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Tuesday, 09 August 2011 00:00

Is your company a member of an industry association? If not, why not?

Generally, the associations benefit like-positioned companies through advocacy and lobbying. The associations also provide a forum where member companies can meet to discuss cross-cutting issues. The associations can meet with Senior Executive Service policy-makers, Congressional staffers, and others without creating any perceived conflicts of interest, since they are independent of the companies that comprise their memberships. In other words, plausible deniability.

There are many associations serving diverse constituencies. Ones that come immediately to mind include—

- The Professional Services Council , representing “the federal government’s professional and technical services industry”.
- The National Defense Industrial Association , representing companies that provide national defense and homeland security products to the Federal government (primarily NASA, DOD, and DHS).
- The Aerospace Industries Association , representing “more than 300 major aerospace and defense companies and their suppliers … embodying every high-technology manufacturing segment of the U.S. aerospace and defense industry from commercial aviation and avionics, to manned and unmanned defense systems, to space technologies and satellite communications.

There are also the more prosaic organizations such as the U.S. Chamber of Commerce, who represent any business that wants to be a member—and benefits many businesses that are not members.

Finally, there are what may termed “meta-associations” which are groups of like-minded associations that band together for the (hoped-for) purpose of influencing policy-makers through the sheer weight of numbers. A good example of a meta-association is the Council of Defense and Space Industry Associations
(
CODSIA
). According to CODSIA’s sporadically updated website, it has seven member associations, including all those listed above.

Recently, CODSIA met with a high-level leader in the General Services Administration (GSA) for a routine “government-industry cross-talk”. As usual, the topics were carefully vetted beforehand and the Government representatives were careful not to speak beyond their authority. Despite all the caveats and controls, however, some communication took place. We were on distribution for the meeting notes, and we thought the CODSIA representatives did a good job of advocating for their members.

The topic of conversation was the “retrospective regulatory review” required by President Obama’s Executive Order 13653 , issued January 18, 2011. That Executive Order states—

… each agency must, among other things: (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

The Executive Order also states—

To facilitate the periodic review of existing significant regulations, agencies shall consider how best to promote retrospective analysis of rules that may be outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned. Such retrospective analyses, including supporting data, should be released online whenever possible.

So that is what CODSIA was asking the GSA folks about.

Specifically, CODSIA asked whether GSA had looked at FAR Case 2005-036, Definitions of Cost and Pricing Data, in implementing the President’s Executive Order. We wrote about the rules stemming from that FAR Case here . We said at the time—

We notice that the prohibition on obtaining cost or pricing data when certain conditions (e.g., adequate competition) are found has been de-emphasized in favor of a more detailed discussion of the types of data the contracting officer should obtain. This appears to represent a return to a pre-Federal Acquisition Streamlining Act (FASA) pricing environment, which may add to contractors’ proposal costs— meaning that, ultimately, the Government may end up paying more for the goods and services it, acquires.

CODSIA inquired as to whether the FAR Councils were measuring the efficacy of the new rules, whether they were looking—as the President directed—at costs versus benefits. The response was telling. The CODSIA notes state—

GSA representatives said that no attempts were made to measure compliance costs, to monitor if an increase in the number of adequate price reasonableness determinations had taken place, or if an increase in requests for Certificates of Current Cost or Pricing Data has occurred. Most importantly, the question asked if any noticeable reduction of prices paid by the government had been noted and GSA replied that a review of the operational 'success' of the rule has not been conducted.

We were not in attendance at the meeting. But it looks to us like a case could be made for asserting that the FAR Councils were ignoring the Presidential Executive Order.

But CODSIA wasn't yet done with the topic. More discussion ensued. Here's another quote from the meeting notes—

GSA recognizes that the rules imposed by the acquisition regulatory systems drive overhead costs and hence, price. The government's estimate of compliance with the Truth in Negotiations Act was cited as one example and that estimate is over ten million hours per year. Cost benefit analyses can help to identify those regulations whose benefits to the government exceed their costs. The regulated population, however, has little insight into those analyses and is unable to compare the burden estimates with actual time and dollars spent. Industry suspects the burden hours are larger than the government believes. GSA reported that they are updating their guide to existing burden estimates and it will be available on the DPAP website. The aggregate cost of compliance is impressive. The CODSIA reps asked that the government investigate whether the benefits justify that cost.

See? You're not alone. There are people inside the Beltway who understand your plight and are challenging The Powers That Be on your behalf. They're called industry associations and you should support them through membership.