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March 7, 2019

The Honorable Al Lawson  
United States House of Representatives  
1406 Longworth HOB  
Washington, DC 20515

Dear Representative Lawson:

We are alarmed about the Section 809 Panel's recent recommendation to eliminate most Department of Defense (DoD) small business (SB) set-asides in the "Report of the Advisory Panel on Streamlining and Codifying Acquisition Regulations" dated January 2019. We ask that you do not incorporate this recommendation into the 2020 National Defense Authorization Act (NDAA), as the changes would be catastrophic to SBs as well as the DoD and its contracting program, which is currently the largest SB program in government contracting.

The Small Environmental Business Action Coalition (SEBAC), representing SBs operating across the government environmental contracting, believes the proposed recommendations will create confusion and compliance challenges for the DoD, the U.S. Small Business Administration, and SB prime contractors.

Eliminating SB set asides could significantly impact the number of firms currently performing work for the DoD. In FY18, DoD awarded 20% (more than \$72B) of its total program to SB prime contractors; however, SBs represented 68% of the total number of firms awarded prime contracts. The DoD relies on SBs even more significantly to execute its environmental work. In FY18, DoD awarded 66% (\$1B) of its environmental consulting and remediation spending to SBs, and SBs represented 75% of the total number of firms awarded these contracts. By eliminating set-aside contracts, it will significantly disrupt DoD's execution of its environmental programs, as well as impact thousands of SBs providing these services.

In Florida Congressional District 5, 100% of the DoD's FY18 environmental consulting and remediation spending was awarded to SB prime contractors; and 100% of the firms providing those services were SBs. This demonstrates how detrimental it could be to eliminate SB set-asides from just one sector of DoD contracting, particularly in your District.

It would also be catastrophic to the socioeconomic SBs including 8(a), Service-Disabled Veteran Owned Small Businesses, Woman-Owned Small Businesses (WOSB), Economically Disadvantaged Woman-Owned Small Businesses (EDWOSB), and Historically Underutilized Business Zone (HUBZone) firms. While the DoD typically meets the overall 23% federal SB procurement goal set by Congress, it lags the government-wide achievements in all categories and does not meet its goals for WOSBs and HUBZones. In FY17, the WOSB achievement was 4.21% (below the goal of 5%). The current law that provides for set-aside contracts assists the DoD in achieving these goals. For example, prior to the 2015 NDAA, contracts were not eligible to be set-aside for WOSBs and EDWOSBs and the DoD was nowhere near meeting its 5% goal established by Congress. While there is still work to do, WOSB/EDWOSB set-asides have improved participation from 3.97% in 2014 to 4.21% in 2018. By eliminating set-asides, it will be even more difficult for the DoD to meet these goals.

The key recommendation from the Panel that could have adverse impact on the SB community is that for most DoD acquisitions, SB set-asides would be replaced with a 5% business price preference. While a 5% price preference might offer a competitive advantage in selling commodities, for knowledge-based professional services, price is often secondary to the value brought by contractors. Subjective assessments of value can easily overwhelm a 5% price preference. Further, there is no evidence that price preferences significantly help achieve SB goals. For example, HUBZones currently have a 10% price preference and are eligible for set-aside contracts, yet the DoD is only achieving 1.56% versus the 3% goal.

To eliminate the SB program would increase DoD's risk, timeframe to meet project schedules, and cost the government more money, contrary to the Panel's mission. Please continue to support the DoD's mission and SB firms by not incorporating this recommendation into the 2020 NDAA. Thank you for your consideration and please feel free to contact me if you would like to discuss this issue further.

Sincerely,

A handwritten signature in black ink, appearing to read 'John Dwyer', is written over a light blue horizontal line.

John Dwyer  
President, SEBAC