

**TIDEWATER GOVERNMENT INDUSTRY COUNCIL
MINUTES OF MONTHLY MEETING FOR THURSDAY, AUGUST 10, 2023
QED FACILITY AT 5700 WARD AVENUE, VIRGINIA BEACH, 8:00AM**

LINK FOR RECURRING MS TEAMS MEETING

https://teams.microsoft.com/l/meetup-join/19%3ameeting_YjkwNjUxZmMtM2E0My00Mzg3LTljMWItNmJIN2I1MzdkMWVh%40thread.v2/0?context=%7b%22Tid%22%3a%22d5fe813e-0caa-432a-b2ac-d555aa91bd1c%22%2c%22Oid%22%3a%222fe9d3f3-3b1c-455c-afb9-99b67b7f844e%22%7d

AUDIO ONLY DIAL-IN: 1-804 394-5686 694805195#

- 1. Introduction of Attendees and Participants viewable on Microsoft Teams Log-in Screen**
- 2. Review and Approval of previous month’s meeting Minutes.**
 - Minutes distributed within a few days after the meeting and the agenda sent the week of the TGIC meeting, resulting in two emails from TGIC.
- 3. Reports from Standing Committees and Industry Representatives**

Action Item	Responsible Person
<p>a. Standing Committees Small Business Matters Linda Owen Paul Staley</p>	<p>Linda: -Linda attended the National Veterans Small Business Coalition Meeting. Speaker: John Perkins, Director of the Small Business Certification Program at SBA. -The Small Business Administration on Tuesday announced that in fiscal 2022, the federal government directed more money than ever—\$162.9 billion—to small business contractors, although their share of overall procurement spending declined. Each year, SBA officials issue a scorecard measuring the federal government’s performance in awarding contracts to small businesses, as well as businesses owned by women, minorities, and veterans. They also work with agencies to set goals for the proportion of contract dollars that go to small businesses and historically disadvantaged businesses. In fiscal 2022, SBA said the federal government’s contractor spending amounted to an \$8.7 billion increase over the previous year. But while federal agencies easily surpassed their goal of small business contracts making up 23% of overall procurement spending at 26.5%, that figure falls short of the 27.2% of contractor spending that went</p>

TGIC is a council of Government and Industry representatives organized to provide effective avenues of communication, cooperation, and consultation between numerous government activities and private industry in Hampton Roads.

to small businesses in fiscal 2021.

“Through President Biden’s Investing in America agenda, we have championed initiatives to fuel our nation’s historic economic growth while reducing barriers and ensuring fair competition in federal contracting,” said SBA Administrator Isabella Guzman in a statement. “The Biden administration continues to raise the bar, reaching a record high level of contract spending with small businesses, supporting over 1 million good-paying jobs in manufacturing, construction, research and development, and other vital industries.”

For the second straight year, agency procurement from small disadvantaged businesses, which refer to companies owned by ethnic minorities and other "economically disadvantaged" firms, exceeded SBA’s goal of 11% at 11.4%. Spending with businesses owned by disabled veterans increased by \$3 billion in fiscal 2021 to a total of \$28.1 billion the following year, increasing their share of contracting dollars by 0.2% to 4.6% in fiscal 2022. And women-owned small businesses’ piece of procurement spending stayed steady in fiscal 2022 at 4.6%, although that equates to a \$1.9 billion increase over the prior year. Agencies ultimately fell short of their 5% goal in this category, however.

Businesses in historically underutilized business zones, or HUBZones for short, saw a record high investment of \$16.3 billion from federal agencies. But that still fell 0.3 percentage points short of SBA’s goal of 3% for businesses in these locations.

The Biden administration has made a concerted effort to make the contract award process more equitable for small and minority-owned businesses, including issuing guidance from the Office of Management and Budget aimed at encouraging new companies to apply for federal contracts and establishing a dashboard so agencies can keep track of new and recent applicants as well as established vendors. The administration has also directed all agencies to include progress toward their small business contracting goals as a portion of performance appraisals for members of the Senior Executive Service who oversee the acquisition workforce.

“Today’s report from the Small Business Administration shows that we’ve also made progress leveling the playing field in federal contracts, with a record \$163 billion going to small businesses,” President Biden said in a statement. “Just in the last fiscal year, our policies have supported 1 million jobs in small businesses. This report also shows progress in increasing the share of federal contracts going

to small disadvantaged businesses. Vice President Harris and I are committed to ensuring that federal investments build wealth and opportunity for underserved entrepreneurs and small business owners in every community across the country.”

-US Department of Labor announces final rule to modernize Davis-Bacon Act Aided by labor, industry stakeholders’ comments, most comprehensive updates in 40 years.

WASHINGTON – The U.S. Department of Labor today announced the issuance of the final rule “Updating the Davis-Bacon and Related Acts Regulation” to update regulations that implement the Davis-Bacon Act and Davis-Bacon and Related Acts to reflect better the needs of construction workers on federal construction investments.

The announcement follows a Notice of Proposed Rulemaking on March 18, 2022, which received comments from construction industry and labor stakeholders that helped inform the regulatory updates.

The updates are the most comprehensive in decades.

The final rule provides greater clarity and enhances the DBRA regulations’ effectiveness in the modern economy.

These updates strengthen and streamline the process for setting and enforcing wage rates on federally funded construction projects to make sure that federal government infrastructure investments are also investments in U.S. workers.

“Modernizing the Davis-Bacon and Related Acts is key to making sure that the jobs being created under the Biden-Harris administration’s Investing in America agenda are good jobs, and that workers get the fair wages and benefits they deserve on federally funded constructions projects across the nation,” said Acting Secretary of Labor Julie Su. “This updated rule will create pathways to the middle class for more families and help level the playing field for high-road employers because companies who exploit their workers, or who don’t pay workers fairly, should never have a competitive advantage.”

The final rule’s regulatory changes improve the department’s ability to administer and enforce DBRA labor standards more effectively and efficiently. These changes include the following:

Creating new efficiencies in the prevailing wage update system and making sure prevailing wage rates keep up with actual wages which, over time, would mean higher wages for workers.

Returning to the definition of “prevailing wage” used from

	<p>1935 to 1983 to ensure prevailing wages reflect actual wages paid to workers in the local community.</p> <p>Periodically updating prevailing wage rates to address out-of-date wage determinations.</p> <p>Providing broader authority to adopt state or local wage determinations when certain criteria are met.</p> <p>Issuing supplemental rates for key job classifications when no survey data exists.</p> <p>Updating the regulatory language to better reflect modern construction practices.</p> <p>Strengthening worker protections and enforcement, including debarment and anti-retaliation provisions.</p> <p>The DBRA requirements apply to an estimated tens of billions of dollars in federal and federally assisted construction spending each year and provide minimum wage rates for hundreds of thousands of U.S. construction workers. The department expects a significant increase in the numbers of industry workers due to the historic investments in federally funded construction projects made possible by legislation such as the Infrastructure Investment and Jobs Act.</p> <p>“In light of recent investments in our nation’s infrastructure, modernized regulations are more important than ever to ensure fair wages and benefits for the workers who build and repair our roads, bridges, federal buildings and energy infrastructure,” said Principal Deputy Wage and Hour Division Administrator Jessica Looman. “They will help set correct wage rates for workers on these federally funded construction projects that better reflect the realities of today’s labor market.”</p> <p>New federal investments will support projects related to clean energy, power and water infrastructure improvements, legacy pollution remediation, and renovation to the nation’s broadband and transportation infrastructures.</p> <p>The DBRA’s purpose is to ensure employers on federally funded or assisted construction projects pay locally prevailing wages to construction workers and to prevent the unintended consequence of depressing workers’ wages during the government’s construction contracting activity. The final rule will be effective 60 days after its publication in the Federal Register.</p> <p>-8(a) application submissions temporarily suspended. On July 19, 2023, the U.S. District Court for the Eastern District of Tennessee enjoined SBA from applying a rebuttable presumption of social disadvantage to individuals of certain racial groups applying to the 8(a) Business Development program. SBA has temporarily</p>
--	---

<p>Legislative Matters Pat O'Donnell</p>	<p>suspended new 8(a) application submissions to comply with the Court's decision.</p> <p>Paul Hawkins: Regarding the 8(a) case, the impact is on pending applications and new applicants. The issue was that a contractor had sued based on presumption of social disadvantage that is written in the 8(a) roles, not constitutional and the judge agreed with him. The way the 8(a) program application works, the economic disadvantage side is a clear numbers/calculation determination. On the social disadvantage side, it is not a strict, clearcut determination. It says individuals who experience social disadvantage would qualify, but then the rules state, but individuals in certain minority groups would get "presumption of disadvantage". They just check that box on the application and don't have to provide a narrative unless the SBA wants to come back and rebut that presumption. Then they would have to produce evidence. The judge said was, that presumption of social disadvantage, because of the way it was fashioned, and the data used, and since there is not an option to truly rebut it, it was unconstitutional. For now, SBA is going back and revising the application and revising their internal SOPs for reviewing applications.</p> <p>Pat: -OCI protest, disqualified bidder in a State Department contract. The State Department argued that the court did not defer to the State Department when it cancelled a procurement. They cancelled the procurement because the protestor had raised that one of the bidders had an organizational conflict of interest. (They had access to some proprietary information.) The government argued, the TROP (Claims) court is not permitted to substitute it's own judgement for that of the agency and it's certainly not permitted to impose its own corrective action when it disagrees with the corrective action taken by the agency. However, the appeals court said, the agency had not explained to the claims court how it intended to mitigate potential OCIs, so they cancelled the procurement. The gave the court no explanation of they intended to deal with the OCI. The other company that raised the OCI issue said, "You can't do that", but the agency said they could do whatever they want as long as it's rational. The court had no way to judge whether it was rational or not rational. The agency has unlimited discretion whether or not to cancel a procurement, but they must provide information to show if it is rational or not.</p>
--	--

-The GAO rejected a pricing challenge on a \$326M award. The incumbent, Leidos, was not the awardee. Leidos protested on their price realism and their ability to actually preform the work. Leidos felt the awardee, Amentum, would need all of their employees and and Amentum proposed rates well below what Leidos was paying them. The court rejected that argument saying, Amentum had been sufficiently vague on how they were going to staff this contract. They never said that they were going to hire incumbents. They had a list of 'possible' ways to acquire folks to staff this award. The court used this vagueness to say, the award was based on their proposal. (Leidos ended up lowering their rates.)

-Buy American Act – The GAO rejected the Army Corps waiver of the BAA. The agency can waive it, but only if there is a reasonable survey of the market was done showing that any domestically available parts were unreasonably expensive. In this case, the court looked at what was done in terms of the survey of the market and said, you determined that there was one manufacturer that was very high in price, but here is another one that we found on a quick Google search that you never even mentioned that makes these giant valve parts on this dam. If we can find it on a 10 second Google search, your market research was not reasonable.

-A District Court in New Jersey ruled that a company that was investigated for Foreign Practices Act violation, bribing foreign officials to get work. The company pled guilty and entered into a cooperation agreement, whereby, they agreed they were going to be fully cooperative in a deep investigation. The company interviewed two high members of the management team and telling them that they needed to tell them everything they know, or they will be fired. At that point, the company has essentially become the government in its investigation. They have a signed agreement to cooperate and then telling employees, you might have a fifth amendment right, but if you don't tell us, you will be fired. The fifth amendment privilege has now been infringed. The forced interviews are now not admissible in court. The company's attorney must make sure the employees know that they are not going to be fired if they don't talk to them. He also needs to tell them that he is not their lawyer, he is the company's lawyer. The employee may want his own lawyer. Companies don't have a fifth amendment, only individuals.

<p>Business and Professional Development Jeff Brunner</p>	<p>Jeff: -Outline of topics for Industry Days were out at last month's meeting. Monique McWhite has been very busy are getting lined up for FY24. Facilities have been hard to get, but she is working on dates, topics, and venues. Looking at Monique's Business Development Center downtown, the Darden School, and Big Blue Chartway Arena, but may focus on ODUs partnership for facilities.</p>
<p>Contracting Approaches and Techniques Dennis Garcia</p>	<p>Dennis: -No government trends at this time. -On the industry side, because pricing has become so competitive, small businesses are having a hard time with overhead (Proposal Managers, Technical Writers, etc.). A Cottage industry has sprung up of other small businesses who are a one-stop shop for your pipeline, business development, technical writing, Proposal Managers, past performance, etc. at a reasonable, SB-type price, lower than the professional proposal companies. They will handle all of that for you, giving you a product you can submit to the government, or you can break out the components you'd like them to handle. Pricing depends on your needs.</p>
<p>Professional Networking Monique McWhite</p>	<p>Jeff: -TASC Happy Hour August 24th, 4:30-6:30, Three Notch Brewery, Pembroke Town Center, Virginia Beach. Please go to the website to register, https://tasc-tgic.org/event-5359405</p>
<p>b. Reports from Elected Industry Representatives Large Business Small Business Small Disadvantaged Business Educational Institutions At Large</p>	<p>None at this time.</p>

4. Updates on TASC and TGIC Business and Professional Development Events

- Jeff & Monique are working on the FY24 training schedule as mentioned above.
- TASC Industry Day with the Army Corps of Engineers 24 October, ODU Big Blue Room. Events book up and fill fast, if interested, register early.

5. Report from TASC Board Liaison to TGIC

- We are looking for a replacement for Jenise Ruele to perform administrative/web support to operate the website. Going in on the admin side to help with any issues that

may come up. If possible, maybe even help with posts on the LinkedIn site. May initiate a part-time paid position.

6. Old Business

- Klett Consulting helped us design a new TASC TGIC display booth, should be on order and in production, and available for use soon. Klett has also redesigned and re-colored the tri-fold.
- NASA Industry Day is still on our radar.
- TGIC meeting minutes are posted here, <https://tasc-tgic.org/Meeting-Minutes>.

7. New Business

- As amended in the July minutes approval, TASC and TGIC continues to remain nonpartisan. The efforts our organizations strive to master reaches the Second District Representative Office regardless of the political party occupying that office or political preference. Our organization, for all SB Exchange Briefs, have contacted the same six staffers that we have sent our letters to, to inform them of the event. TASC and TGIC stands proudly to help our members by reaching out to all who will help.

8. Announcements and Other General Information

- NCMA Hampton Roads Chapter will have a social gathering at Blue Moon Waterside, Thursday, 17 August, 5:00PM.
- ASNE Fleet Maintenance & Modernization Symposium (FMMS), San Diego Convention Center, September 6-8, 2023
- ASNE Tidewater (<https://www.asne-tw.org/>) dinner meeting, 20 September 2023, 5:30 PM - 8:00 PM (EST). The guest speaker is Captain Hannah A. Kriewaldt, USN, Supervisor of Shipbuilding, Newport News, USN. Location: Holiday Inn Virginia Beach- Norfolk at 5655 Greenwich Road, Virginia Beach. Cocktails and Networking: 6:00- 8:00pm Dinner and Program.

- Cost: Members: \$33 in advance / \$35 at the door
- Non-members: \$38 in advance / \$40 at the door
- Military: \$20 in advance / \$25 at the door
- Students: \$10 in advance / \$15 at the door

Please register on the website.

- DON CIO had their summer meeting. The next one is already scheduled for the first week of June at the Hilton Main. It will be larger next year, having two floors instead of one due to the large demand to attend. They are working to bring the Coast Guard in (C5I Service Center) and will provide the featured speaker. Also, trying to bring the Marine Corps back as well. Dennis Garcia will keep us updated.

9. Calendar Updates

VB website (<http://www.yesvirginiabeach.com>) To submit an item to be listed, submit an email to RKWhite@vbgov.com and EcDev@vbgov.com

TASC/TGIC website (www.tasc-tgic.org) To submit an item for posting, please e-mail to jacob@barclaygroup.com (Some items may require review and approval by the TASC Board)

10. Next TGIC Meeting: The next two TGIC meetings are scheduled for Thursday, 14 September, 8:00 AM, followed by 12 October. Meetings are hybrid.

11. Adjournment

Attachments:

(1)