

December 18, 2024

Donna Fudge  
Lead Procurement Policy Analyst  
Office of Policy Planning and Liaison  
U.S. Small Business Administration

*Re: RIN 3245-AH95 Small Business Contracting: Increasing Small Business Participation on Multiple Award Contracts*

Dear Ms. Donna Fudge:

As a leading representative and advocate on behalf of America's more than 33 million small businesses, Small Business Majority writes to provide feedback on the SBA's proposed rule to increase small business participation by expanding the use of the Rule of Two for multiple award contracts.

Small Business Majority is a national small business organization that empowers America's diverse entrepreneurs to build a thriving and equitable economy. From our 11 offices across the country, we engage our network of more than 85,000 small businesses and 1,500 business and community organizations to deliver resources to entrepreneurs and advocate for public policy solutions that promote inclusive small business growth. Our work is bolstered by extensive research and deep connections with the small business community that enable us to educate stakeholders about key issues impacting America's entrepreneurs, with a special focus on the smallest businesses and those facing systemic inequities.

### **Procurement challenges facing small business owners**

Small businesses face many challenges when navigating the federal procurement system. These challenges can range from issues accessing capital needed to complete work, to outright discrimination or anticompetitive behavior in the procurement system. For many small businesses, federal or state procurement opportunities represent untapped revenue streams. However, in many cases, small firms need a great deal of guidance, mentorship and "knowing the right person at the right time" to obtain a contract that makes a real difference for their business.

Based on our conversation with many small business owners, some barriers to obtaining a contract include:

- Procurement officers tend view small businesses as too risky, especially for larger projects, and even more so when a new entrant is applying for the work;
- Procurement officers also often select vendors based on their familiarity, instead of taking a risk on a newer or smaller firm, locking new entrants out;
- Contract bundling has only increased since the onset of the COVID-19 pandemic, locking many small businesses out of opportunities;
- Cybersecurity requirements can be costly – oftentimes dwarfing the contract itself; or
- A lack of outreach from coordinating or purchasing agencies to small businesses.

When examining a list of these frequently cited challenges raised by small businesses in our network, it is clear then why small businesses make up 40% less in the total share of government contracts today than

they did in 2010.<sup>1</sup> It is also clear that the federal government needs to take an active role in bolstering the small business supplier base and ensuring that entrepreneurs of all sizes have an equal shot at doing business with the federal government.

### **Expanding the Rule of Two would expand access to contract opportunities for small businesses that are able to offer a competitive advantage in a multiple award contract**

One of the key concerns among small business owners when it comes to federal contracting opportunities is their ability to compete and complete a large scale, multi-year contract, which many small firms are locked out of. The nature of procurement is simple, the federal government wants the best quality at the best price, but despite a small business' ability to compete on quality and price, they still face challenges to do business with the government. The Rule of Two provides a simple solution to unlocking competition in federal contracting. If the Rule of Two is expanded to MACs, small businesses will be able to demonstrate that they can do the work at the price and quality requested, and as the Rule of Two states, portions of MACs contracts will be set-aside for small business spending, allowing small businesses to utilize their certifications and programs to obtain this work.

The expansion to task and delivery orders in MACs under the Rule of two would greatly increase opportunity for smaller firms looking to grow their business by working with the government. Many small businesses who are interested in procurement are not nearly large enough to compete with some of the year-over-year incumbents in the contracting system. Most urgently, heading into a new administration in Washington, small businesses are fearful of losing set-asides altogether. That's why it's critical that SBA work to finalize the rule as quickly as possible to codify this proposal into the code of federal regulations, protecting small business' ability to compete in government contracting.

### **Opportunities within the SBA's existing infrastructure to maximize the Rule of Two through the 8(a) Mentor Protégé program**

As the SBA seeks to increase the number of small firms in the U.S. supplier base, we urge SBA to couple this with efforts that are already successful in involving small and disadvantaged businesses into the procurement system. One example is through the SBA's Mentor-Protégé Program that would enhance the effectiveness of the Rule of Two and therefore increase small business participation in federal contracting. Through the program, smaller firms can engage in joint venture opportunities with larger businesses, which ultimately bolsters their level of experience and capacity needed to meet the requirements of the Rule of Two. The SBA should regularly monitor its Mentor-Protégé Program and ensure that mentors are working in good faith to build the capacity of a protégé's ability to become eligible for a Rule of Two set-aside award.

Another example is by providing the training and resources needed for SBA business center partners (such as Women's Business Centers and Small Business Development Centers) to standardize a flow of information to prospective contractors that consists of the following:

1. Information on the Rule of Two, including what types of contracts are eligible, including a timeline for the eligibility of MACs based on the implementation of this proposed rule
2. Best practices for engaging in the Mentor Protégé Program
3. Capacity building checklists
4. Examples of small businesses successfully requesting and competing for a Rule of Two designation

To ensure the success of this rule, we encourage SBA to move forward and to shift its focus on how to make more small businesses aware of the change and steps to navigate the new landscape. Whether it's supplying paper goods or providing project management and leadership in complex contracts, there are

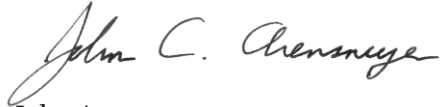
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<sup>1</sup> What is Stopping SMBs from Pursuing Government Contracts? Set Scale. November 15, 2023. <https://setscale.com/resources/https-setscale-com-resources-setscale-government-contract-survey/>

many ready, willing and able firms to get the job done at a good price and a fair quality. For these reasons, we support the SBA's proposed rule and look forward to seeing more small businesses gain access to federal procurement spaces by requiring agencies to operate under the Rule of Two within the scope of Multiple Award Contracts.

Thank you for the opportunity to provide feedback on the proposed rule. Should you have any questions or would like to discuss our comments further, please contact our Government Affairs Director, Alexis D'Amato at [adamato@smallbusinessmajority.org](mailto:adamato@smallbusinessmajority.org) or (202) 967-0995.

Sincerely,

A handwritten signature in black ink that reads "John C. Arensmeyer". The signature is written in a cursive style with a large, stylized initial "J".

John Arensmeyer  
Founder & CEO  
Small Business Majority