

U.S. ARMY CORPS OF ENGINEERS

DEPARTMENT OF THE ARMY

TESTIMONY OF

**JACKIE L. ROBINSON-BURNETTE
ASSOCIATE DIRECTOR,
OFFICE OF SMALL BUSINESS PROGRAMS**

BEFORE THE

**COMMITTEE ON SMALL BUSINESS
SUBCOMMITTEE ON CONTRACTING AND WORKFORCE
UNITED STATES HOUSE OF REPRESENTATIVES**

ON

**EXAMINING THE BARRIERS FOR SMALL
BUSINESS CONTRACTORS AT THE DOD**

November 8, 2011

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to be here today to discuss opportunities for small businesses working with the U.S. Army Corps of Engineers (USACE). I am Jackie Robinson-Burnette, Associate Director, USACE Office of Small Business Programs. I am a Defense Acquisition Workforce employee with over 20 years of contracting experience, primarily as a contracting officer. I have served as an Army Small Business Program Leader over the last 5 years. One of my greatest passions is educating small businesses on how to do business with the Government. It is imperative for prospective small businesses to gain an understanding of the federal procurement process in order to be successful.

It is understandable that Congress is heavily focused on the efforts of federal agencies to provide opportunities to small businesses. Our small businesses play a significant role in the recovery of the nation's economy. According to the U.S. Small Business Administration, small businesses:

- represent 99.7 percent of all employer firms;
- employ just over half of all private sector employees; and
- have generated 64 percent of net new jobs over the past 15 years.

My testimony will address the Corps of Engineers Small Business program; some of the key aspects of the procurement process; what small businesses need to know about marketing to federal agencies; and strategies for small businesses to market to federal contractors for subcontracting opportunities. I will close my statement by sharing some South Carolina contracting opportunities projected to be exclusively set-aside for small business competition.

Corps of Engineers and Small Business Program

The USACE understands the value of small businesses to our economy, and advocates for the participation of small businesses, including small disadvantaged, women-owned, HUBZone, veteran, and service-disabled veteran-owned small businesses (SDVOSB), in its procurement process at both the prime and subcontracting levels.

At USACE, we greatly depend on small businesses to help us meet an array of diverse missions around the world. The USACE has a very diverse military and civil works mission. We have more than 33,000 civilians, 600 military, and 300,000 contract employees working around the world providing a unique value to the Nation. Our mission includes research and development, managing valuable aquatic resources, building infrastructure, and providing engineering solutions to the Department of Defense and other federal and international government and non-governmental agencies in nearly 100 countries around the world.

The Army's small business contracting goal is 25.3% of all contract dollars obligated in the United States. We expect final USACE reporting to show 42.52% awarded to small businesses in fiscal year 2011 and 39.7% in fiscal year 2010. We expect final USACE reporting to show 5% awarded to SDVOSBs in fiscal year 2011 and 3.2% in fiscal year 2010, above the 3% Service-Disabled Veteran-Owned Small Business goal. Though the Woman-Owned Small Business set-aside program did not become effective until March 2011, USACE consistently exceeded the 5% Woman Owned Small Business Goal for the past five years. We expect final reporting to show over 8% awarded to WOSBs in fiscal 2011.

The USACE's prime contractors continue that high performance level in their award of subcontracts. Our fiscal year 2011 data pulled from the recently implemented Electronic Subcontracting Reporting System (eSRS) reflects that USACE contractors awarded over 63% of all subcontracted dollars to small businesses [% subject to change as final reports are released]. The Charleston District exceeded small business goals for the last three years. The District's operations cover the state of South Carolina. In fiscal year 2011, Charleston's goal was to award 40% of all dollars to Small Businesses, and we are projecting achievement at 84.95%. In fiscal year 2010, Charleston's goal was to award 35.79% to Small Businesses, and they achieved 70.03%. In 2009 their goal was to award 32% to Small Businesses, and they achieved 50.01%.

While we believe these numbers are impressive – they were record-breaking this year–the true measure of the value of small business cannot be measured in dollars and cents, but rather by the quality of services small businesses provide our Nation and the impact that their efforts have throughout the world. The leaders and commanders at all levels of our organization are

committed to the success of the program to ensure prime and subcontract awards to small businesses.

Small Businesses Marketing for Federal Contracts

There are basic registration procedures that small businesses must complete to become eligible for contract awards. There are organizations like Service Corps of Retired Executives (SCORE), Procurement Technical Assistance Centers (PTAC), and Minority Business Development Centers (MBDC) that walk small businesses through the procurement process through training and mentoring. It is imperative that newly formed firms and firms that have yet to receive their first federal contract connect with these agencies to help focus their efforts in a way that would more likely result in contract awards. These organizations (unlike contracting activities) help firms with the registration process, determine which NAICS codes to align under, connect firms with banking and financial institutions, teach firms how to read and analyze the requirements of an RFP, and actually assist with proposal writing. PTACs also analyze statistics and buying trends of federal agencies in order to direct firms to agencies that have the greatest need for their services.

Influencing the Acquisition

Each federal buying activity has an advocate for small businesses and each agency determines the level of commitment to providing small business advocates. Army contracting activities assign a full-time Small Business Advocate for each contracting office that procures in excess of \$100 million per fiscal year. The USACE has approximately 50 buying activities (Districts and Centers) and over 50 Small Business Advocates dedicated to assisting small businesses obtain USACE contracts.

The Federal Acquisition Regulation (FAR) requires contracting officers to set-aside each procurement that is valued under \$150,000 automatically and exclusively for small businesses unless the contracting officer determines there is not a reasonable expectation of obtaining offers from two or more responsible small business concerns that are competitive in terms of market prices, quality, and delivery. Contracting Officers must coordinate and secure

concurrence of the Small Business Advocate when conditions exist that would cause a solicitation valued under \$150,000 to be solicited on an unrestricted basis to both small and other than small firms.

For procurements over \$150,000, Small Business Advocates sit side-by-side with Contracting Officers and Program Managers to determine if there is a reasonable expectation that two or more responsible small businesses will submit an offer at a fair market price. This is referred to as the "Rule of Two." When market research validates small business capability, contracting officers are required to set-aside acquisitions over \$150,000 for small businesses.

Federal agencies are generally required to advertise contract opportunities valued at \$25,000 and greater on FBO.gov. Market research to validate the "Rule of Two" is done through a variety of methods, but the most effective method is a Sources Sought Synopsis on the Federal Business Opportunities (FBO.gov) web page. The purpose of a sources sought notice is to request information about the capability of small business firms. Typically, the notice requires small businesses to respond to a handful of questions and provide information about their technical capabilities and experience. Small businesses have a set number of days to respond. When two or more capable firms are identified, the FAR requires the solicitation to be set-aside exclusively for small businesses. In addition, the solicitation can be set-aside for small business subcategories. For example, if two or more capable SDVOSB firms respond, it can be set-aside for SDVOSBs. However, Small Business Advocates cannot recommend setting solicitations aside exclusively for small businesses if market research does not validate small business capability and interest.

Many small businesses focus their efforts on marketing face-to-face at outreach events and meetings with contracting officials and program managers without targeting a specific acquisition. There is significant value in face-to-face relationship building techniques. However, one of the most important and effective marketing techniques is responding to sources sought notices for upcoming solicitations.

Many small businesses are unaware of the significance of sources sought notices. Some Small Businesses consider the nature of sources sought notices to mean that it is too late to market

for and participate in a particular procurement. Some are hesitant to respond, concerned that their technology or solution would be included in the final version of the solicitation and made available for other competitors to see and perhaps utilize to their competitive advantage. These concerns are unnecessary. A sources sought notices is not a Request for Proposal (RFP) and does not solicit proprietary information. Rather, they are a way for contracting officers to perform market research, verify requirements, validate an approach to a solution (i.e. socioeconomic goals), and ensure competition. Small businesses miss the opportunity to influence the acquisition strategy when they fail to respond to sources sought notices. Of course small businesses may propose on acquisitions that are not set-aside exclusively for small businesses, but their potential for success is maximized when the procurements are set-aside for small business competition only. Small businesses must look for these opportunities on FBO.gov, determine if they have the experience and financial capability to handle the work, and then target their marketing efforts directly for specific procurements.

Technical Capability versus Small Business Certification(s)

Small businesses must be diligent about pursuing work that aligns with their experience, past performance, and financial capability. When marketing, they must emphasize their experience, past performance, and financial capability. Our customers expect us to minimize risks to their projects by making contract awards to the most experienced, capable, and financially sound firms. In the award decision process, evaluation teams weigh proposals for the optimum mix of experience, capability and financial soundness that result in contract award to the proposal deemed most capable of delivering a project on schedule and on budget for either best value or lowest price technically acceptable requirements. Having 8(a) certification is definitely an advantage, but it never takes precedence over the shown capability to perform.

Responding to Solicitations

Small businesses can maximize their potential for receiving prime contracts through mentoring and education. Many organizations are dedicated to teaching small businesses how to navigate the federal procurement process. Firms must clearly understand what is required in the solicitation in order to respond in the correct format and with a winning solution. Contracting

officers and evaluation teams rate proposals as discussed above to determine whether proposals respond to the RFP requirements, and ultimately which proposal offers the best value. Each RFP includes evaluation factors. At a minimum, the government evaluates the price, technical capability (experience), and past performance. Experience can be evaluated under the technical capability factor. Contracting Officers may consider past performance for non-federal public state or local, or private sector projects, either as a prime or subcontractor. The Government will also, at a minimum, advise offerors of the most significant factors, and when combined, whether or not those factors are more important, less important, or equally as important to the price factor. Small businesses must understand which factors are more significant than others in order to submit a winning proposal.

Contracting Officers may set page limitations for proposal submissions. In such a case, Contracting Officers are prohibited from and will not review or consider the information on the proposal pages that exceed the page limitations. Firms should be careful not to add extraneous information that unnecessarily extends the number of pages beyond the page limitations.

Small business proposal writers should look for ways to make their proposal stand out by applying creative ideas to express capability and technical strength. One possible technique used by proposal teams is to have a separate team review the proposal against the solicitation requirements prior to submission, or for teams from very small companies to have individuals review elements of proposals written by others on the team. Review teams can increase the potential for success, because they objectively review whether or not the proposal effectively responds to the Government's needs. Small businesses must keep in mind the Government's right to award without negotiations and discussions, even in negotiated procurements, so it is very important that the initial proposal represents the best possible technical proposal at the best possible price – there may not be an opportunity to submit a revision.

Finally, small businesses should consistently request proposal debriefings. Offerors may request a debriefing to discuss the evaluation of their proposal in comparison with the requirements of the solicitation. The debriefing can provide critical information necessary to improve future proposal submissions.

Strategies for Marketing to Federal Contractors for Subcontract Opportunities

Strategies for marketing to federal prime contractors for subcontract opportunities are very similar to the marketing strategies suggested for bids for prime contracts offered to the federal agencies. Firms should do their homework to include potentially speaking to current or previous subcontractors to learn as much as possible about the culture, vision, and mission of the prime contractor.

At USACE, we are in the early stages of developing a forum with our large prime contractors to help improve transparency in the subcontracting process. We are talking to large businesses to learn about their process for selecting subcontractors. Large prime contractors are invested in supporting federal small business programs through subcontracting. They are especially engaged when small firms find opportunities and focus the discussion around specific opportunities. Large firms prefer to hear about a small businesses experience and capability, past performance, financial stability and established relationships more so than simply hearing about the potential subcontractor's size and small business certifications.

When negotiating with a large business, small firms should seek to obtain binding agreements, where possible. Contracting Officers have the option to consider proposal responses with binding small business agreements more favorably in accordance with DFARS 215.304.

The Small Business Jobs Act of 2010, signed in to law by President Barack Obama in September 2010, requires prime contractors to notify contracting officers prior to changing small business subcontractors that were identified in the proposal. The proposed regulations were recently issued by the SBA and soon to be implemented.

Projected Small Business Set-Aside Opportunities in South Carolina

There are many small business set-aside contract opportunities projected for South Carolina this fiscal year. Opportunities range from information technology services, to leased building space in Charleston, rental of portable latrines, to catering support. Following are several business set-aside opportunities projected by our Charleston District for fiscal year 2012.

- **Competitive 8(a)**. Design-Build Fire Protection Multiple Award Task Order Contract (MATOC). There will be a maximum of 5 awards under this MATOC; base year and four option years. This contract will primarily consist of fire protection installation or repairs (new construction and renovations) with design-build capabilities. Most tasks will be between \$75,000 to \$1,500,000, over a five year period.

- **Small Business**.
 - Clouter Creek Ditching, projected to cost between \$500,000 and \$1 million. The work will be conducted at the Clouter Creek Disposal site located in Berkeley County, South Carolina.

 - VA Charleston New Post Traumatic Stress Disorder/Mental Health Research Facility, projected to cost between \$5 million and \$10 million. This project is located at the Ralph H. Johnson Medical Center, Charleston, SC.

 - Gantry Crane Rehab & Inspection Certification at the Stephen Power Plant, Stephen, SC, projected to cost between \$1 million and \$5 million.

Conclusion

In conclusion, there are numerous actions that small businesses can take to increase their competitiveness: educate themselves about the process; market their technical capabilities, past performance, and financial stability more so than their small business certifications; take the initiative to search for opportunities advertised and focus their marketing efforts directly for specific procurements; and utilize debriefings to improve their future proposal submissions. The Army and USACE are available to help small businesses in the education process through training sessions, outreach events, and one-on-one counseling.

The USACE recognizes the important role that small businesses play in revitalizing the economy. We understand and appreciate your focus on small business opportunities, and I appreciate the

opportunity to be here today to discuss this important program. I look forward to answering any questions you may have.