



Testimony of Amber Peebles

On behalf of

Women Impacting Public Policy

Submitted to the

House Small Business Committee
Subcommittee on Contracting and Workforce

*“Contracting and the Industrial Base III: Reverse Auctions,
Verification and the SBA’s Role in Rulemaking”*

March 19, 2015

Good morning. Chairman Hanna, Ranking Member Meng and distinguished Members of the Subcommittee, thank you for the opportunity to testify.

My name is Amber Peebles. I am President of Athena Construction Group, Inc. a service-disabled veteran-owned, HUBZone, and woman-owned small business based in northern Virginia founded in 2003. I am a service-disabled veteran, serving eight years in the United States Marine Corps. Last year, federal contracts accounted for more than half of Athena Construction Group's revenues. Currently, we have forty-two employees.

I am also here today representing Women Impacting Public Policy (WIPP) where I serve on its Executive Advisory Board. WIPP is a national nonpartisan public policy organization advocating on behalf of its coalition of 4.7 million business women including 78 business organizations. WIPP plays a key role in developing women-owned businesses into successful federal government contractors through its Give Me 5 and ChallengeHER programs.

First, let me say thank you to the Subcommittee and staff for improving the contracting rules and regulations pertaining to small businesses. Under your leadership, the Congress has enacted much needed changes, increasing access to federal contracts for all small businesses, but especially women. Nonetheless, these hearings make clear more can be done. This is underscored by the fact that twenty years after establishing a five percent contracting goal for women-owned small businesses, that goal has never been met. As this discussion begins, we value the Congressional direction already given on this issue in the Small Business Act (P.L. 85-536), which notes that the government should:

Insure that a fair proportion of the total purchases and contracts or subcontracts for property and services for the Government be placed with small-business enterprises...to the maximum extent practicable.¹

Reverse Auctions

While construction-related reverse auctions were the subject of a previous hearing, I would like to briefly share two experiences Athena Construction Group had with this procurement process that raise concerns:

1. *Withdrawal at close of auction.* In one instance, after significant and costly preparation, an auction was closed with only seconds remaining. The contracting officer simply withdrew the requirement. While this happens occasionally in normal procurements, the additional costs for my business of a reverse auction meant that additional resources were wasted.

¹ 15 U.S.C. § 631

2. *Auction site not suitable for complex bidding.* In another instance, several rounds of pricing for metals were required. Not to be overly technical – but a formula is used to address different price points for different times. This is standard in our industry. The website could not process the pricing structure. This became a wasted opportunity that is normally handled effectively through other procurement methods.

Beyond my experiences, WIPP has testified before this Committee with concerns on reverse auctions that were well cited in the GAO report.² Additional requirements should be added to prevent the inappropriate use of reverse auctions. Similarly, as these auctions require resources from competing companies, we believe small business set-asides, including set-asides made through all the disadvantaged small business contracting programs, should not be eligible for reverse auctions.

Legislation in the last Congress, the *Commonsense Contracting Act of 2013*, sponsored by Chair Hanna and Ranking Member Meng, made these changes. While WIPP was excited to see reverse auction education requirements added to the FY15 NDAA, the removal of certain sections passed by the House means the need for such legislation remains. We encourage you to reintroduce the bill.

SDVOSB Verification

Many of WIPP's members, including myself, are veterans running service-disabled veteran-owned small businesses (SDVOSBs). WIPP supports the federal contracting programs that assist veterans in engaging the federal marketplace. Moreover, as with many procurement issues, the procurement process should be streamlined to ensure that companies could access the federal market easily and effectively.

Given the strong presence of veterans' advocates nationwide, and even at this hearing, WIPP defers to them on the specifics of improving contracting opportunities for SDVOSBs and veteran-owned small businesses. WIPP encourages this Committee to work with them to improve the contracting environment for veterans.

SBA's Role in Rulemaking

Turning to the largest focus of this testimony, WIPP believes the delay in implementation of important small business contracting provisions is an ongoing frustration of women business owners. While we understand the rulemaking process and do not expect implementation overnight, many of the changes we seek are fixes that WIPP members who are contractors have asked us to fix.

The timeline for implementing these changes can be lengthy. For example, SBA's recent proposed rule on subcontracting limitations took two years to reach a proposed rule stage.

² GAO-14-108.

The needed changes proposed in those rules – implementing provisions authored, debated, and passed by this Committee – should not require years of missed opportunities for small businesses. That is simply unfair to the businesses burdened by outdated, ineffective, or damaging policies Congress saw fit to change.

Even after final rules are promulgated, the wait for actual implementation may continue for months, if not years. That is because of additional time required for Federal Acquisition Regulation (FAR) adoption by the FAR Council. While the recent implementation of legislation to remove dollar caps on awards in the Women-Owned Small Business (WOSB) Federal Contract Program is a good example of how SBA and the FAR Council can move quickly, that is not always the case.

Currently, women entrepreneurs stand to gain with a speedy implementation of sole source authority in the WOSB program. Every day this policy cannot be utilized is another day women business owners are disadvantaged by the contracting process. Members of Congress, along with the women’s business community have asked SBA to move expeditiously. It is our hope that when the time comes, the FAR Council will move in a similar manner.

WIPP has two recommendations with regards to the timeline of SBA rule promulgation and FAR adoption. In our view, there is no reason these cannot be done concurrently. Any diversions between the proposed rules could be best addressed through increased cooperation between SBA and the FAR Council. One solution could be adding SBA to the FAR Council. WIPP supports this option because it would also give small businesses an advocate on the Council charged with maintaining acquisition procedures.

Additional Recommendations to the Committee

Expanding beyond the scope of this contracting hearing, I want to take this opportunity to raise a related concern of WIPP. The increased federal “strategic sourcing” efforts, in our view, represent a serious threat to the small business contracting community. In a name, strategic sourcing sounds like a good idea – akin to good governance. For small businesses, included WOSBs, however, the trend is eroding the industrial base this Committee seeks to protect.

These efforts to maximize short-term savings through large, limited-competition contract vehicles have pushed small businesses out of competition and picked a small group of “winners.” These efforts are happening across all agencies and all industries and come at the direction of the Office of Management and Budget (OMB).

This movement does not align with Congressional directives to keep a diverse set of businesses in the procurement community nor does it mirror the private sector strategic sourcing practices. Examples include the increased, and at times mandated use of IDIQ vehicles (e.g. EAGLE II), GWACs, FSSI contracts, and recent GSA awards (e.g. OS3). Many industries, including office products, technology, janitorial and sanitation products,

building maintenance and operations and furniture, have already been subject to strategic sourcing and face fewer awards and increased barriers to federal business—ultimately hurting their bottom line.

To be sure, some small businesses will benefit in the short-term. Many, however, at the end of these five-year contracts will exceed their small business size, and no longer be able to compete for small business contracts. They may not have a separate revenue stream to continue at their size let alone continue to grow. Instead they may collapse over the longer term, to their detriment. Equally important, the limited competition for these goods and services will, over time, diminish any realized savings by the government.

One solution may be to revise how small business participation is measured by the agencies. Currently small business goals measure the dollars awarded to small businesses. By adding a participation rate, i.e. the number of businesses awarded prime contracts, will ensure that a diverse group of businesses are engaged in the federal marketplace.

Thank you for holding this hearing today and for making the contracting environment better for women-owned businesses. It is our hope that our recommendations are helpful. I am happy to answer any questions.