

Legislative Update: Small Business Contracting Reform

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Legislative Update: Small Business Contracting Reform

- Moderator:
 - ***ML Mackey***, CEO, Beacon Interactive Systems, Chair Legislative Affairs & Policy, NDIA Small Business Division
- Panelists:
 - ***Emily Murphy***, Senior Counsel, House Small Business Committee
 - ***Jane Campbell***, Senior Advisor, Senate Small Business Committee
 - ***Kenneth Dodds***, Director of Government Contracting, SBA

FY13 NDAA (1 of 4)

- §§ 1621-1623 - *Procurement Center Representatives*
 - Requires that small business advocates be part of federal procurement and acquisition planning processes.
 - Requires that acquisition plans address how small businesses will be utilized.
- § 1631-1633 – *Goals*
 - Require that Advocacy study whether the goals should be raised.
 - Expands the goaling base.
 - Ties executive bonuses to meeting the goals.
- §§ 1641-1642 - *Mentor Protégé Programs*
 - Requires that the Small Business Administration (SBA) provide unifying regulatory guidance for civilian agency mentor-protégé programs.
- §§ 1651-1654 - *Limitation on Subcontracting*
 - Makes it easier for small businesses to team
 - Makes it harder for businesses to fraudulently pass through contracts meant for a small business to a large business

FY13 NDAA (2 of 4)

- §§ 1655-1657 – *Subcontracting*
 - Improves transparency and enforcement of subcontracting opportunities for small businesses
- §§ 1658 – *Insourcing*
 - Requires OMB and agencies to publish insourcing guidance
- § 1661 - *Size Standards*
 - Requires that SBA use the appropriate size standards, rather than counting large businesses as small and small businesses as large through the use of group size standards, which combine multiple industries into one size standard.
- §§ 1671-1673 – *Bundling*
 - Increases bundling oversight.
 - Applies lower thresholds to reviews.
 - Improves the treatment of construction contracts.

FY13 NDAA (3 of 4)

- §§ 1681-1683 – *Fraud*
 - Creates good faith safe harbor through Procurement Technical Assistance Centers and Small Business Development Centers rather than outside counsel.
 - Strengthens suspension and debarment rules.
- §§ 1691-1692 – *OSDBU*
 - Modernizes of Offices of Small and Disadvantaged Business Utilization (OSDBU).
 - Improves OSDBU’s ability to advocate for small business contracts, focus on acquisition assistance, and fight insourcing and unjustified contract bundling
- § 1695 - *Surety Bonds*
 - Increases size of bonds the SBA can guarantee at no cost to taxpayer from \$2 million to \$6.5 million.
 - Makes it easier for sureties to collection on the guarantee

FY13 NDAA (4 of 4)

- § 1697 – *Women*
 - Removes the dollar caps on set aside contracts for women owned small businesses.
- § 1698 – *HUBZone*
 - Allows certain base closure areas to participate in the HUBZone program.
- § 1699 - *Veterans*
 - Terminates the National Veterans Business Development Corporation.
- § 1699a - *Export Grants*
 - Allows the Northern Mariana Islands to participate in an export grant program.

FY14 NDAA

- § 1611 - *Advanced Small Businesses*
 - Requires DoD to identify technical assistance, skills, or systems that will help small businesses transition to being other-than-small businesses.
 - Provides technical assistance to small businesses likely to outgrow their size standards through DoD contracts.
- § 1612- *PTACs*
 - Increased funding available for Procurement Technical Assistance Centers (PTACs).
- § 1613- *Goals*
 - Requires that agencies not meeting their goals provide remediation plans to the Small Business Administration (SBA).
- § 1614- *Lower Tier Subcontracting*
 - Ensures that other-than-small subcontractors report on their use of small businesses at lower tiers
- § 1615 - *Limitation on Subcontracting*
 - Clarifies that DoD's limitation on subcontracting rules do not apply to contracts governed by SBA's limitation on subcontracting rules.

FY15 NDAA *(House) (1 of 3)*

- § 805- *Design-Build Contracts*
 - Makes it easier for small construction contractors to compete for design-build contracts by requiring agencies to use a two-phase acquisition process
- § 811- *Comprehensive Subcontracting Program (CSP)*
 - Increases transparency and accountability in the CSP as part of a three year extension.
- §812 – *Service-Disabled Veteran-Owned Small Business (SDVOSB)*
 - Unifies the definition of SDVOSB for the SBA and VA programs.
 - Creates an appeals process for the VA's VET First program.
 - Transfers responsibility for SDVOSB and VOSB determination to SBA from VA.

FY15 NDAA (*House*) (2 of 3)

- § 813- *Contract Bundling*
 - Seeks to increase enforcement of currently bundling and consolidation laws.
 - Creates consequences for failing to properly classify contracts as bundled or consolidated.
- § 814- *Export Assistance*
 - Allows PTACs and SBDCs to provide export assistance with the Arms Export Control Act.
- §815 – *Reverse Auctions*
 - When contracts are suitable for award to small business, prohibits the use of reverse auctions for services or items where the technical capabilities are the basis of award.
 - Requires that all reverse auctions have more than one round of bidding, and more than one offeror.

FY15 NDAA (*House*) (3 of 3)

- § 816- *Surety Bonds*
 - Raises the guarantee rate on SBA programs to increase the number of bonds available.
 - Strengthens controls on bond providers.
- § 817- *Strategic Sourcing*
 - Requires that a consolidation justification be published prior to competing a strategic sourcing contract.
 - Asks GAO to study the effect of strategic sourcing on the industrial base.
- §818 – *Goals*
 - Raises the small business prime contracting goal to 25%, and the subcontracting goal to 40%.
- §827 – *Women Owned Small Businesses (WOSBs)*
 - Creates a sole source authority for WOSBs.

FY15 NDAA (*Senate*)

- S. 2693 - *Women's Small Business Ownership Act of 2014 (Sen. Cantwell)*
 - Creates a WOSB sole source.
 - Improves the Office of Women's Business Ownership
 - Improves the Women's Business Development Center Program
- NDAA Amendment – *Surety Bonds (Sen. Cardin)*
 - Increases guarantee rate on SBA surety bond program.
- S. 2234 – *Improving Opportunities for Service Disabled Veteran Owned Small Businesses Act of 2014 (Sens. King, Burr)*
 - Unifies the definition of SDVOSB at SBA and VA.
 - Requires a GAO study on whether SBA or VA should determine SDVOSB status.
- S. 2652–*Desig Build Contracting (Sen. Fischer)*
 - Makes it easier for small construction contractors to compete for design-build contracts by requiring agencies to use a two-phase acquisition process.