



**Statement of Michael A. Niggel
Chief Executive Officer**

**Advanced Concepts and Technologies
International, L.L.C. (ACT I)**

**“Impact of the 2018-2019 Government
Shutdown on a Small Business”**

**Committee on Oversight and Reform
United States House of Representatives**

May 6, 2019

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*Statement of Michael A. Niggel, CEO, Advanced Concepts and Technologies International
before the House Committee on Oversight and Reform
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Chairman Connolly, Ranking Member Meadows and Members of the Subcommittee, thank you for the invitation to testify on behalf of Advanced Concepts and Technologies International, L.L.C. (ACT I). My name is Michael Niggel and I am the co-founder and CEO of “ACT I” headquartered here in Arlington, Virginia. We deliver Total Acquisition Management Solutions to the U.S. Federal Government and Allied Governments. Our professional staff provides trusted technical and management advice and support solely to the U.S. and Allied Governments on complex programs and systems. We provide our senior acquisition expertise across four (4) domains: Defense, Homeland Security, Space and Intelligence, and International programs. Our firm has about 250 professional staff serving as subject matter experts in Requirements, Acquisition Strategy and Planning, Contracting, Program Management, Engineering, Logistics, Business and Financial Management, Security, Cyber and Foreign Military Sales Case support. We call the integration of these program life cycle functions “Total Acquisition Management Solutions”. Most of our professional staff live and work in Arlington and surrounding counties.

I appreciate the opportunity to discuss the impacts of the partial federal government shutdown on ACT I and the small business contractor community that supports the United States Government. I will describe some of the experiences and decisions that ACT I faced during the recent Government shutdown from December 2018 until January 25, 2019. I will offer a few thoughts on actions Congress can take to protect government employees, the small business contracting and the small banking community in case we have another gap in appropriations or shutdown including:

- Provide for uniform, clear guidance and communications to Federal Agencies and Contract Officers to act swiftly in approving Requests for Equitable Adjustments (REAs) from federal contractors (especially small businesses)
- Provide authority for the Federal Agencies to guarantee compensation for contractors performing during appropriation lapses and shutdowns,
- Enact appropriations bills on time, for the full fiscal year; or if a Continuing Resolution (CR) is needed, then ensure that it is an automatic CR to provide stability and certainty for small businesses and small banks working in the Government contracting arena.

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- Provide a two-year increase in the Budget Control Act (BCA) caps for Fiscal Years 2020 and 2021 to provide stability and continuity for small business and small banks who need to grow.

Impact of the 2018-19 Shutdown on ACT I and Similar Small Businesses

At ACT I, we are trusted senior advisors to the U.S. Federal Government and Allied Governments. We do not have large commercial work within the firm's portfolio. As a policy, we do not sell hardware or software so that we are always available to provide knowledge management and trusted advice to U.S. Government Agency Directors and Program Managers free of any potential conflicts of interest. We augment Government Agencies and employees with subject matter experts that provide analysis and actionable recommendations to assist Governments to manage successful, effective programs/systems at the lowest cost and risk to their taxpayers.

The recent 2018 government shutdown impacted 2 of ACT I's Department of Homeland Security (DHS) contracts. First, was the firm's largest contract (HSBP10-17-F-00278) for the Enterprise Program Management Office (ePMO). This contract provides trusted enterprise-wide program and acquisition management support across seven (7) programs including:

- Passenger Systems Program Directorate (PSPD)
- Border Enforcement Systems Directorate (BEMSD)
- Cargo Systems Program Directorate (CSPD)
- Tactical Air, Land, and Marine Enterprise Communications (TALMEC)
- Enterprise Data Management & Engineering Directorate (EDMED)
- Enterprise Networks & Technology Support Directorate (ENTSD)
- Chief of Staff and Chief Technical Officer

Our 5-year period of performance started January 2018 and runs through Jan 2023 and we have up to 72 technical positions on this ePMO contract over these five years.

Our second contract (HSHQDC-16-F-00192) is also a DHS contract with the Civil Rights and Civil Liberties (CRCL) Office. This contract is to provide technical and administrative staff over 5 years from September 2016 to September 2021 and includes 9 management and administrative positions.

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Although the shutdown did have many negative impacts, I would like to start with a couple positive impacts for ACT I and our DHS customers that occurred as a result of ACT I's planning, decision-making and actions taken before/during the shutdown.

ACT I's number one corporate goal is Employee Satisfaction. Thus, we made a pre-emptive strategic decision to continue to pay and train all our DHS professional staff while our contract and work was stopped.

We brought all our technical staff members from shuttered DHS sites to ACT I's headquarters for training courses and team-building activities during the shutdown.

These ACT I shutdown plans and actions helped us:

- 1) Increase employee satisfaction throughout the firm,
- 2) Enhance our reputation for corporate loyalty across all our employees,
- 3) Enable our customers to retain our technical / management staff who all have hard-to-get Government DHS Suitability clearances.
- 4) And most importantly, continue to provide a steady income and fringe benefits for our employees during very turbulent and uncertain times.

Our DHS customers appreciated that we protected our employees (i.e., their staffs) during the shutdown and did not lose them, or their clearances, to other programs. The result of our actions was that we built both customer loyalty and respect - as well as employee loyalty.

A residual benefit for ACT I is that other contractors that furloughed their employees are not seen as being as supportive, or creative, as is ACT I. Our strategic decision to pay and provide benefits to our staff at our own expense during the shutdown helped protect our staff, their clearances, and our customers. ***ACT I took the lemons produced by a shutdown, invested about \$400,000 of sugar, and made lemonade.*** We invested these substantial resources in our employees - who are direct DHS professional staff - by paying their full salaries and benefits using company funds. This was a huge investment for a small business like ours with a very high risk that we may never be fully or partially reimbursed. The shutdown caused a financial double jeopardy for the firm because we were not earning normal sales which generate overhead and G&A funds needed to conduct business, and instead we were spending this large sum of money from our indirect accounts and fees.

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Now, for the less positive impacts – some financial and some non-financial - that occurred during and after the 2018 shutdown.

We knew we would lose sales, suffer cashflow impacts, have banking challenges, potentially lose valuable talent especially our employees working at DHS with high level security clearances because commercial companies, larger businesses, and firms with contracts not impacted by the shutdown would target our top cyber, communications, and intel talent. Commercial firms like Amazon, Google, Facebook and others do not have Government constraints like salary caps and shutdowns to hold them back from acquiring and retaining top talent.

And we were worried about potential performance issues and the customers' reactions when we were not allowed to come to work at DHS sites. Therefore, we sat down early and had discussions with, and explained our plans to, our bank which is a small community bank called First Virginia Community Bank (FVCB). Given our size and the fact that this shutdown only affected 20-25% of our sales and employees, we were confident that we could go 4 to 6 weeks on our line of credit, or maybe a little more with help from FVCB. But small businesses who are smaller and had a much bigger % of their sales and employees impacted could not survive a 35-day shutdown. Very small firms working in 1 or 2 shutdown agencies had to furlough everyone just to survive.

Here are several impacts that the recent shutdown specifically had on us:

- 1) ACT I had a total direct sales loss of over \$513,000 on these two DHS contracts -over \$493,000 on ePMO and almost \$20,000 on the CRCL contract.
- 2) We experienced a major loss of cashflow because ACT I was not getting paid for the prior 2 months of work already completed in November and December 2018 which resulted in over \$1,000,000 of late DHS payments which is about 25% of our monthly accounts receivable. As of today, all these old invoices finally have been paid, or are in the payment process.
- 3) Besides lost sales and the loss of cashflow, ACT I corporate leadership invested a lot of valuable time and effort working to support our customers, calm our staff, and prepare Requests for Equitable Adjustments (REAs) to file

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with our customers once the Government re-opened. The current status of our staff and contracts is that all our professional staff are back to work, and we have submitted two (2) REAs worth over \$500,000 in February and March of 2019 in accordance with our contract rights and the Federal Acquisition Regulations (FAR). The value of these REAs equates to about \$20% of our total net income in 2018. One DHS customer has indicated they cannot pay our REA due to its legal counsel's interpretation of the FAR. And our other customer has our REA in evaluation. We are depending on receiving this \$500K in REAs to recover some of the losses that resulted from the shutdown.

- 4) An unforeseen issue for one of our DHS customers was related to confusion why ACT I's staff was not showing up for work when other contractors were at work during the shutdown. ACT I was "off contract" on our ePMO contract because no Government Procurement Contracting Officer (PCO) was available to exercise our contract option on 15 Jan 2019. After the Government re-opened, our contract option was executed, and we went back at work. But prior to re-opening, our customer was very upset with ACT I until we returned and could explain to them that we were not legally allowed to come to work until a PCO executed our contract option. We were concerned about this negatively impacting our contract performance ratings.
- 5) Contractors like ACT I, as well as government employees affected by the shutdown, have no control over shutdown contract issues like the one I just described and should not be penalized based on shutdown issues. Contract performance issues caused by the shutdown should not negatively impact government employees' and contractors' annual performance reviews. Historically, we have earned the top customer rating of "exceptional" in the Government's Contractor Performance Assessment Rating System (CPARS). This shutdown and any future shutdowns should not result in lower customer performance ratings based on issues generated by shutdowns that would jeopardize any company's ability to win future contracts due to unfair poor performance ratings.

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Recommendations to the Subcommittee for Congressional Action:

- 1) Provide for uniform, clear guidance and communications to Federal Agencies and Contract Officers to act swiftly in approving Requests for Equitable Adjustments (REAs) from federal contractors (especially small businesses).
- 2) Provide authority for the Federal Agencies to guarantee compensation for contractors performing during appropriation lapses and shutdowns, and
- 3) Enact appropriations bills on time, for the full fiscal year; or if a Continuing Resolution (CR) is needed, then ensure that it is an automatic CR to provide stability and certainty for small businesses and small banks working in the Government contracting arena.
- 4) Provide a two-year increase in the Budget Control Act (BCA) caps for Fiscal Years 2020 and 2021 to provide stability and continuity for small business and small banks to grow.

Conclusion

Thank you for inviting ACT I to participate in this important hearing and to share our corporate story, the impact of the shutdown on us and on similar small businesses, and to make recommendations to Congress for your consideration.

Given that that there is another panel involved, I request unanimous consent to revise and extend my testimony if needed to respond to that data after it has been presented.