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**House Small Business Committee Subcommittee on Contracting and
Workforce Hearing:**

“Continuing Challenges for Small Contractors”

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Good morning. I would like to thank Chairman Hanna, Ranking Member Takai and the members of the Subcommittee on Contracting and Workforce for inviting me to testify today to discuss the continuing challenges facing small contractors and specifically how the federal government has not met its subcontracting goal in five years, even though they have continued to lower the goal each year.

My name is Mike Janeway, and I am the founding member, and President and CEO of a small business, APG Technologies, LLC headquartered in Potomac Falls, Virginia. My expertise is as a private business owner and as a retired U.S. Air Force Lt Colonel with experience working in the defense acquisition community as a program manager and program director of large command and control systems for both U.S. war fighters and our Middle East allies.

I founded APG Technologies in March 2008 as a Service Disabled Veteran Owned Small Business (SDVOSB) with the goal of providing high value ROI engineered designs and implementations to the Department of Defense and the various intelligence agencies of the U.S. federal government. We have approximately 30 employees spread across operating locations in the Washington DC area; Dayton, Ohio; Denver, Colorado; Colorado Springs, Colorado; Dallas, Texas; and at times various locations in California, Florida, Kentucky, and New York. Our company has successfully delivered and supported a variety of programs and missions used in the war on terror.

Having stayed true to our mission of providing high value data management solutions we have grown slowly, yet we maintain an excellent reputation in our market. Since our engineering deliverables typically center around components of much larger developments, most of our work is awarded as a subcontractor to much larger prime contractors. Our experience includes teaming with many of the large companies that typically bid on defense and intelligence contracts, including many of their operating locations across the U.S.

Federal procurement is not just of singular importance to many small businesses—small-business participation is crucial to a healthy and competitive federal procurement process. Small businesses provide high-quality goods and services to federal-contracting agencies and infuse the federal procurement system with much-needed competition. In turn, the federal government invests in the most-dynamic and innovative sector of the U.S. economy.

More than 30 years ago, Congress set a goal of having a certain portion of all federal contracting dollars go to small businesses and established sub-goals for small businesses owned by women, socially and economically disadvantaged individuals and service-disabled veterans, and for small businesses in Historically Underutilized Business Zones (HubZones). The current government-wide goal for small businesses' share of contracting dollars is 23 percent. However, every year since 2006, the federal government has missed the 23 percent small business goal and all but one of the sub-goals.

Small firms accounted for 63 percent of the net new jobs created between 1993 and mid-2013 (or 14.3 million of the 22.9 million net new jobs). Small firms in the 20-499 employee category led job creation. This unrivaled success has been achieved with less than adequate governmental support, however. Although small businesses comprise 99.7 percent of all employer firms in the U.S., employ half of all private sector employees, and are responsible for more than 50 percent of the country's private, non-farm gross domestic product, they only receive a fraction of federal contracting dollars and a tiny sliver of federal research and development investment. In fact, in fiscal year 2012, only 22.3 percent of all contracting dollars went to small business. When small businesses are excluded from federal contracts, the federal government, American taxpayers and the nation's economy lose out.

Subcontracting is an important avenue for small businesses to gain entry to the federal marketplace when they lack the capacity to compete at the prime contractor level and can also serve as a stepping stone to receiving work as a prime contractor. According to past NSBA survey data of those small firms that provide goods and services to the federal government, 48 percent said they have performed subcontracting duties for the federal government. Among businesses that do perform subcontracting for the federal government, approximately 66 percent said that at most 20 percent of their firm's revenue is based on federal subcontracting.

Subcontracting plans, where large business prime contractors explain how they will tap the talents of small businesses to help them in performing the contract are the key tool agencies have to facilitate opportunities for small businesses as subcontractors. While statutory and administrative goals are intended to provide small businesses with significant subcontracting opportunities, a lack of attention, consequences, and systems continues to plague the program.

Unlike the small-business prime contract goal, the small-business subcontract goal is administratively rather than statutorily determined. Like small-business prime contracting, federal agencies set goals for the percentage of subcontracts that will be awarded by federal contractors to small businesses. To achieve these goals, the government requires many federal contractors to submit small-business subcontracting plans that outline how small businesses will participate in contract performance.

Too often we see subcontracting plans written only to address proposal goals with little to no follow through after the prime contract is awarded. With no enforcement by the federal government to hold prime contractors accountable subcontracting plans seldom match reality and goals are never met. The impact to a small business can be significant. APG Technologies and hundreds of others companies have experienced this same scenario where you enter into a teaming agreement in good faith, provide engineering and administrative talent at your own expense to develop a solution, hire recruiters to get a jump on recruiting the best talent, and may even pay an option to lease a larger office only to see the prime contractor find some reason not to award the subcontract or to delay staffing.

This allows the U.S. Small Business Administration (SBA) to adjust the subcontracting goal based on what it perceives to be the real opportunities for subcontracting. However, while SBA

has steadily decreased the subcontracting goals from 36 percent to 34 percent over the last five years, subcontracting achievements have fallen from 35 percent to 33 percent. Each time SBA decrease the goals, agencies manage to subcontract less with small businesses. This results in real losses to small businesses.

In the Small Business Procurement Scorecard—which measures each agency’s progress in meeting their small business and socio-economic prime contracting and subcontracting goals and provide accurate and transparent contracting data—published annually by the SBA, the agency reported the following subcontracting goals and achievement for FY 2013:

Small Business Concern	Subcontracting Goal	Subcontracting Achievement
Small Business	36.00%	34.00%
Women Owned Small Business (WOSB)	5.00%	6.60%
Small Disadvantaged Business (SDB)	5.00%	6.70%
Service Disabled Veteran Owned Small Business (SDVOSB)	3.00%	1.70%
HUBZone	3.00%	1.20%

In fiscal year (FY) 2013, small businesses received \$86.7 billion in subcontracts, which is just about \$5 billion less than they received in prime contracts. If federal agencies had met the then-goal of 36 percent, subcontract would have accounted for more dollars to small business than prime contracts. The fact that the goal keeps decreasing indicates that less and less is being provided to small subcontractors.

APG Technologies’ experience is that prime contractors will comply with requirements the federal government frequently measures and enforces. The opposite is also true in that prime contractors pay little attention to requirements not measured, validated, and enforced. For example, APG Technologies has been a subcontractor on a large contract for a military service intelligence agency where we run the data management, integration, and architecture teams. The agency goal for SDVOSB awards is three percent but they rarely achieve half that annual goal and have shown little interest in enforcement on a contract with scope we could easily fulfill. Despite only achieving half their subcontract goal of three percent the prime contractor repeatedly recruits and staffs their own employees rather than award us new work.

Recently, this same contract was re-competed and awarded to a new company which added us as a subcontractor. Under this new contract, from the same agency, for the same scope, some of the small-business goals were not listed and the prime contractor’s response has been to cut APG Technologies’ hours which has resulted in staff reductions.

Prime contractors on any contract with an estimated contract value exceeding \$650,000 that has subcontract possibilities are required to submit a subcontracting plan to the government that assigns both percentage and dollar value goals to these opportunities. The government monitors the prime’s utilization of small businesses by reviewing this plan and reported achievements

against the plan. The government's review of performance against the plans is further complicated by antiquated supporting technology that still has contractors submitting plans and reports to the contracting officer in paper format in some cases.

This further shows that the SBA's subcontracting goals are arbitrary. In an attempt to improve this process, the National Defense Authorization Act (NDAA) for FY 2013 required that:

Not later than 180 days after the date of the enactment of this part, the Administrator of the [SBA] shall review and revise the Goaling Guidelines for the Small Business Preference Programs for Prime and Subcontract Federal Procurement Goals and Achievements to the extent necessary to ensure that . . . agency subcontracting goals are established on the basis of realistically achievable improvements to levels of subcontracting rather than on the basis of an average of previous years' subcontracting performance.

However, nearly three years after the President signed the NDAA, SBA has not issued new subcontracting goal guidelines. Indeed, instead of implementing goals that reflect "achievable improvements" the SBA has decreased the subcontracting goal since 2013. This is not the solution.

According to past NSBA survey data, nearly 79 percent of the small businesses surveyed supported the idea that the federal government should provide greater oversight and protection for federal subcontractors. Therefore, I was especially pleased to see that the Senate Small Business and Entrepreneurship Committee passed both the *Small Business Subcontracting Transparency Act of 2015* (S. 2138) and the *Small Contractors Improve Competition Act of 2015* (S. 2139), which examines the difficulties in dealing with the federal procurement process, and addresses small business challenges in level the playing field and ensure fair competition in government contracting.

I also appreciate all of the work by House Small Business Committee Chairman Steve Chabot on his *Small Contractors Improve Competition Act of 2015* (H.R. 1481), which would amend the Small Business Act and the FY 2013 NDAA, and is intended to increase the number of awards made to small businesses by addressing several perceived obstacles that inhibit opportunities to increase small-business participation in federal contracting. Especially crucial was Sec. 102 that dealt with subcontracting goals.

Currently, when considering whether senior agency executives are eligible for bonuses, agencies must look at whether they met the small-business prime contracting goals. However, agencies do not look at whether the agency is meeting its subcontracting goals. As a consequence, the percentage of subcontract dollars awarded to small businesses has been falling, and is down 2.5 percent since 2010. With subcontracting being an important entry point for federal contractors, this provision holds senior agency officials accountable for meeting all the goals. I applaud these small-business contracting reforms being included into H.R. 1735, the *National Defense*

Authorization Act for 2016 (NDAA) and look forward to President Barack Obama signing NDAA into law in the coming days.

The solutions to these concerns should be statutory in law by requiring the SBA to return to the higher 36 percent goal, stop reducing subcontracting goals, and make the goals mandatory contract requirements for all federal acquisitions with procedures and penalties for failure. Administratively, the Federal Acquisition Regulation (FAR) should be changed to make and allow the following:

1. Subcontracting plans should be contractually binding, compliant with SBA goals, and enforced by the federal contracting officers.
2. Contract Officers should quarterly measure a contractor's compliance with the subcontracting plan.
3. Contracts Officers should be authorized to penalize contracts not meeting their subcontracting plan through payment withholds and other penalties.

In short, the subcontracting plans should no longer just be words on paper to address a proposal requirement. It should be an executable management plan that is contractually binding under and which the prime contractor is measured and held accountable. The subcontracting plans requirements should be revised to increase small business subcontracting participation and enhance the electronic subcontracting reporting system to improve federal agency monitoring of prime contractor achievements against their subcontracting plans.

As small businesses struggle to compete for federal contracts and subcontracts, I appreciate this subcommittee examining whether legislative changes could better protect and promote businesses such as mine.

Mr. Chairman, thank you for the opportunity to provide you and your subcommittee with the insight of my company's experiences. If there is anything I can do to assist you or your subcommittee I am more than eager to serve.