

Prepared Testimony and Statement for the Record of

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Small Business Committee Subcommittee on Agriculture, Energy and Trade**

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Chairman Blum, my name is Charlie Smith and I am the Director of the Department of Energy (DOE), Office of Small and Disadvantaged Business Utilization (OSDBU) appointed in September 2017. I also serve as a council member to the Office of Small and Disadvantaged Business Utilization Council and committee member with the Small Business Procurement Advisory Committee. I have been working in this capacity with a focus on small businesses to move the needle on this Department's goal achievement through collaboration with the Small Business Administration (SBA) and DOE's contracting activities.

DOE awards billions of dollars to small businesses every year and has successfully met the prime small business goals established by SBA since 2015. My focus during my time with this Department is to not only continue to meet our prime contracting and subcontracting goals, but also the subcategory goals like Woman-owned, HUBZone, Service Disabled Veteran and 8(a) disadvantaged owned businesses.

In my testimony, I will provide DOE resources available to small businesses as well as outline our business model and discuss the multi-lab focus on small business engagement. I will cover these topics in the following order:

- First, an understanding of our business model
- Second, how that business model plays into the labs that are foundational to the function of this Department
- Finally, what resources those labs and the Department as a whole provide to small businesses to help them contract with our Department

Department of Energy Business Model

The Department of Energy Organization Act of 1977 created the cabinet-level US Department of Energy, combining defense responsibilities that included the design, construction, and testing of nuclear weapons dating from the Manhattan Project effort to build the atomic bomb; and a loosely-knit amalgamation of energy-related programs previously scattered throughout the Federal government. Neither the scientific expertise responsible for the physics underlying the development of the weapons nor the manufacturing and engineering expertise that produced the weapons had existed within the Federal government. The government thus acted as federal project manager, relying on scientists from academia and the engineering and construction skills of industry.

This approach, unique in the federal government, has continued at the Department, effectively tapping into private sector expertise through the network of independent government-owned, contractor-operated (GOCO) laboratories that meet the Department's evolving missions through the benefit of America's innovative and responsive business sector.

These laboratories are run by management and operating contracts (M&O), a term used to describe the contracts that are central to the DOE's business model.

DOE relies upon the M&O contractors for the performance of the substantial part of the Department's mission – approximately 85 percent of DOE's obligations flow to the M&O contractors. That reliance on the private sector's expertise allows DOE's federal staffing to be a fraction of what would otherwise be necessary to conduct its diverse missions.

M&O contracts have received special regulatory treatment in the Government. Federal Acquisition Regulation (FAR), at Subpart 17.6, recognizes and codifies the special identity that M&O contracts have with an authorizing Department. The FAR coverage recognizes and authorizes Department acquisition regulations that deal with the special nature of M&O contracts.

As of December 30, 2017 DOE has achieved 8.64% of the 10.2% prime small business goal target. In the subcategories, we have achieved 3.08% of the 5.0% goal for Small Disadvantaged; 2.07% of the 5.0% goal for Woman Owned Small Businesses; 0.38% of the 3.0% goal for Service Disabled Veteran Owned Small Businesses; and .34% of the 3.0% goal for HUBZone. DOE is projected to meet the 10.2% goaling achievement but unclear of the grade we will achieve due to the new scoring process being implemented by the Small Business Administration.

The DOE Labs and Small Business

Most of the Department labs are operated by M&O contractors. These contracts are reported through a data collection process called Management and Operating Subcontract Reporting Capability (MOSRC). . The awards the M&Os make are considered subcontracting, however, because they are treated as an extension of DOE, their awards are counted as primes. The data collection of these subcontract awards being counted as prime awards is tracked through MOSRC.

The core objective of having established MOSRC is to collect and provide the data in a manner acceptable to SBA that would enable DOE to receive full credit toward achievement of DOE small business prime contracting goals for its 1st-Tier M&O subcontracts.

In measuring the engagement of federal agencies with small businesses, SBA relies on the Federal Procurement Data System – Next Generation (FPDS-NG) to record all federal obligations flowing into prime contracts. As DOE's procurement model is that of a subcontracting Department, DOE believes the FPDS-NG calculations alone under-represents the Department's engagement with small businesses through their M&O's subcontractors, which account for approximately 85 percent of Department spending.

This data-gathering approach enables DOE to more accurately portray the Department's ongoing commitment to working with small businesses. This capability is essential in achieving recognition for DOE's unique business model that leverages the resources of our M&O contractors to accomplish DOE's mission, creating the largest flow, upwards of \$2 billion annually, of appropriated funds to small businesses of all the civilian agencies.

To this end, the Consolidated Appropriations Act of 2014, Title III, Section 318 authorized DOE to count 1st-Tier subcontracts awarded by its M&O contractors to small businesses toward accomplishment of its annual small business goals. DOE's M&O contractors have independent, diverse business systems that they use to manage subcontracting activities. Managed by the external resource of DOE OSDBU, MOSRC centrally collects and reports the 1st-Tier small business activity of DOE's M&O contractors to SBA and the general public.

DOE resources and regulatory support for small businesses

There are several resources and regulatory support functions provided to small businesses. Some have been established for a while and some are new. We listen to the customer and continue to expand resources based on the communication and demand for process improvement.

We "advertise" small manufacturer's exemption in each applicable consumer products energy conservation standards rule. Under the energy conservation standards program, the Secretary may determine via an exemption application if a small manufacturer (businesses with less than \$8M in annual revenue) may be exempt from all or part of any energy conservation standard for up to two years. Although there have been few exemption applications recently, we believe this exemption is important to highlight as a resource for small businesses constrained from entering a certain covered product market.

We point out any small business impacts to SBA Office of Advocacy during the EO 12866 interagency review process. OSDBU works with the SBA Office of Advocacy to share proposed or final regulatory language with small businesses for their input.

We recurrently post an updated forecast of contracting opportunities. Making forecasts available to identify upcoming Department requirements was established by Public Law 100-656, the Business Opportunity Development Reform Act of 1988, amending the Small Business Act to emphasize acquisition planning. The law requires agencies to compile and make available projections of contracting opportunities that small, minority, veteran-owned, and women-owned businesses may be able to perform. These rosters of planned service and supply requirements of the Department serve as a business development tool, guiding small businesses to adjust their capabilities to better meet evolving needs of the Department. Acquisition forecasts also serve small businesses in their use as an internal acquisition planning resource – as requirements are initially posted, stakeholders can contact the Department's Small Business Program Managers, to discuss their capabilities to perform the listed need. This engagement, in the early stages of acquisition planning helps procurement personnel shape the acquisition into a more small business friendly format. DOE has its legislated Headquarters Acquisition Forecast publically available, updated on a recurring basis. Small businesses seeking the full range of Department needs are also guided to research the 17 DOE M&O contractors' additional, separate acquisitions forecasts, which list upcoming requirements unique to their respective facilities.

We provide business forms on our website, email, phone access so that companies can let us know when they feel that there has been an undue restriction on competition. When small businesses seek redress for alleged action or inaction of the Department, DOE OSDBU is charged with fielding such concerns. A challenge to the direct intervention and resolution of such issues is steered by the privity of contract held between the contracting officer and the contractor. As advocate for the small business in this case, DOE OSDBU guides and recommends, but does not direct a contractual action to take place, on behalf of the impacted small business.

Our organization hosts an annual Small Business Forum & Expo. Each year, OSDBU hosts DOE's Small Business Forum & Expo, a multi-day conference that connects small business attendees with DOE offices, power administrations, prime contractors and subcontractors. The Forum & Expo offers a comprehensive roster of educational workshops, where attendees can learn about subjects such as how to respond to a sources sought notice, how to obtain grant funding, and more. Attendees have the option to participate in matchmaking exercises, in which small businesses are allotted one-on-one time with a DOE specialist to ask questions most pertinent to them.

In 2017 we hosted our first Veterans Conference to emphasize the Department's commitment to Veteran-Owned Small Businesses (VOSBs) and Service Disabled Veteran-Owned Small Businesses (SDVOSBs). OSDBU is dedicated to assisting veterans who are interested in partnering with DOE. Over 200 business representatives and DOE acquisition staff participated in a full day of business development training, counseling, and matchmaking. OSDBU looks forward to future iterations of this annual event. To ensure DOE's ongoing support of VOSBs and SDVOSBs, I have assigned a veteran on my staff to serve as Veterans Liaison.

Over the last few years we have co-sponsored the ChallengeHER Forum. This event emphasizes the Department's commitment to Women-Owned Small Businesses (WOSBs). OSDBU is co-hosting this year's event in partnership with Women Impacting Public Policy, a nationally active WOSB advocacy organization. The event will take place in Miami, FL and promote DOE contracting opportunities for women.

In FY18 we are planning a HUBZone Forum to target this small business category. The road trip across the country will provide business development training, further advertise upcoming contracting opportunities, and connect new businesses with DOE buyers at our network of laboratories.

We also have an established Mentor-Protégé Program (MPP) to encourage seasoned contractors to provide business development and sub-contracting opportunities to small businesses interested in partnering with the Department. It is distinct from SBA's MPP, by being an agreement, not a contract-based business arrangement, enabling more flexibility of participation by small businesses. OSDBU has a concerted effort underway to increase the Department's 28 MPP agreements in FY18. In FY17 DOE OSDBU had 28 participants in the program accomplishing about \$10M in subcontracting.

Our office actively seeks to participate in outreach events to continuously grow DOE's network of capable small businesses. We not only host and attend events but we specifically partner with other OSDBU offices and share our resources for the benefit of the government as a whole. In FY17, OSDBU attended 32 events, spanning all small business socio-economic categories. Over 10,000 total attendees were present at these events.

The Department is very involved in engaging small businesses, and we look forward to including additional obligations to small businesses that are not currently included in SBA's goaling process and utilizing future goaling processes through our enhanced partnership with the SBA. Some of these include:

The Small Business Vouchers program (SBV) is in DOE's Office of Energy Efficiency and Renewable Energy (EERE). This program is leveraging the world-class resources of the national labs with the SBV program. Through the program, eligible small businesses can tap into the reserve of national laboratory intellectual and technical assets to overcome critical technology and commercialization challenges. The program fosters a strong partnership between the labs and clean tech small businesses, benefiting both. While small businesses receive access to state-of-the-art facilities and experts, the national labs broaden their service to private-sector technological development, supporting small business development, job creation and American competitiveness. Since March, 2016, the SBV program has awarded vouchers to 114 businesses worth a total of \$22 million.

The Small Business Innovation Research and Small Business Technology Transfer programs (SBIR/STTR) are operated through DOE's Office of Science, spurring technological innovation by investing in capable American small businesses. SBIR/STTR encourages participation by socially and economically disadvantaged small businesses, mirroring the Department's overall goal to involve these firms in DOE's missions. In FY16, SBIR/STTR awarded \$216 million to small businesses to explore technological innovation and to perform R&D. In FY17, the programs awarded \$242 million for those same purposes.

The Federal Energy Management Program (FEMP) is operated by DOE's EERE office. FEMP helps federal agencies meet energy-related goals by facilitating streamlined partnerships with small energy service companies. FEMP also hosts an annual in-person training event titled Energy Exchange, which provides professional skill-building, training, and networking opportunities. In addition, FEMP offers small businesses a robust online training program free of charge.

The Gateway for Accelerated Innovation in Nuclear (GAIN) program is operated by DOE's Office of Nuclear Energy to provide the nuclear community with access to technical, regulatory, and financial support. GAIN hosts workshops discussing regulatory review processes, licensing processes, industry consensus standards and Quality Assurance Program development. As part of its mission, GAIN looks to involve the American small business community in the innovation and application of advanced nuclear technologies. To achieve this goal, GAIN has implemented a small business vouchers program. In FY16, eight small businesses received vouchers totaling \$2 million.

In conclusion, I would like to state that our organization is sensitive to the need for oversight of fair business practices that open doors for small businesses to access Federal contracting. I am personally focused, as a veteran myself, to help service disabled veterans re-engage the workforce through our Department's search for entrepreneurs, as they bring knowledge, skills, dedication and a strong work ethic to the agency. I appreciate Congress supporting the 25 federal OSDBU offices that help our Federal contracting workforce assist capable small and disadvantaged businesses in performing these contracts. I welcome any questions and look forward to working with you, Mr. Chairman and this Subcommittee, to further any efforts that aim toward that goal.