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# Small Businesses ‘Need to Stick Together’ to Sink Section 809 Recommendations, Advocates Stress



Susan

Nicholson, U.S. Army Corps of Engineers Nashville District Small Business chief, provides contracting forecast information to participants of the 9th Annual Small Business Industry Day on March 6, 2019, at Tennessee State University’s Avon Williams Campus in Nashville. (USACE photo by Leon Roberts)

With fears of an acquisition change that promises to wound small businesses, procurement pros stress that industry needs to stick together and enlist Capitol Hill allies in ensuring a key Section 809 Panel recommendation isn’t enacted.

The Defense Department’s acquisition advisory body recommended in its latest report “revising statutory guidance to clarify that the acquisition of commercial products and services has precedence over small-business set-asides,” a suggestion to lawmakers that could significantly change the outlook for small businesses that account for \$61 billion in DoD contracts.

The Section 809 Panel, created by the 2016 National Defense Authorization Act for the purpose of “streamlining acquisition regulations” with “recognized experts in acquisition and procurement policy,” reviews DoD regs and makes recommendations to amend or repeal as necessary. This includes, according to the law, establishing and administering “appropriate buyer and seller relationships in the procurement system,” improving acquisition system function, ensuring “the continuing financial and ethical integrity of defense procurement programs” and putting the Pentagon first in the process.

Commissioners on the panel include active-duty and retired military officials, industry representatives – mostly large businesses – and civilian DoD acquisition personnel. Critics argue that the replacement of most current small-business set-asides with a 5 percent price preference option would harm thousands of small businesses working with the government.

Sheila Ronis, president of The University Group, Inc., told the Government Technology & Services Coalition’s Emerging Small Business Group at its most recent meeting that she has “lots of concern” about the recommendations, though there’s “no dispute the acquisition process is in need of reform” and most of the panel’s recommendations will likely improve a “cumbersome” overall procurement environment.

“But the recommendations the panel made that are going to affect small business appear to be, in my perspective, inadequately thought through” if adopted without modifications, she said.

Ronis called it a “rather naïve approach to use a 5 percent premium in lieu of set-aside programs ...few if any small businesses are going to consider a 5 percent premium.”

“The spirit of the Small Business Act appears to be jeopardy if that goes through,” she added, stressing that the change could pose an “existential threat to small businesses that want to grow.”

Ronis predicted “most innovative small businesses will skip doing business with DoD altogether” and instead opt for deals with countries such as China, bringing inherent risks to the global supply chain. “Small businesses are the backbone of the U.S. economy ... why would the 809 panel ignore needs of small business, potentially putting U.S. national security at risk?” she asked.

Bill Weinberg, former director of the Office of Acquisition Management for U.S. Immigration and Customs Enforcement, said he is not convinced the recommendations will ultimately be enacted, noting that in his decades of procurement work “there have been a lot of

suggested reforms” but “the number of things I have actually seen changed is actually very small.”

The “implications if they are adopted,” though, “are critical.”

“I don’t think they meant to submarine small-business programs by their recommendations ... but that could be the outcome,” Weinberg said.

He noted that strong pushback to the recommendations, in addition to “very strong advocates” for small business in Congress and an inherent “reluctance to change” in government operations, will likely doom the proposal – or subject it to modifications such as the 5 percent price preference being optional.

“I personally don’t see it happening... so much would have to be change,” Weinberg added.

Ann Sullivan, president of the Madison Services Group, disagreed with the extent of the threat, saying she’s seen a willingness among contracting officers in recent meeting to “get rid of small businesses programs” while trying to “somehow give small business an olive branch.”

A coalition of 27 organizations and individuals signed on to a “very strong” letter to Congress “saying this is a terrible idea that just shouldn’t be implemented,” she said. Sens. Tammy Duckworth (D-Ill.) and Mazie Hirono (D-Hawaii) have responded with an amendment to the National Defense Authorization Act to be considered in the Senate Armed Services Committee. The House is similarly being lobbied to protect small businesses in the NDAA.

“All eyes are on this recommendation,” Sullivan said, adding, “I was concerned because it seemed like it was already decided.”

Ronis advocated that every small-business owner “first learn about the 809 panel work and how it’s going to impact your company.”

“Write to your congressman and senator to let them know how your business is going to be impacted, especially if the recommendations are accepted and implemented,” she said.

“Write collectively to the House Armed Services Committee and Senate Armed Services Committee and share the ways in which it’s going to impact your company and harm you.”

“As a group you need to stick together and possibility need to organize,” Ronis added. “In this regard, there will be strength in numbers.”

Ronis said policy makers must consider how to “assist the U.S. industrial base and reduce vulnerability so we can be strong as a nation,” and they “can’t do it without healthy small business.”

“We need to maintain a capability to be globally competitive in product and process innovation. We also need to be world leaders in investment and development” and “eliminate the possibility to be blackmailed by any country,” she said.

She advocated increasing ways for national laboratories to work collaboratively with industry and academia. “Small businesses, by and large, don’t even know they’re eligible to partner with national labs, let alone how to do it,” Ronis said.

Meanwhile, DoD and DHS must “understand key system supply chains in order to mitigate risks” as “the base is interconnected and global, whether we like it or not.”

“The 809 panel recommendations did not look at the industrial base as the global system it is,” Ronis said. “It only takes one weak link to break down an entire system.”