



Testimony of

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“The 8(a) Program: Overview and Next Steps to
Promote Small Business Success”

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Chair Mfume, Ranking Member Salazar, and Members of the Subcommittee, thank you for the opportunity to testify before you today. My name is Qin Li, and I am the President of Soliel LLC, located in Vienna, VA. Soliel brings innovative solutions and capabilities to help its customers develop and transform its IT systems and infrastructure. We provide technical and functional engineering, development expertise in IT modernization, cloud migration, DevSecOps, software engineering, data analytics, and cybersecurity.

Bringing the same innovation and cutting-edge solutions that I worked with in the private sector to the government sector, I steered Soliel into government contracting in 2010. Soliel, a woman-owned, 8(a) company provides technical engineering and development services to the U.S. Government. We have built an impressive team of subject matter experts that have extensive expertise in computing, networking, data, and cloud. We serve many U.S. Government customers, which include the Defense Information Systems Agency (DISA), Army, Navy, and the Defense Counterintelligence and Security Agency (DCSA). Originally from China, I got my Master of Science degree from the George Washington University and have called the Washington D.C. metro area home ever since.

Soliel's adventure into government contracting was also out of a need for flexibility and taking advantage of opportunity. Seeking treatment for my middle child with a rare chromosome abnormality requires more flexibility than full time employment offers. When the opportunity to subcontract to a large firm presented itself, I took the risk. Soliel's success is remarkable given that only 9% of all women-owned companies are Asian American owned, and Asian women account for only 6% of science and engineering employees in the United States.¹ Navigating the complex acquisition process and competitive federal contracting industry is a daunting task for any company. We have invested heavily to build our own innovation lab to stay on the forefront of new ideas and technologies – before bringing them to our customers. I am always looking for opportunities to empower other women to pursue careers in technology or start a business, as well as participate in acquisition and small business policy discussions.

¹ *The 2019 State of Women-Owned Businesses Report: Summary of Key Trends*. American Express, 2019. https://s1.q4cdn.com/692158879/files/doc_library/file/2019-state-of-women-owned-businesses-report.pdf

I would like to start by thanking the Committee for its commitment to small businesses and for advancing policies that support small businesses doing business with the federal government. Soliel started in government contracting in 2010, as a 2nd tier subcontractor in support of DISA. We then became a 1st tier subcontractor, and gradually started bidding for small business prime contracts. Soliel received its 8(a) designation in June 2015, and it provided Soliel a critical contract vehicle to accelerate our growth. I would like to outline my thoughts on some specific elements of the 8(a) program.

While the 8(a) program has allowed me to find a successful path forward, I know many companies have not had the same experience. For example, one of the downfalls for any company is relying on 8(a) awards as the majority of their business. So, when it is time to graduate, companies do not have exit strategies to transition out of the program. One of the ways the Small Business Administration (SBA) is trying to tackle this issue is through the 7(j) Management and Technical Assistance program. According to the SBA, the 7(j) program provides assistance in a wide range of business activities, including marketing, accounting, opportunity development and capture, contract management, compliance, and financial analysis. When I attended a 7(j) training, I found it was geared more towards businesses just starting out, instead of those who were newer 8(a) program participants but more developed contractors. Although training for companies new to contracting is necessary, it would be beneficial for the SBA to consider having two tracks – one for businesses who are in the beginning phases of the program and one that is more advanced. Utilizing this existing resource could be a way to tackle the issue of businesses struggling to succeed after graduation. SBA resource partners and 7(j) training would benefit from information shared from Business Opportunity Specialists (BOS) who counsel firms like mine, so that more relevant resources could be provided to 8(a) program participants.² Tracking success of 8(a) participants throughout their time in the program is important for all of these programs to best support small, disadvantaged businesses (SDBs).

It is also important to assess how participant firms are performing once they have left the program. I have heard many stories of fellow program participants struggling to continue after their 9 years

² See Finding 2: SBA Needs Improved Procedures for Providing Business Development Assistance. <https://www.oversight.gov/sites/default/files/oig-reports/SBA/SBA-OIG-Report-22-08.pdf>

have ended. A recent report from the SBA's Office of Inspector General (OIG) suggested tracking whether the program achieved business development objectives, including the number of graduated 8(a) firms.³ I think it is important that the Committee examine ways to ensure better success of program graduates. Additionally, greater assistance from the SBA is needed in the transition out of the program. For example, it would be helpful for the SBA to consider allowing contracts performed by a graduating 8(a) women-owned small business (WOSB) to be solicited and awarded as a WOSB contract instead of 8(a). This approach fully aligns with the goal of promoting small business success and provides graduating 8(a) small businesses additional opportunities to perform their contracts, especially when requirements were introduced into the 8(a) program by the graduating small business. Currently, all graduating 8(a) small businesses will not be able to prime for their work once they are no longer an 8(a), losing a significant portion of their revenue.

There have been some issues with SBA oversight with respect to the joint venture (JV) program, which has directly impacted my company. While there is a lot of paperwork and scrutiny in the initial stages of a JV, there is not much SBA oversight beyond that stage, and there is limited recourse if the mentor is not fulfilling its commitment. In many instances, small businesses are being taken advantage of by large companies in these arrangements. For example, Soliel's large business mentor used their "negative control" / "veto" to block the JV from responding to opportunities that they did not want to pursue, despite them being viable for the JV. This action, taken by the mentor solely out of self-interest, significantly impaired the JV's success and breaches its fiduciary responsibility as a mentor and shareholder of the JV. The issue was brought to the SBA district office, but it was not clear what recourse the SBA can give to enforce a correction of the mentor's behavior. Giving the SBA greater power with respect to enforcement of these agreements would help assist 8(a) companies, as well as all small businesses, when mentors take these type of actions.

Further, there are additional policies that impact not just 8(a) firms, but all small businesses doing business with the federal government. Small business contractors are currently facing unprecedented economic and workforce challenges due to the ongoing COVID-19

³ *Id.*

crisis. According to a survey by the National Defense Industrial Association, 60% of small business respondents expect to have long-term financial and cash-flow issues.⁴ Additionally, the small business industrial base has been shrinking over the past 10 years. Analysis of agency data reported in the Federal Procurement Data System (FPDS) finds similar trends regarding the small business supplier base at large, including a loss of 49,000 small businesses (or 38% of small businesses) in the Federal supplier base since 2010.⁵

I. Bring sole source thresholds in line with current government buying

Since the 8(a) program has a time limit of 9 years, it is important to me that other socioeconomic set-aside programs at the SBA can be utilized after graduation, such as WOSB. One area that needs to be changed is the current sole source thresholds for individual 8(a), WOSB, service-disabled veteran-owned (SDVOSB) and Historically Underutilized Business Zones (HUBZone) certified firms. Both the House and Senate Small Business Committees have attempted to increase sole source thresholds and bring them more in line with government buying. The House passed H.R. 190 in the 116th Congress, which eliminated option years and would have allowed for the current threshold amounts per contract year. A draft of the Senate Small Business Committee SBA Reauthorization bill in the 116th Congress also made changes to the thresholds – raising them to \$8/\$10 million per year by eliminating option years. Included in the 2021 House passed version of the National Defense Authorization Act (NDAA) was H.R. 3065, *Expanding Contracting Opportunities for Small Businesses Act of 2021*. This bill raised the sole source thresholds to \$8/\$10 million per year but did not eliminate option years. I would like to thank the Committee for their tireless work to achieve this increase over the past two Congresses, especially Ranking Member of this Subcommittee, Representative Salazar, as well as Ranking Member of the Committee, Representative Luetkemeyer and his staff.

Soliel has had multiple 8(a) direct awards where our team performed extremely well. However, because some of the requirements had a higher dollar amount than the \$4 million threshold, the

⁴ NDIA COVID-19 Small-Business Impacts Survey Summary (2020). Available at: <https://www.ndia.org/-/media/sites/ndia/policy/documents/covid-19-small-business-impacts-survey-summary.ashx>.

⁵ Memorandum from Executive Office of the President Office of Management and Budget M-22-03, Advancing Equity in Federal Procurement (December 2, 2021).

work was awarded through other contract vehicles that have a higher ceiling threshold. In one case, Soliel's work was consolidated into another 8(a) sole source award to a community-owned 8(a) contractor because they can be awarded up to \$100 million without justification. In another case, instead of making a direct award to Soliel, since the threshold was too low, our work was instead competed on a large existing indefinite delivery/indefinite quantity (IDIQ) and awarded as a task order.

Broad bipartisan support for increasing small business participation in the federal marketplace dictates changes are needed to bolster awards to these businesses. Increasing these thresholds is a necessary change to acquisition policy given the average size of contracts. By making these programs more accessible for federal agencies to use such as the 8(a) program, many more small businesses will benefit.

II. Strengthen subcontracting transparency and accountability

Since subcontracting was so integral to my long-term federal contracting success, I want to discuss how the Committee could improve this process. Subcontracting serves as an important avenue for small businesses to enter the federal marketplace and build past performance and often the only way to win work. With larger contracts being utilized by the federal government, subcontracting is more important than ever. It is critical that prime contractors are rewarded for adhering to subcontracting plans and penalized if they do not. Presently, there is little to no recourse for prime contractors that fail to meet their small business subcontracting goals. Soliel started out its federal work as a 2nd tier subcontractor. We worked as a subcontractor in the first four years of our operation. Our first competitive contract win was in our 4th year as a contractor. However, it was protested, which delayed our ability to perform. Thankfully this protest was denied by the Government Accountability Office (GAO), and Soliel was able to resume support. Subcontracting was the critical to Soliel's survival and success as a contractor, as I know it is to many other small businesses.

The FY2021 NDAA included language to require large primes with subcontracting plan requirements to provide past performance evaluations when requested. However, many small

businesses have faced issues when requesting this information. Creating a streamlined framework for large primes to provide this information to small businesses would greatly assist businesses trying to enter the prime contracting arena.

Although reports by federal agencies show that dollars are being awarded to small businesses at consistent levels in best in class (BIC) contracting vehicles, the number of small business concerns being awarded prime contracts is shrinking drastically. Category management undoubtedly plays a role. Consequently, subcontracting is now incredibly important for small business concerns. Many small businesses are not prime awardees of BIC vehicles, and many may not have the qualifications to even bid on these large contract vehicles. Transparency should include whether prime contractors have aggressive small business goals in their subcontracting plans. It would be extremely beneficial to small businesses if data existed on three fronts: (1) the number of subcontractors on BICs broken down by small business and the socio-economic set-aside programs listed under the Small Business Act; (2) compliance of primes in achieving goals set forward in subcontracting plans; and (3) the percentage of subcontracting work performed by small business concerns on taskorders.

A 2020 GAO report on subcontracting compliance⁶ found that agencies did not consistently follow all required procedures for oversight of small business subcontracting plans, both before and after contracts were awarded. GAO reviewed 26 contracts with a subcontracting plan at 4 agencies and found that of the reviewed contracts, about half of the agencies could not demonstrate that procedures for Procurement Center Representative (PCR) reviews were followed. PCRs are critical for ensuring small business success in federal agencies – they have been shown to increase the small business share of Federal procurement awards through their work. PCRs initiate small business set-asides, provide small business sources to identified opportunities and counsel small firms. However, there are currently a limited number of PCRs available to do this important work. Increasing the number of these positions would assist the success of 8(a) firms, both during their time in the program and after they graduate.

⁶ U.S. Gov't Accountability Off., GAO-20-464, *Small Business Subcontracting: Oversight of Contractor Compliance with Subcontracting Plans Needs Improvement* (2020).

Further, category management shuts out any small or midsize companies from competing for the work – the requirements were structured for very large businesses. Subcontracting is becoming an increasingly important tool for small businesses to enter the federal market. I encourage the Committee to look at incentives that would spur subcontracting plan compliance, transparency, and accountability.

III. Align rulemaking between SBA and the FAR Council

Each year, SBA issues a procurement scorecard, which indicates how agencies performed in meeting their small business goals.⁷ The governmentwide goal of contracting with WOSBs is 5%. Despite this small number, the federal government has only met this goal twice. However, fewer contracts have likely gone to WOSBs due to inaccurate reporting. Agencies often count the same dollar value towards multiple socioeconomic program goals, even though the contract was not explicitly a set-aside for more than one program. For example, if a contract is set-aside for the WOSB program, and the winning company is also a certified HUBZone and SDVOSB, those contract dollars count toward the agency's goals in each of the 3 programs. This practice ultimately inflates the data reported on small business contracting awards. It would be beneficial to the small business contracting community if agencies reported progress toward small business based on how the contract was solicited. In other words, if an agency set a contract aside for the WOSB program, then the dollars should only count as a WOSB award. This change would hold agencies accountable for truly awarding 5%, for example, to WOSBs, and result in an increase in the number of awards to small businesses.

Further, pervading inconsistencies exist in government contracting due to discrepancies between final rules issued by the SBA and the Federal Acquisition Regulatory (FAR) Council. This causes confusion for both companies and federal agencies on which guidance they should ultimately follow. Many in the acquisition workforce do not follow changes in small business rules unless it is in the FAR, despite the fact that final rulemaking by SBA is sufficient. The time lapse between FAR Council action and final rules promulgated by the SBA can span many years. For example, in 2016, the SBA updated its regulations pertaining to limitations on subcontracting. It took until

⁷ SBA FY2020 Small Business Procurement Scorecard, available at <https://www.sba.gov/sites/default/files/2021-07/GW-508.pdf> (last visited Feb. 24, 2022).

August 11, 2021, 5 years later, for the FAR Council to finally publish two final rules that largely mirrored the SBA's. To remedy this problem, I suggest requiring the FAR Council issue its rulemaking simultaneously with SBA.

As mentioned in the beginning of my testimony, I credit the 8(a) program to accelerating my company's success. I believe in the value of this program and thank the Committee for holding this hearing to ensure it is helping SDBs to the fullest extent possible. Thank you again for the opportunity to speak today about my experience, and I look forward to answering any questions.