



Testimony of
Miguel Galarza
President of Yerba Buena Engineering & Construction, Inc.

Before the
United States House of Representatives
House Committee on Small Business

Hearing on
Construction Contracting and the Barriers
Preventing Effective Small Business Participation.

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Good morning Chairman Mulvaney, Ranking Member Chu and member of the subcommittee.

My name is Miguel Antonio Galarza and I am the President and Founder of Yerba Buena Engineering & Construction, Inc., headquartered in San Francisco, CA, with offices in Salt Lake City, UT. I have served as a State Director for the Association of General Contractors in California and currently serve on the Board of Directors of ICA, also known as the Inner City Advisors.

As a business owner who has risen over the past 30 years from working in the field as a tradesman to filling mid- and senior-level management roles as an employee to currently performing federal, state, and local construction contracts in (8) eight Western states as a prime contractor, I am honored to share my unique perspective on the barriers and challenges that face small and emerging businesses in the construction industry as they relate to bonding, subcontracting goals, and contract bundling.

It is my hope to provide the insight your subcommittee needs to continue the dialog and develop a plan to enact meaningful change to subcontracting goals, contracts that are bundled, and the broadening and strengthening of current bonding availability and bond guaranty programs.

Yerba Buena Engineering was incorporated in Jan 2002 and shortly thereafter, in May of 2003, became 8(a) certified though the U.S. Small Business Administration. Additional certifications that were instrumental to our growth were our local City & County of San Francisco small business certification under the Human Rights Commission and our U.S. Small Business Administration HUBZone certification. Yerba Buena Engineering & Construction, Inc., has been a recipient of 21 ARRA-funded contracts over the past 3 years, contributing to our 30% growth over that time period.

Key to our success, besides the obligatory high standards of quality, safety, and pricing, was the experience I gained from working in the field and for other small 8(a) firms as an estimator and project manager.

My 10-year “apprenticeship” of working for other small, disadvantaged businesses served as a proving ground, honing my negotiation skills, engineering knowledge, and, most of all, my operational knowledge of bonding and banking that would be required to play in the game of federal prime contractor. Unfortunately, far too many tradespeople believe that simply being a good craftsman and providing value to your clients is all you need to be successful. Sadly, this idealistic approach to the federal procurement arena leaves a business owner confused, overwhelmed, and intimidated.

Since our inception in 2002, Yerba Buena Engineering & Construction, Inc., has completed hundreds of projects from Hawaii to North Dakota, with contract revenue in excess of \$112 million in the past 10 years. Ninety-five percent of those projects required us to provide bonding. This growth was accomplished by having the opportunity to find and compete for small projects, growing to larger projects, slowly building our bonding capacity, our cash flow reserves, and our capable personnel to construct the work. This cannot not be accomplished if contract opportunities are bundled for the ease and time saving gained by the contracting community.

While all contract bundling cannot be avoided, what can be done is to put teeth into the subcontracting plans required by large businesses. Under FAR Subpart 19.7—The Small Business Subcontracting Program¹; the statute requires a “good faith” effort to maximize opportunities for small business. But to the small business community, “good faith” really means “no faith at all.” Only by setting mandatory goals for small business inclusion, coupled with serious and real penalties for failing to achieve these goals, can Congress guarantee small firms an opportunity to build capacity and grow their companies, in spite of bundled contract procurement.

This concept is not new and unproven. The State of California, for example, has a mandatory Disadvantaged Veteran Business Enterprise (DVBE) goal of 5 percent on all State-funded construction contracts and a Disadvantaged Business Enterprise (DBE) goal of 13.5 percent on

its federally funded projects². These goals are the minimum standards; contractors who choose to do business in California understand that not meeting these goals is not an option. The same can be said for the City and County of San Francisco. Under the direction of the Human Rights Commission, all construction contracts are subject to mandatory minimum goals, established by market research. A copy of the report for the last quarter (provided with my written testimony) clearly shows that citywide through all its various agencies, San Francisco is on the leading edge of creating and maximizing the opportunities for local business enterprises. This highlights that with a combination of commitment and strong enforcement, the small business community can be included in major procurement programs. Again, the goal here is to provide the contractors that have limited and growing bonding capacity an opportunity to grow their firms to the next level. *HRC quarterly report 2010/2011*³

This growth in bonding capacity is uniquely supported by the City of San Francisco Surety Bond program. The following are the highlights of this program locally in San Francisco and statewide. The City & County of San Francisco bonding assistance programs are demonstration models that have proven that providing direct and locally delivered bonding support can reduce the bonding barrier and enable contractors to participate and perform with exceptionally low risk.

Since their implementation, these programs have enabled minority and small contractors to secure bonds to bid on \$564 million in public contracts and \$176 million in final contract awards. They have garnered \$11.4 million in owner cost savings from low-bid program contractors. There has been only one default in 15 years with a program loss ratio of .02% (two tenths of one percent) of program-pledged collateral of \$31.3 million.

These results have been achieved with low levels of collateral (average 30%, never exceeding 40%) and use of effective risk management strategies applied through completion of the contract by maintaining an engagement [unclear] of the program contractor, project manager, and project owner throughout.

These programs prove that the removal of impediments and barriers, enabling more contractors to compete, save contracting dollars while achieving the goals of inclusion and stimulating local economic growth by retaining more local public contracting dollars and employing local workers. *Meriwether & Williams Presentation*⁴.

I would like to share my personal beliefs and opinion on the current status of the U.S. Small Business Administration and its current and future funding requirements, as well as current developments happening at the Department of Commerce and MBDA.

Only by investing in the future of small business can we as a nation continue to grow. Construction as an industry is uniquely positioned to lead in this resurgence. Why?

- Construction cannot be exported.
- The products used in construction are manufactured in the United States, creating jobs on the supply chain locally and nationwide.
- Construction projects create provide solid living wages for tradespeople.

Hence, when funding to SBA is reduced, the opportunity for small business to learn the ins and outs of federal procurement 101 is greatly reduced. SBA is current understaffed and overworked. Great care must be exercised if and when the Department of Commence mission is changed and the small business technical training of MBDA is moved or considered for elimination. The importance of trained and qualified personnel who are in the business of ensuring small business program participation is highlighted by the recently passed FAA reauthorization. It contains a provision for mandatory training of FAA procurement personnel in the procedures of having and achieving a successful small business project.

On the one hand, I'm pleased to see that an agency the size of FAA recognizes that it lacks the expertise to develop and run a small business project. Still, I'm disappointed that the U.S. Small Business Administration has existed since 1953, and more than 50 years later, we are still trying to figure out how to train personnel to develop a program that works.

Thank you for the opportunity to share with you my experiences. I am proof that small business can succeed and prosper. I would like to thank the committee for the excellent work to date and encourage the committee to continue to fight for small business. We need you support.

References

¹ Subpart 19.7—The Small Business Subcontracting Program. (n.d.). *www.acquisition.gov*. Retrieved February 7, 2012, from /current/html/Subpart%2019_7.html

² Offices of Business and Economic Opportunity. (n.d.). California Department of Transportation... Retrieved February 8, 2012, from <http://www.dot.ca.gov/hq/bep/>

³ Human Rights Commission: Policy Division. (n.d.). *Human Rights Commission: Home*. Retrieved February 7, 2012, from <http://www.sf-hrc.org/index.aspx?page=6>

⁴ Meriwether & Williams Presentation on; Bonding assistance programs. PPT 2012