firms that dominate the Federal procurement landscape for accounting services. Consequently, the Federal procurement officials' research would result in an acquisition strategy to solicit the contemplated services in a full and open competition, further limiting the small accounting firms' ability to compete with peer firms for this type of contract and limiting the agencies' efforts to meet its small business procurement goals. Examples such as this are particularly relevant because there have been significant technological advances in the past several years associated with financial and accounting systems. Federal agencies are no exception in implementing and maintaining a variety of these sophisticated systems. Accounting firms must provide services that adhere to both AICPA and specialized Federal reporting standards and requirements concerning the audit and utilization of financial information and technology systems. Thus, accounting firms are required to be adept and knowledgeable of these advanced systems and related processes when performing audit, accounting and consulting services.

To fully capture the small business accounting firms that have the resources to invest in the necessary infrastructure and properly perform services as required by Federal government contracts reserved for just small business contractors, the AICPA believes that the size limit standard would need to be raised to \$25.5 million. This limit is necessary to promote growth of these small business accounting firms and avoid an arbitrary cutoff in the middle of the market segment where a small business accounting firm would quickly grow beyond a lower defined small business size standard and as a result, be forced to compete (most likely unsuccessfully) with the largest of firms. These small business firms are essentially caught in the middle and likely unable to obtain any Federal procurements. According to data obtained from the Federal Procurement Data System-Next Generation, three of the four largest firms in our industry were awarded 33.5 percent of all federal procurements in 2010. While it is highly improbable for a small firm with \$25.5 million in revenue to match the infrastructure of these top firms, small firms are well equipped to leverage and invest in advanced technology resulting in an infrastructure that supports adherence to the extensive compliance and skill set requirements associated with sophisticated Federal contracts. These firms also have sufficient resources to train their professionals so that

they possess proficient specialized knowledge to effectively perform the services required by such contracts. Importantly, our proposed limit of \$25.5 million allows for growth in these qualified firms that have built their expertise and infrastructure to meet the needs of sophisticated Federal contracts and to continue to provide high quality work in a capable, efficient and appropriate manner.

Based on industry data, there are less than thirty firms between \$19 million and \$25.5 million. Also, a \$19 million firm and a \$25.5 million firm closely mirror each other as far as the number of professionals (which can range from anywhere between 100 to 200 professionals, approximately, for both size segments). As a result, there would be minimal impact in raising the small business size standard for accounting services to \$25.5 million and such an SBA size standard would greatly contribute to Federal agencies' reaching their congressionally-mandated goal to offer at least 23 percent of contracts to small businesses by, in essence, opening the playing field to those firms qualified to do the work.

By way of illustration, my partners and I formed McConnell Jones Lanier & Murphy LLP on March 1, 1999, through a merger of a traditional accounting firm and a boutique consulting firm after the partners in both firms started their businesses on their respective kitchen tables twelve and seven years earlier. On the first day of March 1999, we had 28 full-time employees, no Federal contracts and a single-minded focus to build one of the largest African American-owned accounting and consulting firms in the United States. We entered the SBA's 8(a) program in September 2002 with 42 employees and \$4.5 million in revenue and were awarded our first Federal contract in October 2003. Since that time, we have made substantial investments in business development and back office infrastructure and technology to grow our firm. As a result, our firm now has \$17 million in revenue and 180 employees, with a combination of contracts in the federal, state and local, and commercial markets. We exceeded the SBA's \$8.5 million small business size standard for accounting firms in 2008 and have had to compete for Federal accounting and consulting contracts with the four largest accounting firms who have revenues ranging from \$5 - \$10 billion, as well as second-tier firms that have revenues ranging from \$358 million to \$1.4 billion. Our firm, as well as other small accounting firms, find it virtually impossible to continue to compete in the Federal market and continue to grow without an increase in the small business size standard for accounting and consulting firms to \$25.5 million. Our growth was attributed to a combination of Federal and non-Federal contracts; however, when the country experienced the economic down-turn in 2009 and 2010, the Federal Government continued to contract for accounting and consulting services as the commercial market for these services greatly declined. Since we have exceeded the small business size standard for accounting and consulting firms, we have had to compete for Federal contracts as a large business and have not been as successful because the infrastructure supporting \$14-\$17 million in revenue pales in comparison to the infrastructure of firms with \$358 million to \$10 billion in revenue – firms 20 to 500 times larger than our firm. Consequently, we have been forced to lay-off a number of employees to adjust to the loss of potential contract opportunities in the Federal marketplace.

I am also aware of another small accounting and consulting firm, with over approximately 80 percent of its revenue generated from Federal contracts, that grew too large with \$30 million in revenue in the late 1990s, exceeded the small business size standard, but was not large enough to compete with the large accounting firms. Because over 80 percent of this firm's revenue was generated from Federal contracts, the effect of exceeding the size standard was catastrophic. Once the firm was classified as a large business, it could no longer obtain additional work on its existing small business contracts on which it had stellar performance because its customers were still required to achieve their small business goals. Moreover, when this firm competed as a large business with the multi-billion dollar accounting firms for Federal contracts, it had absolutely no chance to prevail and was unsuccessful in every full and open competition for accounting and accounting-related services in the early 2000s. Consequently, after suffering significant cash losses attempting to retain personnel as it pursued opportunities as a large business, the firm made the painful decision to down-size by laying off personnel and right-sizing its business to enable the firm to compete as a small business in the Federal market again. It is unconscionable to think that firms like ours and others, that have made the appropriate investments to grow their businesses, are required to compete with the titans of our profession for Federal contracts rather than our peer accounting and consulting firms because we exceeded an anachronistic small business size

standard for our profession. \$17 million in revenue will never compete with the largest of firms with \$5-\$10 billion in revenue. I strongly believe that it is time to consider leveling the playing field and allowing small accounting firms to provide our value-added services in an expanded Federal market place by increasing the small business size standard to \$25.5 million.

I encourage this Subcommittee to urge the SBA to revisit the small business size standard for NAICS codes 541211 (Offices of Certified Public Accountants) and 541219 (Other Accounting Services) and consider the primary and secondary factors we have identified that support this increase. It is widely recognized that small business is an important component in the economic health of our country. By establishing a higher small business size standard, small business accounting firms will have an opportunity to take on a much greater role in growing our economy and effectively respond to the Sources Sought/Request For Information (RFI) notices issued by the Federal agencies. With the higher size limit, these firms will have the qualifications that indicate they have proven capability and experience in performing the work required. This will result in more opportunities for small business accounting firms and Federal agencies procuring high quality services that meets their needs while at the same time fueling growth of small business.

I want to thank the Subcommittee again for the opportunity to testify at today's hearing. The AICPA would welcome the opportunity to discuss this information with you in greater detail, either informally or in any future public hearing.