CONTRACT BUNDLING OVERSIGHT

HEARING

BEFORE THE

SUBCOMMITTEE ON ECONOMIC OPPORTUNITY

OF THE

COMMITTEE ON VETERANS' AFFAIRS
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

JULY 26, 2007

Serial No. 110–39

Printed for the use of the Committee on Veterans' Affairs

U.S. GOVERNMENT PRINTING OFFICE

37–477 WASHINGTON : 2008

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
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July 26, 2007

CONTRACT BUNDLING OVERSIGHT

THURSDAY, JULY 26, 2007

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON VETERANS' AFFAIRS,
SUBCOMMITTEE ON ECONOMIC OPPORTUNITY,
Washington, DC.

The Subcommittee met, pursuant to notice, at 2:03 p.m., in Room 334, Cannon House Office Building, Hon. Stephanie Herseth Sandlin [Chairwoman of the Subcommittee] presiding.

Present: Representatives Herseth Sandlin, Donnelly, Hall, Boozman.

OPENING STATEMENT OF CHAIRWOMAN HERSETH SANDLIN

Ms. HERSETH SANDLIN. Ladies and gentlemen, the Committee on Veterans' Affairs Subcommittee on Economic Opportunity hearing will now come to order on Contract Bundling.

Before I begin with my opening statement, I would like to call your attention to the fact that Mr. John Wheeler, Executive Vice President of the Veteran Corps of America, has asked to submit a written statement for the record. If there is no objection, I ask for unanimous consent that his statement be entered for the record. Hearing no objection, so entered.

[The statement of Mr. Wheeler appears on p. 62.]

Some of the panelists and those of you in the audience today may recall that we had a hearing in May on the subject of veterans' entrepreneurship and self-employment and then an additional hearing earlier this month on Federal procurement and the three-percent set-aside rule. During these hearings, many of our panelists expressed several concerns, such as the failure of Federal agencies to meet the three-percent set-aside for service-disabled veteran-owned businesses (SDVOBs) and a lack of knowledge on current laws on the part of many contracting officers. While this is discouraging to me, I am pleased to hear that some agencies are moving ahead to address some of these concerns.

Veterans of our armed forces have been, and continue to be, a vital part of securing our Nation's economic prosperity and development. When given the opportunity to start and manage their own small businesses, these brave men and women add tremendous value to the success of our economy as they strive to lead a successful life back in the civilian workforce. Time and time again, we have seen these veterans, many disabled, return home to live out this American dream that they so bravely fought to protect.

With over 17,000 veteran-owned small businesses back in my State of South Dakota, I am concerned that we are not able to give veteran entrepreneurs the proper assistance to expand their enterprises. I am also concerned that we are not giving them enough opportunities to compete for more contracts with the Federal Government.

I applaud the efforts of the Federal agencies to address the needs of our veterans while trying to secure goods and services from competitive suppliers. I know that, if given the opportunity, our veterans can compete, as they do every day.

I appreciate the opportunity to work with Ranking Member Boozman and the distinguished Members of the Subcommittee as we continue to work in a strong bipartisan effort to meet the needs of our Nation's veterans and the challenges they face. I look forward to hearing from our panelists and to discussing ways to mitigate the negative effects of contract bundling on small businesses.

I now recognize our Ranking Member, Mr. Boozman, for any opening remarks he may have.

[The prepared statement of Chairwoman Herseth Sandlin appears on p. 40.]

OPENING STATEMENT OF HON. JOHN BOOZMAN

Mr. BOOZMAN. Thank you, Madam Chair. It is important that contracting processes promote small business development, especially those owned by veterans and service-disabled veterans. In the 109th Congress, you and I passed what may be called landmark legislation that improved opportunities for veteran and service-disabled veteran-owned businesses at the U.S. Department of Veterans Affairs (VA).

This hearing is certainly not about bashing large businesses. In fact, I suspect the goal of most entrepreneurs is to be successful and outgrow their small business status. Large companies have capabilities vital to the national economy that cannot be replicated by small business. But also, small businesses provide a significant portion of the Nation's jobs. In fact, they are the backbone of our economy in creative thinking and that is certainly very vital to our economy.

I believe Ms. Wolford's testimony provides a good snapshot of that contribution. I want to hear from the witnesses, especially those representing the government, how we can ensure that our veteran entrepreneurs get their fair share of the Federal procurement pie. Based on their written testimony, I believe we will need to tighten up the procurement changes we made in P.L. 109–461 and I would like to work with you, Madam Chair and staff, to see if we can make that happen.

There is also another serious problem facing small business and that is the diversion of dollars meant for small business to companies that are often very large corporations. While there are sometimes valid reasons such as a company outgrowing its small business status over the period of the long contract, a recent article in the July 16th issue of Defense News states that 37 percent of small business set-aside dollars, about $11.9 billion, went to the Nation's largest companies.

What we will hear today will be valuable to our work with VA, but also I urge you to present this case to the Small Business Committee and other Committees with jurisdiction over the Federal agencies.

Thank you, Madam Chair.

[The prepared statement of Congressman Boozman appears on p. 40.]

Ms. HERSETH SANDLIN. Thank you, Mr. Boozman.

I now would like to invite our first panel of witnesses to the table, and as I do so, I will introduce you to the rest of the folks that are here today. Joining us we have Mr. Charles Baker, President and Chief Executive Officer of MCB Lighting and Electrical, Mr. Anthony Jimenez, President and Chief Executive Officer of MicroTech, LLC, and Ms. Lisa Wolford, President and Chief Executive Officer of CSSS.NET. Welcome, and we look forward to your testimony.

Mr. Baker, we will start with you, and just a reminder, as in prior hearings, your entire written statement and testimony has been made part of the record. If you could summarize that and share other views with the Subcommittee in the five minutes you have availabe, we can get to questions as quickly as possible and engage in a discussion that way. You are recognized, Mr. Baker, for five minutes.

STATEMENTS OF CHARLES MAURICE BAKER, PRESIDENT AND CHIEF EXECUTIVE OFFICER, MCB LIGHTING AND ELECTRICAL, OWINGS, MD; ANTHONY R. JIMENEZ, PRESIDENT AND CHIEF EXECUTIVE OFFICER, MICROTECH, LLC, VIENNA, VA; AND LISA N. WOLFORD, PRESIDENT AND CHIEF EXECUTIVE OFFICER, CSSS.NET, BELLEVUE, NE

STATEMENT OF CHARLES MAURICE BAKER

Mr. BAKER. Good afternoon, Madam Chair and Ranking Member——

Ms. HERSETH SANDLIN. Can you make sure that the microphone is on and pulled pretty close to you there?

Mr. BAKER. Can you hear me now?

Ms. HERSETH SANDLIN. I am not sure that it is——

Mr. BAKER. How about now? Okay. Good afternoon, Madam Chairwoman, Ranking Members of Congress, other Members of the Subcommittee, veterans.

I would like to take this opportunity to—sorry about that. I would like to take this opportunity to talk about bundling. As a 20-year veteran who, in 20 years of working in the Federal Government, I had a lot of experience with the mission of the military and bundling contracts. So I would just like to talk about my personal experience with bundling, first of all. And then I want to focus on more of the solutions I look at versus, you know, like Mr. Boozman said about bashing big businesses. I think it is more important that we look at how do we move forward and how do we correct some of the issues that are affected by bundling, instead of looking back at the problems that bundling caused.

So basically, one of the biggest issues that I experienced with bundling as a member of the military and as a private business, the main thing was, we had a lot of procurements that were under $100,000 that when you go between $2,500 and $100,000, it becomes a big problem in Federal procurement, okay, and a big problem for the government customers.

We end up spending a lot of money and a lot of time trying to make procurements under $100,000. Now, what Defense Logistics Agency (DLA), which is an agency within the U.S. Department of Defense (DoD) did, they went and combined for MRO, which is Maintenance Repair and Operations type facilities, they went and combined all of the requirements that were under $100,000 and they put all of these requirements under one, under like five regional contracts. They were all half a billion dollar contracts.

Now, these were all types of requirements that were normally going to small businesses and this had a very, very bad effect on the local businesses, and on myself, as even a person who, as a government, a person who was responsible—I am a retired Chief of Facilities for Andrews Air Force Base. So when I would need something that costs $4,000, instead of me being able to readily get it, I would have to go to DLA and pay a 20-percent surcharge to be able to get this. This would—and none of these things ever went through base contracting or anything like that. The issue was that it was about convenience and getting the things done, or using the procurement system.

And what we had to do was get the job done, because if I had the base and half the water was down to the base, I couldn't worry about how much it cost. I had to worry about I needed it now. Okay? And this bundled contract was the vehicle for me to be able to get it. But let's keep in mind, it would cost me an additional 20 percent for me to be able to do this.

Now, like I said, it is not about being negative and knocking what is going on. It is about how do we look at instituting a corrective solution to this problem. Okay? And this is where I believe that we have to look at bundling as a whole and whether it is really in the best interest of the government, because I believe that all procurement decisions should be based on what is in the best interest of the government, okay, not what is more convenient for a contracting officer, you know, not that there is a big company that has a lot of influence, not that, you know, anything. It is the mission that comes first. And we have to make sure that we focus on the mission and when we focus on the mission, we have to take the customer into consideration. We have to take the industry into consideration, and we have to also take the contract into consideration.

And it is my opinion that we should have a joint input. If we want to really solve the problem, we need to have all three involved. We need to have the synergistic approach to being able to resolve the problems. It is going to take input from the customer, it is going to take input from contracting, and it is going to take input from industry. If we want to resolve bundling, we are going to have to put our heads together and work together as a team to be able to see how we can satisfy the mission in a better method. Okay?

And I will reserve the rest of my time for questions.

[The prepared statement of Mr. Baker appears on p. 41.]

Ms. HERSETH SANDLIN. Thank you very much.

Mr. Jimenez, you are now recognized.

STATEMENT OF ANTHONY R. JIMENEZ

Mr. JIMENEZ. Good afternoon, Chairwoman Herseth Sandlin, Ranking Member Boozman, distinguished Members of this Subcommittee and distinguished guests. It is a privilege to be here today and I want to thank the Subcommittee for once again allowing me to share my thoughts, this time regarding contract bundling.

My name is Tony Jimenez and I am the Founder and Chief Executive Officer and President of MicroTech, LLC. We are a Hispanic-owned and service-disabled veteran-owned small business and we are located in Vienna, Virginia. I retired from the Army in 2003 and after serving 24 years on active duty, I started MicroTech, LLC in 2004. Today, I employ over 50 people, have become a powerful job creation engine and a force for economic development in my community and in my State.

MicroTech has over 20 prime contracts with the Federal Government, at least as many subcontracts, and many of those contracts that we support as either a prime or a subcontractor are contracts that were at one time bundled. And many are still bundled. That is, that these contracts were previously satisfied by two or more contractors and were combined to achieve cost savings, price reduction, quality improvements, enhanced performance or better terms and conditions for the government.

I personally think that makes sense for the taxpayers and for the government. Some of those bundled contracts have done exactly what they were intended to do and in addition, they have also been able to provide service-disabled veteran small businesses such as mine with great growth and opportunity. Others, unfortunately, have not.

As a former contracting officer for the Federal Government, I was involved in a number of contract consolidation initiatives, or bundling. Many of those initiatives start off as great plans and took all of the procurement management factors into consideration. We established, during the initial phase, very aggressive small business goals that we believe could reasonably be met if they were given the proper attention and effort. Those plans included all of the steps I have talked about, cost savings, quality improvement.

However, in many of those cases, the initiatives, which eventually become requests for proposals, RFP's, had been stripped of many of their socioeconomic small business goals. On many of them there was no mention whatsoever of subcontracting initiatives for service-disabled veterans or veteran small businesses, even though they were in the original documentation.

The normal procedures for contract bundling requires agencies to provide justification. The problem with the procedure is that the decision is oftentimes made in a vacuum and small business have no means to be able to object to the bundling decisions and are at the mercy oftentimes of the decisionmakers. Perhaps the most overlooked contracting bundling problem for small business is the myth that big businesses who receive very large bundled contracts will make it up to the small businesses who receive a portion of the subcontract under the subcontracting plan.

Large businesses are almost, in every instance I know of, required to provide small business plans as part of their bid. These plans are supposed to match the small business goals laid out in the Federal Acquisition Regulation (FAR), which in most instances is 23 percent. However, in a number of cases, small business goals are never reached.

Today, there is no current status by which large businesses are measured or graded with respect to their actual subcontracting plan or goals and no one looks at the type of work that the big businesses are giving to the small businesses that are part of that subcontracting plan.

In addition, when they fail to meet the standard, I personally know of no case where liquidated damages have ever been assessed against a large business for failing to make, and I use the word good faith effort to comply with the subcontracting plan. And that is what is required in the FAR, a good faith effort. Many of the contracting officers I know and have worked with feel that any effort to penalize a large business for, and this is a quote, "failure to make a good faith effort to comply with the subcontracting plan as required in FAR 52–219–16," would be a waste of time. What is a good faith effort? How do you establish whether a good faith effort was made? If you are a contracting officer with more time than you have, or more work than you have time, are you really interested in fighting a battle that you can't win with ammunition like good faith?

The objective of the government should be to find ways to use the power of procurement reform to help small businesses, while at the same time seeking out ways to perform services and purchase products more efficiently and for a lower price. One of the unbundling strategies for the U.S. Small Business Administration (SBA) is to collect and disseminate examples of successful strategies for maximizing small business opportunities.

I think some of the solutions are consolidating contracts so small businesses can share on the benefits of bundling. What that means is, give some of those bundle opportunities to small businesses. I think orders should be placed under small business government-wide Government Wide Acquisition Contracts (GWACs), such as Veterans Technology Services (VETS), such as Solutions for Enterprise Wide Procurement (SEWP). Those are the only two large indefinite delivery/indefinite quantity (IDIQ)-type GWACs, bundled contract type of capabilities that I know of where service-disabled veterans are primes.

I think that the government should solicit quotes for U.S. General Services Administration (GSA) Federal supply schedule orders from small businesses or other socioeconomic small groups. Even though the Federal supply center is not allowed to set aside business, they are allowed to limit consideration on small business and socioeconomic small business. Once again, the U.S. Department of Affairs has done an outstanding job of using this vehicle and have limited consideration to service-disabled veteran-owned small businesses on numerous occasions.

Create a small business participation enforcement team. Consider taking a portion of the savings realized through contract bundling and implement a small business plan enforcement team that enforces small business participation in accordance with the request for proposal.

Consider hybrid contract bundling, teaming such as what GSA uses, called contract teaming arrangement. And last, establishing a Mentor Protégé Program at the Small Business Administration for veteran and service-disabled veteran-owned small businesses. The benefits of establishing a service-disabled veteran Mentor Protégé Program at SBA that mirrors the 8(a) program is numerous.

I also believe that a proliferation of long-term indefinite delivery and indefinite quantity contract vehicles has also become a serious problem. There are a number of IDIQs that have very, very little small business participation, and put the goals of the military, in some cases, and the goals of other small business or, rather, agencies that wish to give business to small businesses at risk.

It is difficult to set aside contracts for service-disabled veterans, 8(a), women-owned, HUBZone small businesses when the prime contracts are all going to the large businesses or a very small number of small businesses.

Other than VETS and SEWP, there have been very few large IDIQ contracts for service-disabled veterans.

I am going to jump ahead because I am running out of time. So I want to thank you, Madam Chairwoman, distinguished Subcommittee Members. I appreciate the time you and other Members of the Committee on Veterans' Affairs have spent on this and other topics concerning veteran entrepreneurship.

I think I speak for all veteran entrepreneurs when I say how very proud we are of this Committee and the hard work you and your staff members do for veterans. Thank you for helping to level the playingfield, for believing in us and our ability as business men and women to give back to the Nation that has given us so much.

This concludes my testimony and I would be happy to answer any questions you have.

[The prepared statement of Mr. Jimenez appears on p. 45.]

Ms. HERSETH SANDLIN. Thank you, Mr. Jimenez. We appreciate your testimony and your written statement, some of which you didn't get a chance to get to, but we will want to visit in some of the questions that we will pose.

Ms. Wolford, we would now like to recognize you.

STATEMENT OF LISA N. WOLFORD

Ms. WOLFORD. Thank you. I want to thank the Subcommittee for the opportunity to speak today on this critically important issue of contract bundling and its impact on the SDVOB community.

I have been in business for over ten years and the last six years exclusively with the Federal Government. I have never worked on the Federal Government side other than my Marine Corps time, so I am not like these two gentlemen. I am a veteran of the Marine Corps and my firm is a SDVOB women-owned business 8(a) small disadvantaged business. We provide information technology (IT) engineering systems and solutions to the Federal Government, both in DoD and civilian agencies. Therefore, the majority of my testimony will regard contract bundling concentrating on the IT sector.

We have an excellent record of past performance and yet even with this, my firm has been dramatically impacted personally by the issue of contract bundling. I would like to remind each of you that veterans have vested into their citizenship rights in a way that no other group has through the service in our country.

Small businesses do not have access to the money or the access to PACs or lobbyists that the large businesses have. Consequently, many laws and modifications to regulations make it into the FAR and business practices of the government that favor large business and are harmful to small business. And as you know, the economic preference for SDVOBs is fairly new to the Federal market, and therefore, the impact to SDVOBs, I believe, is greater to the average small business.

I synopsized my oral testimony, but my full written testimony has other detailed facts in it that I won't go through at this time regarding small businesses and contract bundling.

In 2001, the Army had a record of contracting 27.2 percent prime contracting dollars with small businesses and 35 percent of that was through the Army Corps of Engineers. Now that all IT service contracts have been bundled, their achievements will go down substantially and that has just happened this year just recently.

It is a known fact that the majority of contract bundling occurs within the DoD environment and I consider this particularly reprehensible since if anyone in the Federal Government bears a greater responsibility of veteran business centers, I think DoD and the VA should be held to a higher standard in culpability. I can say that I have a great deal of respect for the substantial challenges and changes that Mr. Scott Denniston has faced and wrought in the VA. And by the way, I wrote that in there before I knew he was appearing today.

Multiple work contracts are another issue and they are subject to FAR clauses that require the contracting office to allow all awardees fair opportunity to compete on the individual task orders. This means that small businesses have to compete head to head with the largest of Federal contractors. This is another form of Federal contract bundling, although it doesn't get measured as such, and therefore, has the same negative impact on the small business community.

Another abuse of the small business community is the way GSA scheduled contract buys occur that are not set-aside opportunities. If a contracting officer sends out an opportunity to bid only to a particular socioeconomic group, say on a schedule 70, they can count the entire award as a small business award. However, since it is not a set-aside, work share rules of 51 percent do not apply. So the small business can do as little as zero percent, but the agency will get a hundred percent credit. This practice is legal currently through the rules of the FAR and GSA contracting and these rules must be modified to prevent such atrocities.

My firm has been regularly asked to bid on such opportunities by multiple Federal agencies. It is the standard practice across the Federal Government. Since IT purchases represent such a large portion of the Federal budget, I think it is particularly imperative that attention is paid to this sector. In Nebraska, where I am from, United States Strategic Command (STRATCOM) is one of the largest commands. It is the joint forces command. As you are probably aware, there is a contract that was bundled called ITCC that is about $550 million over ten years. That contract used to be a lot of small business contracts. It has effectively shut out all opportunities for small businesses in that area because between STRATCOM and the Corps of Engineers, that was the Federal opportunities in Nebraska for IT services.

Some solutions I have written down that I would like to suggest is don't allow contract bundling if it will prevent a command or an agency in a particular geographical region from meeting its small business prime contracting goals. Do not allow contract bundling if it will bundle all requirements for a particular North American Industry Classification System (NAICS) code at that command or agency in a particular geographical region. Some people want to talk about, you know, a particular agency and only talk about what has happened in Washington, DC. And probably not all of us here are from DC. So I think it is really important to look at the geographical regions because that does directly impact our veterans wherever they are starting their businesses.

Require GSA schedule buys that are not set-asides to only allow the government to count toward their small business goals that percentage of the business that the small business actually executed versus their large business subcontractor. Charge FAR part 16 to allow awardees under a Multiple Award Contract (MAC) to have restricted small business competitions for any reason post-award of the blanket purchase agreement, which is what the issue is. Implement the findings, the full findings from the Office of Management and Budget (OMB) report titled "A Strategy for Increasing Federal Contracting Opportunities for Small Businesses" that was dated October 29, 2002.

I appreciate your holding this hearing today and I thank you for giving me the opportunity to speak and share my experience with you. I am glad this hearing is being held and I hope that my testimony will help you to develop some real solutions to this critical issue. And I would happy to answer any questions you may have.

[The prepared statement of Ms. Wolford appears on p. 49.]

Ms. HERSETH SANDLIN. Thank you very much, Ms. Wolford.

I appreciate the testimony of all three of our witnesses. I am going to start with one or two questions and then turn it over to the Ranking Member and then to Mr. Hall. Then we will come back to explore some other areas.

Mr. Boozman and I were talking as you spoke, Mr. Baker, because you mentioned the 20-percent surcharge that you would have to go through after you described that MROs under $100,000 all got combined into five regional bundled contracts that were about a half a billion dollars apiece. Is that what you testified to? Then you had to go through DLA to have your needs met at your particular installation and that didn't meet the needs often in your case at the installation, as well as the local small business needs.

Could you tell us more about where the 20-percent surcharge is coming from? Just explain with a little more detail what you mean by that.

Mr. BAKER. First of all, the 20-percent surcharge, I believe the maximum that can be charged is 23 and a half percent. And traditionally, the prime contractor gets about 16 and a half percent and then DLA gets 3.9 percent on the DLA contract. Okay? So that is where you come up with the 20 percent. But the real issue is that what we run into, you know, being in the military and having to perform the mission, when we need, what we need to perform our mission, we need to have choices and when you are between—and this micropurchase threshold got changed to $3,000. So it is $3,000 to $100,000 now.

But the problem is, is that when you go between $3,000 and $100,000, there is like no way for you to get anything quick. I mean, I had situations where I had no water and I would have to spend another $20,000 to make a repair on something that costs $4,000, because even though under urgent and compelling needs I could actually get the product that I need. The problem was, the problem was it would take an enormous amount of time for us to be able to get through the contracting process for a simple procurement that would wind up costing $4,000 to buy a $4,000 part.

Now, what I suggest, and I have talked to some people in DoD, that what we needed to do is, we need to create a innovative method where we can actually take the procurements that are under $100,000 which are exclusively reserved for small business, and I don't know why my phone won't cut off. Excuse me about that. What we need to do is make sure that when we develop a plan, that we can, number one, make sure all that business is going to small business. That is the first thing.

Ms. HERSETH SANDLIN. So let me——

Mr. BAKER. Go ahead.

Ms. HERSETH SANDLIN. I want you to describe that further in terms of your conversations in that plan. In what you described, when you have a consolidation into five regional contracts——

Mr. BAKER. Yes, ma'am.

Ms. HERSETH SANDLIN [continuing]. All of those contracts are required to submit a plan for subcontracting to small businesses?

Mr. BAKER. That is one hundred percent correct, yes.

Ms. HERSETH SANDLIN. Did they?

Mr. BAKER. Well——

Ms. HERSETH SANDLIN. Did you have options at the local level?

Mr. BAKER. Well, I am sure that the plans are submitted. The problem is, what happens—this is the reality. And I am talking about this from when I was a government employee, not as a businessowner. What I found that was happening was that what they would do is, they would get the contract and then if I told them I wanted a part that cost $4,000, what they would do is they would go to the manufacturer. They would circumvent the local supplier. They would go straight to the manufacturer so they could make more profit, because basically what we had to do to make sure that we get the best value for our buck, was we would have to go out and negotiate the best price that we could find in the local market—and let's say the valve cost $5,000. Well, we would have to tell them we want you to buy this valve for $5,000 from this place and this is the phone number. We don't want you to go out and find anything any higher, okay, because we would come back—sometimes they come back with a $12,000 valve and it is the same valve and we are like woah, woah, woah.

So we would have to go out and basically do the market research and come back and tell them, this is what we found, this is what we want. It is right here. It is local. But because of the system, we would have to go through DLA and pay 20 percent instead of being able to get this through local contracting. And see, a lot of local contracting people aren't even aware that this is happening. And this is happening to the tune of $2 million per Air Force Base. I can't speak about any other military. But on average, you spend about $2 million on MRO-type items under $100,000.

And the problem with this is that this destroys the creation of small businesses and the whole problem that we are having with the lack of capacity is all based on the fact that if we don't have some type of system where you can get constant work and where you can get work that you can handle when you are small companies, then how are you going to ever grow into being small—into a big business? How are you going to ever become a viable sustainable competitive business? It is almost impossible. You know, so by having all of these requirements under the $100,000 bundled and then taken away from small business, it really cripples the whole small business market.

Ms. HERSETH SANDLIN. Okay. Very compelling testimony and I want to come back in a little bit to pursue more of the discussions you had had about the solution. It sounds to me like the primary justification for contract bundling, which is to save taxpayers dollars, in many instances isn't even being realized due to a lack of monitoring to ensure that subcontracts go to local small businesses. I think that is what you're saying in some cases.

Mr. BAKER. That is one hundred percent correct. It is my belief that I could look at those contracts that are bundled, that are supposed to save ten percent, and I think they could save more. You could save ten percent by reversing it and doing it the way it was done or doing a different approach. I mean, this is what I am saying about how we need to take industry and the customer and contracting and we need to brainstorm on how this process works, because if you look at it from a contracting standpoint, and like Tony, I have contracting experience, too. If you look at it strictly from a contracting standpoint, you don't understand the mission. Okay. So you have to take the mission into consideration, because that is the most important element.

The problem is that now the customer, who understands the mission, you need to now understand industry. Okay. And the whole problem is, is no one understands—there is no synergy. There is no synergistic relationship between everybody. And that is what needs to happen. If we really want to, you know, mitigate bundling, we have got to have creative ways where we can really mitigate, you know, the effects of bundling.

Ms. HERSETH SANDLIN. Thank you.

Mr. Boozman.

Mr. BOOZMAN. Let me start with Mr. Baker. And again, I want all of you all to comment on this. I guess I am trying to really sort this out as far as the bundling. You bundle for different reasons. I think everyone understands that it is the will of Congress to try and make more room for small business. And yet, we toughen those things up. I guess I would like for you all to comment about with the bundling, how much of that is the result of increased bundling because we have tightened things up as a way to avoid parsing out to small business and being favorable to large business. And yet there is other cases where bundling, I am sure, is appropriate. And then there is other cases where perhaps we just don't have as many procurement officers as we need and this is a very convenient way of doing things, for them to get their job done, and again, stay out of jail in doing that.

So can you all comment about that, as to where you see—and again, we have got a couple guys that have kind of played that game somewhat. And then Ms. Wolford is here and kind of seeing it in a different light. What is your gut feeling as to what is going on in relation to those three? Does that make sense?

Go ahead, Ms. Wolford.

Ms. WOLFORD. I think—my opinion is there are a lot of different reasons that contract bundling is done. One is, I think, plain and simple, it is easier in some regards and there is not a lot of rules against it really. Once—my SBA reps have told me that so long as the government runs through the right hoops, they can bundle pretty much anything that they want to. And they do use a justification that will be cheaper to the government because they will have less procurement officers that have to watch over the contract.

However, like what I said with the ITCC program and the Corps of Engineers impact on the State of Nebraska, those have both been bundled, I think, for ten-year life spans definitely on ITCC and I think the Corps of Engineers almost ten years as well. What effectively that does, is it completely prevents any small business from entering that market if they are not currently on that contract, because if you aren't a part of that team when that is being bid, you don't get on later. That is it. It is over.

So for ten years those opportunities are gone in that geographical region. So maybe it is cheaper. But the long-term impact in the actual cost to the government by the loss of the innovation that you get from the small business community is huge and you can't even measure that.

Mr. BOOZMAN. No. I understand. I guess the thing is for us to figure it out. There is kind of a core deal as to if we need more procurement officers, if we need to toughen up the law. It doesn't do a whole lot to toughen up the law if you don't have the underlying infrastructure to support the need. You kind of need to figure out was this done in an effort to exclude small business in favor of a specific big business, or was it done because the amount of staff that was there. It was just easier to get it done that way, or they had some deal that perhaps they felt like in doing that, it was more cost effectively truly, and more whatever to do it. Does that make sense?

Ms. WOLFORD. Yeah. I mean I think that it is true that they can use less procurement officers to manage it and to do the competition in the long run, especially when it is a ten-year life cycle versus multiple five-year contracts, for instance. So yes, obviously, that requires less people to do that, and therefore, it is less expensive. Okay?

So I think those are obviously true and I think it is a very easy case to prove that. I don't know that—I think it is a fallacy personally to use it as an argument for contract bundling.

Mr. BOOZMAN. No. I agree. I guess what I am saying though, is if we want to unbundle these things, then we also would need to put in place a mechanism where we had more procurement officers. See, that is what I am saying, is you can't——

Ms. WOLFORD. Yes.

Mr. BOOZMAN. I am trying to figure out if you can do one without the other.

Ms. WOLFORD. I think you can if you do like what we were talking about with the multiple work contract vehicles. For instance, if you had a multiple work contract vehicle and you allowed an on-ramp for new small business during the lifespan of that contract which allows new businesses that are entering that market to come in, okay, that is what the on-ramp is for. And this is currently done in different agencies on different IDIQs. And so then you have that ability to add new companies in and then you can do separate procurements. And a classic one actually is a C Port E contract with the Navy. That is a Navy MAC multiple work contract. They do do small business competitions on those contracts. But the problem with MACs today is you can't say that—you have to specify the rules on the front end of a MAC about how that is going to be competed. You can't just one day say I want to have this piece of work competed only in the SDVOB market. Okay. You have to—that rule had to have been set up with the MAC was originally being competed. Does that make sense?

Mr. BOOZMAN. Yes.

Ms. WOLFORD. So that is one of the barriers. So there are ways to do that, it is just not—that is not what is being done.

Mr. BOOZMAN. Mr. Jimenez.

Thank you. Thank you, Ms. Wolford.

Mr. JIMENEZ. Congressman Boozman, I think that what we are all trying to say is that there are instances where the government could do a better job of instituting contract policy and procedures. Contract bundling—and frankly, I have been a contracting officer and spent a large amount of my life in the military. I saw distinct advantages to having contracts bundled. It provided efficiencies that I desperately needed as a contracting officer because of the resources that I didn't have that I desperately needed. So it was a combination of both.

I think where the Federal Government falls short is that there either are not enough IDIQs, contract bundling, MACs or other contract vehicles that provide prime opportunities to socioeconomic groups. They are all—for some reason, people think bundling means big. They don't understand that I have a contract bundle right now that I do for VA and my subs are Microsoft and Insight and they are great companies.

And originally, the thought was give it to one of those big companies. The concern, obviously, for us, not necessarily with that contract, but with anybody who is doing it, is bigger is better. And bigger is not better. Bigger may sometimes be easier and less risk, which is normally what is driving a lot of these two the large businesses is if I give this to a large company I have got less risk.

And the fact is, the big company gives it to the small company. The small company does it and then much of the quality work is kept for the larger prime. And the fact of the matter, sir, is prime is king in this business. When you are the person negotiating with the government, you control your destiny. The sub gets the flow down. You get what is left and you say thank you very much. And oftentimes it is not the kind of opportunities that I or anybody else in the business need to become that prime. And you can't afford to say no in this business.

One of the other examples, I think, are many of these large IDIQs that are being put out—one in particular that comes to mind is ITEST, great, great contract vehicle, $20 billion IDIQ. It has got 16 primes. Two of them are small business. Four originally were small business, and all the socioeconomic groups are participants. However, it has got to be aggressively managed.

If somebody isn't up there looking at the large primes, which are 14 of the 16, that $20 billion is not going to filter down to the service-disabled veterans or the 8(a)s or the women-owned or the HUBZone or any of the other small businesses. And more importantly, the quality of work that is going to flow down that is going to enable those small business to ultimately some day be a big business isn't going to flow down, because, sir, there is profitable business on every contract and there is business that is not very profitable. And I can guarantee you that when you are the prime, you are not giving away the profitable to the guys you are subbing to. You are looking for somebody who can come in and help you out on a dime.

Ms. HERSETH SANDLIN. Thank you, Mr. Boozman.

Mr. Hall, do you have questions for the panel?

Mr. HALL. Thank you, Madam Chair and Ranking Member Boozman and thank you to our panelists.

Mr. Jimenez, you stated that by the time an initiative becomes a request for proposal, it is frequently stripped of all socioeconomic small business goals, including veteran and service-disabled small businesses. How often does this happen in your estimation and can it be avoided?

Mr. JIMENEZ. Sir, I am not sure that I am equipped to answer that question in the sense that I honestly don't know. I know that being on the receiving end, it happens more than I want it to happen because I would like to be able to be the recipient of some of those opportunities and be able to compete. So obviously, my view is tainted being on the receiving end. I think it happens every day, but I don't know that that is realistic.

I think that what happens is, is that it is a hard job for the folks who work in the small business offices because their job is to remind procurement officials, contracting officers, think small business, think socioeconomic groups, think service-disabled, think 8(a), think woman-owned, think HUBZone, think about all the people that we are trying to turn into big businesses that can come in and provide competition, which is a great thing. And there are not enough of those folks to get around to all the contracting officers that need to be reminded that there are small business goals that need to be met.

So that is a challenge and sometimes some organizations do a better job. It doesn't happen in every instance and it is getting better for service-disabled veterans. But we are not there yet.

Mr. HALL. Okay. Thank you. And I think, I was going to ask you, while you said it is a myth that big businesses who receive these very large contracts will make it up to the small businesses in their subcontracting plans, I think you just kind of answered that question a minute ago.

And Ms. Wolford, I wanted to—first of all, I thought your goals—your bulleted goals here look very thoughtful and worthy of consideration, in particular the ones that require GSA schedule buys that are not set-asides, to only allow the government to count toward their small business goals that percentage of the business that small business actually executed versus their large business subcontractor.

Ms. WOLFORD. Thank you.

Mr. HALL. I think that is something that we might want to take a look at codifying. But you mentioned in your written testimony that Federal agencies is only acting on negotiations with prime contractors and not with subcontractors. If the contracting officers communicated with subcontractors more, would this increase subcontractor participation?

Ms. WOLFORD. Subcontractors can communicate all day long but it has no value because we don't have privity of contract with the government as a subcontractor. The contract is only between the government and the prime contractor entity that is a part of the FAR. And so that is just the rules of the road of contracting. The subcontractor has no standing on the contract. You can go talk to the contracting officer, certainly, and most of them are nice people and will talk to you, but it won't—it doesn't change anything at the end of the day because you are not privy to the contract.

Mr. HALL. Should—and this is still to you, Ms. Wolford. Should multiple award contracts subject to Federal acquisition regulations regulate what size companies compete with each other?

Ms. WOLFORD. Well, the point with that is, is FAR part 16 currently what happens on a MAC is you go through the competition. If they didn't set up the rules on the front end of the MAC for the blanket purchase agreement (BPA) that is going to be awarded out of the multiple award contract, if they didn't set up the rules on the front end of how competitions for small business in different socioeconomic categories can happen, then they can't do it later on. Okay? They can't hold small business competitions at all.

So it is not an issue of setting size standards. It is allowing the contracting officer the latitude to be able to hold a small business competition for any reason post-award of a BPA. Okay? Does that make more sense?

Mr. HALL. Yes, it does. Thank you.

And Mr. Baker, I just wondered how you know that six major defense contractors are receiving approximately 30 percent of the defense budget and 40 percent of their contracts are sole sourced? And can anyone else offer the services offered by those six major defense contractors?

Mr. BAKER. Well, sir, I will tell you that that information was obtained from—I will get back to you to make sure, but I believe it was Eagle Outsource was the source for that. But I have seen it in numerous, numerous different publications and stuff.

And why do I feel like small business can actually obtain it? It is my belief that, first of all, if the government really wants to obtain three percent for service-disabled veterans, the first thing we have to do is, you have to have what I call an attainment strategy. Okay? You can't just say give me three percent and throw it up against the wall and you have got three percent. Okay?

If you look at the Federal procurement data, 2005 Federal procurement data, which is the latest data, and if you go to each category, you can tell how much was spent with serviced disabled vet, women, whatever. I believe if the government—let's use the very first one in the category, which is aircraft charter. I believe that the government set aside three percent for aircraft chartering. Then, even if I didn't do aircraft chartering and you guaranteed me that I was going to get three percent over the next ten years and nobody else did it, I would go to aircraft chartering.

And I believe if you go down the whole system like that, if you just take every category, whether it is a category or whether it is a service, and you actually put money on the table for veterans, service-disabled veterans, 8(a)s, you actually develop a plan like that, you will—we lack—I am not going to say the capacity is there now. But the capacity can be created. And what comes first, the chicken or the egg? You know, put the money on the table. I guarantee you we will be able to go and create what we need through teaming, you know, joint ventures (JV's), mentor protégés, you know.

If you put us in the driver's seat, I think this is what, you know, Tony and Lisa were saying. The problem is, we are in the backseat. If you put us in the driver's seat, we can Do some great things.

Mr. HALL. Thank you. The last hearing that we had on this topic, I threw out the idea of only using this three percent of whatever budget it is for these particular small businesses and fencing it off, or sequestering it so it couldn't be used for other businesses that weren't veteran-owned or disabled veteran, or women-owned and so on. And there wasn't—there didn't seem to be any support for the idea. But it sounds to me like your—is that what you are saying roughly is that——

Mr. BAKER. We are going to tag-team you on this one, so he is going to——

Mr. JIMENEZ. Sir, I was actually here on May the 17th when you brought that up and I thought it was a stupendous idea. It did not gather much support from the government officials because it is extra work. I think that if I, as a former contracting officer, and I, as a small businessowner, am being told that you now have this money set aside, and I, as a contracting officer, know that I have my standard pot of money and I have this money over here that I can apply to service-disabled veterans, I would be incentivized to make sure I don't leave any money on the table.

Mr. HALL. Right. And if you don't come up with a service-disabled veterans' business, you lose the money.

Mr. JIMENEZ. Correct, sir. My only concern about that is one that I voiced, I think it was on the same day, May the 17th, is that, sir, that is a floor. I don't want to have anybody in the government and I have never had that impression when I was in the government that that is the ceiling. That is where we need to begin giving service-disabled——

Mr. HALL. I understand.

Mr. JIMENEZ [continuing]. Veterans opportunity. And my only concern would be setting three percent aside would tell every contracting officer——

Mr. HALL. That is all you have to do.

Mr. JIMENEZ [continuing]. In the Federal Government that is all you get for service-disabled veterans. And the goal is that the greater the small business engine is in this country, the greater this country is going to be——

Mr. HALL. Excuse me, for running over time——

Mr. JIMENEZ [continuing]. For more opportunity——

Mr. HALL [continuing]. Madam Chair. It may be that we need a temporary thing to get us to where we want to be and that might be a——

Mr. BAKER. But can I make a comment on this tag-team and back? The goal is really something called maximum practical utilization, okay, which is much different than three percent.

Mr. HALL. But we are not at three percent yet though.

Mr. BAKER. But it is still maximum practical utilization. If you shoot here, you are going to wind up there.

Mr. HALL. Right. Okay.

Ms. WOLFORD. And let me just add something here. What I have always found in life is that if I impact somebody's financial, personal financial impact, meaning I impact your personal checkbook, you suddenly get a lot more interested in things. Okay? So if you and all of your review boards show that you are not meeting your three-percent goal as a minimum, suddenly your personal check, maybe your bonus check, whatever gets impacted, you suddenly get a lot more interested in making that three percent happen.

Mr. HALL. Thank you, Madam Chair.

Ms. HERSETH SANDLIN. Thank you, Mr. Hall.

Let me approach this from a different angle. I appreciated, Mr. Jimenez, how you talked with us about the issue of smaller companies being the primes in the contracts. I want to explore that a little bit further. What is the differential? Large companies are required to submit a plan when they make a bid that demonstrates how they are going to subcontract out to small businesses.

There is no monitoring to make sure everything is followed through there. The testimony that we have taken from you today and in the past, intimates that they may use that and they are required to submit that plan, but there is no designated entity to assure that those plans are fulfilled. Right?

Mr. JIMENEZ. Ma'am, not in every instance. It really is dependent on the contracting officer, the organization. It is an instance—there are many instances where good contracting officers within good agencies understand, develop the matrix, track it and it happens the way it is supposed to. But that is not——

Ms. HERSETH SANDLIN. There is no third party validator——

Mr. JIMENEZ. Exactly.

Ms. HERSETH SANDLIN [continuing]. To make sure that the plan is fulfilled. There is no oversight.

Mr. JIMENEZ. There is supposed to be, but unfortunately, ma'am——

Ms. HERSETH SANDLIN. There is supposed to be, but in your experience as contracting officers——

Mr. JIMENEZ. Difficult.

Ms. HERSETH SANDLIN. Okay.

Mr. JIMENEZ. The resources just aren't there. The contracting officer is already overworked, and in addition, he or she has to go out and manage and monitor subcontracting plans. So once a year, if they are fortunate and they are managing it right, the contractor, the prime comes in, lays out the small business plan, shows how they have met it. If they didn't meet it, they get a slap on the hand. They are told don't do this again. We will see you next year.

Ms. HERSETH SANDLIN. Are there instances that you know of where liquidated damages were imposed?

Mr. BAKER. Never.

Mr. JIMENEZ. Good faith effort, ma'am. They made a good faith— they called one subcontractor and I am exaggerating, obviously, said, hey, how are you doing? I have got some work for you. They didn't show up. They didn't give it to them. So it really is tough to manage that good faith—what is a good faith effort?

Ms. HERSETH SANDLIN. What is the threshold here for a large company versus smaller company in bidding to be the prime on a contract? Was your company required to submit a plan for how you were going to work with smaller companies?

Mr. JIMENEZ. No, ma'am. I am a small business and the goal is that——

Ms. HERSETH SANDLIN. Is it the designation we have always worked with? There is——

Mr. JIMENEZ. Yes, ma'am.

Ms. HERSETH SANDLIN. If——

Mr. JIMENEZ. The large are required——

Ms. HERSETH SANDLIN [continuing]. You don't have the small business designation, do you have to submit that plan?

Mr. JIMENEZ. Yes, ma'am. The large are required to submit it as a general rule. I have seen instances where it was not required in RFP's and small as a general rule are not required. However, I have had small business RFP's that I have had to develop a small business plan to cover the other socioeconomic groups, women-owned, 8(a), HUBZone, that I was not in that particular instance.

Ms. HERSETH SANDLIN. Okay.

Mr. BAKER. And if I may comment on the subcontracting issue. I think the real problem that we have with subcontracting, ma'am, is this. After you get beyond the first tier, subcontracting, the goal doesn't count toward it. So if you are second or third—if you are following what I am saying, like let's say Lockheed Martin—let's use them for example—is the prime and let's say that Northrop Grumman is the first tier prime. Well, unless Northrop Grumman has done a JV or something else with somebody else, it is not going to count. It only counts at the first tier. The second tier, third tier, fourth tier subcontracting, even though there is a flow down requirement, it doesn't count toward the goal.

So if you don't have an incentive to actually get credit for what you do, then maybe you are not going to do it. So I think, and I think H.R. 1378, I believe is trying to correct that, counting second, third and fourth tier subcontracting. So I believe that that is a very big benefit that the big business needs. Sometimes they need to carry it and it is just like, you know, one of our kids going to school and get A's and they don't count. You know, so I think that is part of the problem, myself.

Ms. WOLFORD. I need to disagree with that. I will say that first tier prime contractors have no punishment, for instance, of not meeting their goals, their subcontracting small business plan goals. So there is no retribution. They just said, Tony just said they get a slap on the hand. Oh well, that is okay. They have got all the profit. They can come back next year and get another slap on the hand. Nobody takes away their contract. It doesn't get recompeted. They don't have any financial penalties, you know. So that is the real issue.

The issue with counting sub-tier contracting toward the prime contractor's goals is it takes away their incentive to work with the firm that they initially teamed with, which might be my firm, or it might make that subcontractor get to bid against me and drive down my profit even further, making my ability to survive even harder. And that is a very real issue.

Mr. JIMENEZ. Ma'am, if I might, one of the issues I think that is critical about this is that the government has taken steps to try and provide those opportunities to small business. VETS is a perfect example. It is an IDIQ contract where bundled contracts do have the availability to come to service-disabled veterans who can compete. SEWP is another perfect example, service-disabled veteran primes on a level playingfield with large primes.

However, having said that, other agencies we have talked to, and we have gone into and pitched about the benefits of that, just don't—they start out okay but, unfortunately, they don't get there. We recently experienced that when we went into the Department of Interior. We were asked to come in, provided a great opportunity to be able to bid, bid it. It was a wonderful, wonderful experience for us right up until two years later, two years from the time we started working on it, 18 months from the time we bid it, almost $50,000 in my personal cost, this IDIQ was canceled, pulled right out from underneath me and just yesterday we saw a solicitation put out by the Department of Interior that could have gone on this vehicle that now the vehicle doesn't exist.

The large businesses that I convinced to support me on this bundled contract where a service-disabled veteran was not going to be the prime are not interested in going down this road again with guys like myself for the simple reason that it happens to them, but not as frequently as it seems to happen to small business. And there is no recourse now. Now this vehicle that would not have cost the government a dime to put into place is not there anymore after the resources I expended, my partner expended, as well as the Federal Government.

And the real shame here is that the person who put that into place and was so eager to help us, the minute he left the job, we lost support. And a new contracting officer came in who, unfortunately, was not able to support us. And it didn't just happen to me. There were numerous other bidders on this same vehicle.

Ms. HERSETH SANDLIN. Okay. I think I understood what you were saying—the IDIQ was pulled 18 months after you bid on it and the motivation for that action was the fact that the contracting officer left the agency?

Mr. JIMENEZ. Well, the contracting officer, the new contracting officer stated to us that this need could be satisfied through another vehicle. The Department of Interior has no other service-disabled veteran small business vehicle, unless they are planning on taking it to one of only two I know of in the Federal Government.

Ms. HERSETH SANDLIN. Okay.

Mr. JIMENEZ. Two, where they can take this, unless they take it to GSA or someplace else. But the fact of the matter is, is that it is another instance of service-disabled veterans, we want you. We need you. Our goals are not where they need to be. Come in, bid one, bid all. Put lots of money into this. Put lots of effort. We are going to down-select, which now they are calling competitive range. We are going to determine who is in the competitive range. We are going to get you going. And oh, by the way, we expect you to keep those people you bid on the bench because you can't change those people out or you are no longer a valid entity on this contract. So we want you to spend money keeping those people around for 18 months while we decide that we are not really, you know, just kidding.

I equate it to running a marathon and at the 25th mile being told, sorry, the marathon is canceled. You don't get to say you finish. You get to say you almost participated. And 18 months in source selection is crazy.

Ms. HERSETH SANDLIN. You say that this happens far more frequently when the service-disabled veteran-owned business is bidding as the prime than in other cases? How do we monitor that? Are those statistics readily available to us?

Mr. JIMENEZ. Unfortunately, no, ma'am. They are not. And my experience, I guess, is probably more of an accurate statement. I don't have facts. However, the common sense that I am—the only thing that I am able to apply in that instance is that the common sense of that is that I can upset a Micro-Tech. I can upset a small business by doing this and his or her recourse are not as aggressive as if I did that to a large business.

Ms. HERSETH SANDLIN. Okay.

Mr. JIMENEZ. If a large business invested a significant amount in a proposal and it was to get pulled, ma'am, you would probably hear about it if they were from your State. And the fact is, is that I write my Congressman and I write my Senator. But so did the thousands of other small businesses. And the fact is, is that I am one of millions of entrepreneurs in this Nation. And I also don't want to be the squeaky wheel. I need to be very, very careful about how much I ask for assistance, because when I really need it, it might not be there.

Ms. HERSETH SANDLIN. I understand.

Mr. Boozman or Mr. Hall, do you have any further questions?

Mr. BOOZMAN. Just very quickly, Madam Chair, I know we need to move on.

But Mr. Baker, there has been a little bit of disagreement as far as the rule of two.

Mr. BAKER. Yes.

Mr. BOOZMAN. Some people feel like doing away with the rule of two would create more competition. Others feel like doing away with it would actually make it such that those in the system would be more likely to stay in the system, and create less competition. Does that make sense?

Mr. BAKER. Well, could you say it one more time?

Mr. BOOZMAN. Well——

Mr. BAKER. The last part was the part I didn't catch.

Mr. BOOZMAN. The rule of two——

Mr. BAKER. I am familiar.

Mr. BOOZMAN [continuing]. Does it create more competition or less in the sense that if you did away with it, then it is easier in one respect, but also, if you did away, it is easier for those that are already in the system to remain in the system? Does it make sense, that the procurement officer, is just real convenient to stay with that guy rather than having to have to look at somebody else?

Mr. BAKER. Okay. Now——

Mr. BOOZMAN. Do you see what I am saying?

Mr. BAKER. Yes, yes, yes, I know what you are talking about now. You are talking about—and this was one of the things that—I will put my government hat on again. This was one of the things where you are comfortable with the person that is actually doing the job now. So what you are saying is that you don't have an opportunity to get other people to come in, for them to be able to get an opportunity.

Mr. BOOZMAN. To realize that that other group is out there.

Mr. BAKER. Right.

Mr. BOOZMAN. And maybe it is not even comfortable. You are just busy, and you don't—it is just convenient not to—see what I am saying?

Mr. BAKER. I think most of it is the comfort level.

Mr. BOOZMAN. Okay.

Mr. BAKER. I think you get very comfortable with the contractor that you are dealing with and then you get a little uncomfortable with the person that might be coming. But let me really clarify what I consider to be the problem with rule of two. Okay? And the problem is, is that the service-disabled veteran, okay, needs—we need business development. Okay? We don't have business development. Okay?

We need to increase our capacity by having a steady flow of work. Any companies can grow if you have a steady flow of work. If we want to have goal attainment with the three percent, then we need to have a vehicle where we can get a steady flow of work so we can develop into competitive, viable, sustainable businesses that can make an immediate demonstrative impact on the government procurement. If we get a steady flow of work, there is nothing that we can't do. We can develop—and another thing that we need to do is, we need—and I don't want to bash any programs or whatever.

But one of the things that I find as being a problem is we need to have people, whether we utilize systems like utilizing the Nation's college systems or whatever, where we can integrate a system, where we can use the best business minds in the country, to be able to help us with strategies, with, you know, business plans, with whatever we need within our community.

But the thing that we need, I call it a farm system. Okay? We need to have a farm system just like the Motor Vehicle Administration and the National Football League and everybody else. If we had a farm system where we could develop companies from incubators, the young guys coming back from Iraq. You see, a lot of the focus in government procurement is what are you doing? What have you done? You know, you have got to be a big company that has been around for a long time.

The bottom line when you are talking about—you have a lot of service-disabled veterans that we keep talking about we are trying to help that are at a very young age. So you need to be able to go into a system where you can become developed. Okay?

Mr. BOOZMAN. Right.

Mr. BAKER. And I think the rule of two, having the noncompetitive vehicle within the rule of two will allow the service-disabled veteran community to be able to be developed. I mean this is the program you have. In the 8(a) program it is the noncompetitive vehicle so you are able to get——

Mr. JIMENEZ. Yeah. I would like to attempt to answer that. The answer is, no, sir, I don't like the rule of two. And will it stifle competition? Yes, sir, to a certain extent, it will. However, if it is properly managed, once again, much like the 8(a) program, that will not be a factor. And in order to prevent the company from going back to the well over and over and over again and preventing other people from getting there during it, it has to be managed at a threshold. And that means not only can the limit on the contract and must it be imposed, but the size standard for who you can give and do that with should be established.

Many times it is 23 million, sometimes it can be six and a half million. Where contracting officers attempt to get around that is there they use a nix code that is a large nix code of 15,000 people for small business and that happens. And that means they can start giving it to me when I am six and a half million in size and until I am at 15,000 people, they can continue to give me sole-source opportunities.

It needs to be done in a manner so that it incubates and starts new business and allows those people who are new to get their start and be able to do it, and once you grow out of a certain size standard, you are not allowed to do it anymore.

Ms. WOLFORD. I would like to comment on the rule of two. The rule of two doesn't exist within the 8(a) program and my firm is also an 8(a), so I am familiar with that. And the rule of two prevents direct awards, okay, is what it really does. And it doesn't—I don't believe it really stifles competition. Most contracting officers I know like competition. But in order to encourage and grow a local, small business, they want to be able to do direct awards and they would like to be able to do that through the SDVOB program, but they can't right now because of the rule of two. And you will actually grow other businesses by creating those opportunities rather than stifling them, which is what the rule of two does.

Mr. BOOZMAN. Okay. Thank you all very much.

Ms. HERSETH SANDLIN. Thank you very much. I appreciate the Ranking Member coming back and exploring the rule of two issue and each of our witnesses' response to that. We will continue to work on this issue together. Thank you all for your testimony. Thank you for your service to the country.

Mr. JIMENEZ. Thank you, ma'am.

Ms. HERSETH SANDLIN. Best of luck to all of you. We may be seeing you again soon.

Ms. WOLFORD. Thank you.

Ms. HERSETH SANDLIN. I would now like to invite our second panel to join us at the front table. Our second panel of witnesses is Mr. Calvin Jenkins, Deputy Associate Administrator of the Office of Government Contracting and Business Development for the U.S. Small Business Administration, Lieutenant Colonel James Blanco, Assistant to the Director for the Office of Small Business Programs of the Office of the Secretary of the Army, Mr. Anthony Martoccia, Director of the Office of Small Business Programs for the U.S. Department of Defense, and Mr. Scott Denniston, Director of the Office of Small and Disadvantaged Business Utilization for the U.S. Department of Veterans Affairs.

Gentlemen, welcome to the Subcommittee. We appreciate your testimony. Your full written statement will be made part of the record, so if you could summarize your testimony.

Mr. Jenkins, we will begin with you. You are recognized for five minutes.

STATEMENTS OF CALVIN JENKINS, DEPUTY ASSOCIATE ADMINISTRATOR, OFFICE OF GOVERNMENT CONTRACTING AND BUSINESS DEVELOPMENT, U.S. SMALL BUSINESS ADMINISTRATION; LIEUTENANT COLONEL JAMES A. BLANCO, ASSISTANT TO THE DIRECTOR, OFFICE OF SMALL BUSINESS PROGRAMS, DEPARTMENT OF THE ARMY, U.S. DEPARTMENT OF DEFENSE; ANTHONY R. MARTOCCIA, DIRECTOR, OFFICE OF SMALL BUSINESS PROGRAMS, ACQUISITION, TECHNOLOGY AND LOGISTICS, U.S. DEPARTMENT OF DEFENSE; AND SCOTT F. DENNISTON, DIRECTOR, OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION, U.S. DEPARTMENT OF VETERANS AFFAIRS

STATEMENT OF CALVIN JENKINS

Mr. JENKINS. Great. Good afternoon. Chairwoman Sandlin and Ranking Member Boozman, and distinguished Members, thank you for inviting me here today to discuss contract bundling and its impact on veteran-owned small businesses. I would like to begin with a brief background and then discuss what the administration, SBA and Federal agencies are doing to mitigate the effects of bundling and how that, in turn, has increased the ability of all small businesses, including veteran-owned small businesses to compete for and be awarded prime Federal and subcontractors.

The Small Business Act defines bundling of contract requirements as consolidating two or more procurement requirements for goods or services previously provided or performed under separate, small contracts into solicitations of offers for a single contract that is likely to be unsuitable for award to a small business concern due to diversity, size, specialized nature of the elements of the performance specified, the aggregate dollar value of the anticipated award, geographically dispersions of contract performance sites, or any combination of these factors.

In addition, the Small Business Act specifically directs each Federal agency, to the maximum extent practical, to foster the participation of small business concerns as prime subcontractors and suppliers; structure its contracting requirements to facilitate competition by small among competition by and among small businesses concerns taking all reasonable steps to eliminate obstacles to their participation; and avoid unnecessary and unjustified bundling of contract requirements that preclude small business participation and procurements as prime contractors.

When justified, bundling or consolidating contract requirements are an acceptable practice for Federal agencies. However, the key is for agencies to document and justify their actions by demonstrating that there are measurably substantial benefits. The benefits may include cost savings or price reductions, quality improvements that will save time or improve or enhance performance or efficiencies, reduction in acquisition cycle time, better terms and conditions, and any other benefit that individually, in combination or in aggregate would lead to benefits equal to ten percent of the contract or order value where the order is $86 million or less, or $8.6 million where the order or contract exceeds $86 million.

Contracting agencies must balance the need to obtain goods and services with the needs to keep the playingfield as level as possible to maximize contracting and subcontracting opportunities for small businesses by adhering to the mandate of Congress as promulgated in the Small Business Act and Federal procurement regulations.

Early in his Administration, the President recognized that contract bundling posed a serious impediment for small business in the Federal procurement arena and their ability to compete for and be awarded Federal contracts. As a result, the President's 2002 Small Business Agenda directed the Office of Management and Budget to develop a strategy for unbundling contracts as a means of expanding small business access to Federal procurement.

In response, the Office of Federal Procurement Policy, within OMB, issued the October 2002 Bundling Report, providing a nine-point action plan to hold agencies accountable for eliminating unnecessary contract bundling and for mitigating the effects of unnecessary contract bundling. Five of the nine action items specifically call for regularly implementation.

They were: clarify the definition of contract bundling to require bundling review of task and delivery orders under multi-award contract vehicles, bundled review of agency acquisitions above specific thresholds, mandating the identification of alternative acquisition strategies and justification for bundling procurements about established thresholds, requiring measures to strengthen compliance with subcontracting plans of large business prime contracts, and measures to facilitate small business teaming arrangements.

In October of 2003, SBA issued final regulations to implement those five action item points.

SBA assists small business in obtaining a large share of Federal procurements through a variety of programs and services. The prime and subcontract programs benefit small business by assisting them to obtain procurement opportunities. In fiscal year 2005, Federal agencies spent about $477 billion in prime contract awards to small business and in fiscal year 2003, the most recent year data is available, about $45.4 billion in subcontract awards to small business.

We estimate that each $133,500 spent supports one small business job. Thus, for fiscal year 2005, Federal prime contract dollars awarded to small businesses supported approximately 590,000 jobs and subcontract dollars awarded to small businesses by Federal prime contractors supported about 340,000 small business jobs. From fiscal year 2001 to 2005, contract dollars to service-disabled small business increased from $550 million to more than $1.9 billion.

Through the prime and subcontract programs, SBA provides policy direction and guidance to Federal agencies and works with them to develop acquisition strategies that will help to increase opportunities for small business in Federal procurement. As an example, we recently submitted a request to the Federal Acquisition Regulation Council to revise Federal procurement regulations to address the parity among SBA's HUBZone, 8(a), and service-disabled veteran-owned small business concern programs.

The revisions are intended to give agencies direction in structuring procurements, permit a balanced approach to meeting small business goals, and will enhance Federal contract participation for small business eligible to participate in each of these programs.

SBA headquarters staff also negotiates prime contracting and subcontracting goals with Federal agencies, monitors progress and submits reports to the President and Congress. Additionally, our responsibilities include providing contract assistance to small businesses, including service-disabled veteran-owned small businesses, managing the Natural Resource Sales Assistance Program, performing formal size determinations on firms in connection with Federal Government prime contracts, and administering the Certificate of Competency Program that allows an apparent successful small business to demonstrate that it has the capability to perform a specific Federal prime contract.

Our staff of procurement center representatives located at major Federal buying activities are responsible for reviewing all unrestricted and bundled procurements and assisting small businesses to participate in Federal procurements as both prime contractors and subcontractors. Procurement Center Representatives work with the buying activities to mitigate the effects of contract bundling and work with Federal buying activities to help identify small business program participants such as service-disabled veteran-owned small businesses so agencies can conduct set-aside procurements.

We also have a staff of commercial marketing representatives located in the Office of government Contracting area offices that implement the subcontracting assistance programs by conducting compliance reviews of large business prime contractors and various other activities, such as counseling small businesses and matchmaking. Our CMR's monitor the large business prime contractors to ensure that they are meeting the small business goals in their subcontracting plans and make recommendations to prime contractors on how to strengthen their small business programs.

SBA has highlighted the Department of Defense Benefits Analysis Guidebook, a reference to assisting Department of Defense acquisition strategy teams in performing a benefit analysis before bundled contract requirements as a Federal agency source reference for best practices for mitigating the effects of contract bundling and as a guide on how to perform and document measurable substantial benefits to justify contracting bundling. This guidebook is available on SBA's Internet Web site.

SBA continues to work with Federal procuring agencies' small business directors to identify unnecessary contract bundling and develop acquisition strategies that will provide maximum opportunity for small businesses. We are expanding use of technology to help provide broader coverage of our resources to identify increased procurement opportunities for small business.

Ms. HERSETH SANDLIN. Mr. Jenkins, I will have to ask you to summarize your testimony.

Mr. JENKINS. Oh, sure.

Ms. HERSETH SANDLIN. Okay.

Mr. JENKINS. In conclusion, SBA is committed to the President's Small Business Agenda and his proposal to create jobs and growth through the small business sector. We must ensure that small businesses, including service-disabled veteran small businesses' own concerns, receive their fair share of contract opportunities. Increased opportunities for firms will result in savings to the taxpayer, a strong economy, and a strong America.

This concludes my remarks and I will be happy to answer any questions you have.

[The prepared statement of Mr. Jenkins appears on p. 52.]

Ms. HERSETH SANDLIN. Thank you, Mr. Jenkins.

Lieutenant Colonel Blanco, you are recognized for five minutes.

STATEMENT OF LIEUTENANT COLONEL JAMES A. BLANCO

Lieutenant Colonel BLANCO. Madam Chairwoman and distinguished Members of the Committee, on behalf of the Department of the Army, thank you for the opportunity to appear before your Subcommittee to talk about the Army's service-disabled veteran-owned small business program and to provide testimony on the impact of contract bundling.

The Army Office of Small Business Programs, who I represent here today, has responsibility under the Small Business Act to promote contracting opportunities for all small businesses. Bundling policy is not the responsibility of our office; however, we play a key role in recommending acquisition strategies that mitigate the impact of contract bundling on small businesses.

We are an Army at war and the Army leadership is committed to supporting soldiers, their families, our wounded warriors and all veterans who have served in defense of our Nation. Consistent with that commitment, the Army is dedicated to developing a service-disabled veteran procurement program that not only meets, but exceeds the three-percent mandated goal. Our primary objective is to increase the number of capable service-disabled owned companies doing business with the Army to deliver best value solutions to our war fighter.

Since the implementation of Public Law 108–183 in May of 2004, the Army has awarded the highest number of contracts and dollars to service-disabled owned businesses in the general government, increasing from $100 million to $691 million annually. As a further commitment to the program, we recently published a forecast of over $1.7 billion in potential set-asides for service-disabled vets.

The Army faces unique challenges in meeting the three-percent goal for awards to service-disabled owned companies. Although the dollars awarded to small business have increased exponentially over the years, the Army's contracting base is also increasing. Much of this increase is attributable to the purchase of high dollar military hardware and services in support of the Global War on Terrorism.

Bundling also impacts awards to service-disabled owned small businesses and is an overall concern to the small business community. To provide direction for avoiding or mitigating the impact of bundling, our office published a policy letter related to contract bundling and consolidation. The policy outlines the criteria for bundling and the required review procedures. More importantly, it requires the identification of alternate acquisition strategies to the proposed bundling of contracts. To verify compliance with these procedures, our office conducts program reviews of all of our buying activities.

When bundling is justified, we take proactive measures to advocate the interest of small business participation by facilitating partnering and teaming among small business contractors to compete for potentially bundled contracts. The teaming strategy proved successful for unbundling a requirement for ammunition when a small business team was awarded a $1.5 billion contract, representing the largest small business set-aside in the history of the program. Successful practices such as this are documented and shared during small business training and on the Army Small Business Program Web site. Our office has also identified teaming and partnering as a major component of the Army service-disabled veteran-owned small business program strategic plan.

In acquisitions where bundling is deemed necessary and the requirement is not likely to be awarded to a small business prime contractor, our office advocates aggressive subcontracting procedures. Subcontracting requirements are incorporated into the source selection plan and evaluated as a factor for award. Many contracts include incentives, both monetary and increased contract length, for meeting subcontracting goals.

While bundling may continue to occur, please be assured that our office will enforce established policy to ensure compliance with regulations justifying bundling. We will also continue to be proactive in recommending acquisition strategies that mitigate the impact of bundling on small businesses.

In conclusion, the men and women who have served in uniform and sacrificed on behalf of our Nation deserve the opportunity to do business with the Army, Department of Defense, and the Federal Government. Important to the Army, these businessowners bring unique skills and leadership vital to our success in winning the Global War on Terrorism. The Army is committed to leveraging these vital resources and remains dedicated to meeting the three-percent goal for companies owned by service-disabled veterans.

Thank you for your time and I look forward to working with the Subcommittee in advancing opportunities for veteran-owned and service-disabled-owned veteran businesses. Thank you.

[The prepared statement of Lieutenant Colonel Blanco appears on p. 55.]

Ms. HERSETH SANDLIN. Thank you very much, Colonel.

Mr. Martoccia, you are now recognized for five minutes. Thank you for being here.

STATEMENT OF ANTHONY R. MARTOCCIA

Mr. MARTOCCIA. Thank you. Good afternoon. Chairwoman Sandlin, Ranking Member Boozman and distinguished Committee Member, I welcome the opportunity to speak with you concerning service-disabled veteran-owned small businesses.

The Department of Defense is greatly indebted to the men and women who have bravely served this country to preserve the freedom of this Nation. As loyal supporters of the veterans' community, DoD is thoroughly committed to achieving the government-wide three-percent prime and subcontracting goals for service-disabled veterans. We are taking all reasonable steps to identify and enhance procurement opportunities and to remove obstacles hindering the participation—their participation in DoD acquisitions.

In the mid-1990's, Congress passed several statutes requiring the government to buy products and services more efficiently. At the same time, the Federal Workforce Restructuring Act led to an unprecedented downsizing of the DoD acquisition workforce. As a result, DoD acquisition professionals became adept at leveraging the immense buying power of the military to enable prudent stewardship of public funds with fewer internal resources. The consolidation of several requirements into a single contract to save money and gain other benefits is one such methodology.

Any acquisition strategy that contemplates consolidating must undergo an extremely rigorous justification and approval process prior to the action being taken. Only when the department has determined it will drive measurable and substantial benefit can this type of acquisition strategy be used. If small business prime contracting opportunities are not available, DoD acquisition professionals are obliged to develop strategies that set aggressive small business subcontracting goals, including methods for ensuring that the goals are achieved.

The department has been monitoring data to determine the full effect of bundling and consolidation for several years. This has led us to several conclusions. The data must be accurate. The acquisition workforce needs training on consolidation. Tools are needed to assist the acquisition workforce, as well as small businesses. Small business participation must be a primary consideration in strategic planning and consolidation.

The Office of Small Business Programs is working with the department and with other Federal agencies to ensure data systems are programmed with built in edits that will, to the degree possible, prevent the most common miscoding errors. Accurate record-keeping is paramount. It is difficult to understand the full effect of bundling and consolidation if we cannot rely on our ability to obtain accurate data.

DoD has established a small business training program as a joint initiative between the Office of Small Business Programs and the Defense Acquisition University. The department has placed emphasis on educating the acquisition workforce in the areas of bundling and consolidation. In fiscal year 2006, we presented a live webcast on bundling and consolidation which is still available for viewing online. The Air Force has also developed an online bundling course that is also available on their Web site. Additionally, we have provided train-the-trainer sessions at many conferences throughout the past two years. We plan to continue an aggressive training program in this area.

The department is working to provide tools that would assist the acquisition workforce, further ensuring that requirements are not improperly consolidated. One such tool is what Cal mentioned, the Benefits Analysis Guidebook. We are currently updating the book and it will be posted on our Web site.

In 2007, the department identified services as the primary targets to benefit from strategic sourcing. Today, services represent over 50 percent of DoD's total spending. The department is working to ensure that strategic sourcing does not result in lost opportunities for small businesses. Each strategic sourcing action must include a small business advocate that seeks to increase, rather than decrease, achievement of socioeconomic goals.

Today I gave you a brief overview of contract bundling and the efforts taken by the department to eliminate or lessen its effects on all small business, particularly service-disabled veteran-owned small businesses. The department is developing new training and guidance and implementing acquisition strategies to provide the maximum contracting and subcontracting opportunities for small business.

I will close by stating that the achievement of not less than three-percent contracting for primes and subs for SDVOSB's, service-disabled veteran-owned small businesses, has become a focus area within the department and the department's Office of Small Business, as well as the entire departmental acquisition workforce. DoD is working aggressively to fulfill our obligations to service-disabled veterans and I welcome your questions and any comments you might have. Thank you.

[The prepared statement of Mr. Martoccia appears on p. 56.]

Ms. HERSETH SANDLIN. Thank you.

Mr. Denniston, welcome back to the Subcommittee. You are recognized now.

STATEMENT OF SCOTT F. DENNISTON

Mr. DENNISTON. Madam Chair, Ranking Member, distinguished Subcommittee Members, thank you for convening the hearing on contract bundling.

As you know, VA puts veterans first. We work hard to ensure that not only veteran-owned, but all small businesses can participate in VA's procurement programs.

VA's Office of Small Business plays a vital role in fulfilling President Bush's commitment to the small business community and the unbundling of contracts. This commitment was reinforced when VA implemented the nine action items provided in the October 30th, 2002, Office of Federal Procurement and Policy's report on contract bundling.

Recognizing the potential impact contract bundling has on small businesses, VA took the extraordinary step of lowering its contract bundling review threshold to one-half of the $2 million required by the Federal Acquisition Regulations for civilian agencies. In reviewing all acquisitions equal to or greater than $1 million, we have greatly increased the number of acquisitions subject to review, which therefore, provides more opportunity to scrutinize acquisitions and reduce bundling.

Contract bundling may be necessary and justified if an agency derives measurably substantial benefits. VA's justified and necessary contract bundling requirements have included eyeglasses, medical equipment, prescription medicine, professional services and prosthetic devices.

Since fiscal year 2004, VA's Office of Small and Disadvantaged Business Utilization received over 1,000 acquisitions for contract bundling and small business program reviews. Of this number, 200 acquisitions were determined to be bundled. Approximately 36 acquisitions were determined to be necessary and justified. The remaining 164 actions which we received had inadequate justification to support contract bundling. In these cases, the acquisitions were returned to the acquisition professionals after our review in those instances indicated we could provide assistance in developing alternative strategies that provided opportunities for small businesses.

VA's Office of Small and Disadvantaged Business Utilizations Prime Contracts Team conducts contract bundling reviews and recommends appropriate strategies such as small business teaming, joint venturing and partnering agreements, and also multiple awards on a line item or a facility basis. The majority of the requirements determined to be necessary and justified were based upon cost savings exceeding ten percent and quality improvements of care to veteran patients. Reduction in acquisition cycle time and better terms and conditions were cited less often as the basis for justifying contract bundling.

The prime contracts team takes a proactive role in making recommendations to VA procurement professionals to increase awards for small businesses, particularly when a bundled requirement is deemed necessary and justified. As an example, in a collaborative effort between VA's Office of Small and Disadvantaged Business Utilization and the contracting team, a waiver for the non-manufacturer rule was obtained from SBA when market research demonstrated that no small businessmanufacturers existed for desktop and laptop computers and peripheral equipment under VA's PCHS–3 solicitation. The PCHS–3 solicitation was subsequently canceled.

However, the waiver created a partial service-disabled veteran-owned small business setaside for the recompetition of IT hardware and software. As a result of this waiver, a government-wide Solutions for Enterprise Wide Procurement, SEWP IV, contract was awarded by the National Aerospace and Space Administration on June 1st, 2007. SEWP IV resulted in six service-disabled veteran-owned small businesses and three additional veteran-owned small businesses receiving contract awards.

VA's contract bundling review process also considers subcontracting. Our subcontract team plays an important role in ensuring that prime contractors' subcontracting plans are in compliance with the FAR. The team reviews subcontracting plans from VA contracting activities, reviews large solicitations to ensure subcontracting opportunities exist, and recommends that small business subcontracting goals be based on the amount of the dollars to be subcontracted. In addition, the team provides subcontract training to VA procurement professionals and prime contractors.

As an example, in support of VA's Loan Guaranty Program, our subcontracting team partnered with program officials to coordinate outreach sessions around the country for potential small businesses interested in subcontracting. A contract valued at $90 million was awarded to Ocwen Federal, F.S.B., to manage all of VA's real estate owned properties throughout the United States.

Since the inception of this contract, Ocwen has shown progressive improvement in three socioeconomic categories. In FY 2006, Ocwen subcontracted 100 percent to small business. The goal for veteran-owned small business was seven percent and they attained 9.6 percent. Also, Ocwen surpassed the three-percent goal for service-disabled veteran-owned small businesses by attaining 3.3 percent.

We also believe that outreach and training are critical, since it provides guidance, information and training to small businesses in the veteran community. Our outreach/training team conducts monthly face-to-face vendor counseling sessions as well as attends a wide variety of trade shows and conferences to provide outreach assistance to small business. VA also conducts unique events for specific contract opportunities. These industry day events are acquisition specific conferences and are conducted to disseminate information to small businesses. Examples of industry days are VA's Procurement of Computer Hardware and Software-3 and VA's Vocational Rehabilitation and Employment Services acquisition for counseling services.

We believe these efforts pay dividends as evidenced by the increases in VA's socioeconomic accomplishments. We appreciate your interest and your efforts in holding this hearing and look forward to working closely with you. Thank you.

[The prepared statement of Mr. Denniston appears on p. 59.]

Ms. HERSETH SANDLIN. Thank you, Mr. Denniston.

Thank you all for your testimony today. I will now recognize Mr. Boozman for questions he may have for the panel.

Mr. BOOZMAN. Thank you, Madam Chair. Lieutenant Colonel Blanco, you have done a very good job of moving forward in this area and we really do appreciate it. I guess I don't want to put you on the spot, but it looks to me like the only difference in you and some of your cohorts is you have got the same resources basically and stuff as commitment. Is that fair to say?

Lieutenant Colonel BLANCO. The commitment as far as——

Mr. BOOZMAN. As far as commitment to the process of actually getting this done, or do you have some unique resources that we don't know about?

Lieutenant Colonel BLANCO. Well, no, I think—we don't have unique resources, but I think that we have the leadership behind it. Secretary Harvey in 2005 submitted a letter, signed a letter in support of the program. So that is from the top on down. We just put together a training video for senior leader training.

But I think probably the reason why we have worked well and I think the other services are doing well also, and the other Federal agencies, is we share resources. That is one of the things we think is absolutely critical in making this process work. And a great example is the National Veterans Conference, third annual, we just had in June. The Army founded that conference three years ago and DoD came on board with us. And what that has grown into from, you know, we thought about 300 people to over 1,300 and 12 Federal agencies participating in it. And what you get there is one, the participants get to meet with all those different Federal agencies. But at the same time we are sharing resources, government resources. And I think that is absolutely critical to it.

Mr. BOOZMAN. Good.

Lieutenant Colonel BLANCO. The other part is, you know, we are an Army at war and I think we are really taking care of our war fighters and not only are we looking at present situations, but also the wounded warriors. We put together a Wounded Warrior Entrepreneurship Program hopefully to, you know, continue the program and get to our three percent.

Mr. BOOZMAN. Thank you, sir.

Lieutenant Colonel BLANCO. Yes, sir.

Mr. BOOZMAN. Mr. Jenkins, you stated that SBA has recommended the FAR council revise the regulations to provide parity among the various set-aside groups. Can you explain the FAR council process to us and when do you anticipate that they will issue the suggested changes to the FAR?

Mr. JENKINS. Okay. Yes. The process that normally takes place is when SBA sends a request for a change in the Federal acquisition regulation, the council members meet and discuss how to develop implementation regulations, how it will actually work for the contracting officer. That process can generally take upward six months or possibly more, depending on the various issues they are working with or any concerns they have with it.

Mr. BOOZMAN. Mr. Denniston, your tan is still good from the last time we saw you. You are holding up well.

Mr. DENNISTON. And if you want to go back with me on Monday, you are more than welcome.

Mr. BOOZMAN. Oh, great. Is VA contracting centralized? That is, does the Office of Acquisition and Materiel Management have authority over all VA contracting? Or to put it another way, do the heads of procurement for the Veterans Health Administration (VHA), the Veterans Benefits Administration (VBA) and the National Cemetery Administration (NCA) report directly to the Assistant Secretary for Acquisition and Materiel Management, or are we kind of spread out all over the place?

Mr. DENNISTON. No, sir. There is no direct line authority from the Chief Acquisition Officer to the VHA and VBA and NCA. However, the Chief Acquisition Officer does exert control over those folks, because in order to be a contracting officer in the government, you need to be warranted. And the Chief Acquisition Official does hold the ability to grant and take away warrants.

Mr. BOOZMAN. We had good testimony from the first panel and was there anything that you all didn't agree with what they were saying or the gist of what they were saying?

Mr. DENNISTON. I can't say that I disagree with anything that the first panel said. However, I would say that perhaps they are not aware of the some of the efforts internally that we do to deal with some of the issues that they talked about,. As an example, the subcontracting and how we monitor the subcontracting plans of the large businesses and how we use subcontracting proposed plans and past history as an evaluation criteria for future award. So I think we are doing more internally than perhaps they are aware of.

I would also say that it is a constant battle because, as Tony Martoccia mentioned, the whole issue of the shrinking procurement workforce and how we mitigate the effects of bundling on small businesses is a constant challenge because I think all of us are faced with that same issue.

Mr. BOOZMAN. How do you monitor the subcontractors?

Mr. DENNISTON. Depending on the type of subcontracting plan the prime contractors have, they report to us either on a six-month basis or a yearly basis. And for VA, we review all of those plans. And then we will use those as evaluation criteria for future awards. We have had cases where, quite frankly, the prime contractors haven't made much progress and I will write a letter to the senior contracting official at that facility and say in our opinion, this company is ineligible for award because of a lack of good faith effort to subcontract to small businesses.

What that does is get the attention of the company and it is amazing what happens. Large businesses are smart. They do what is important to their customers. So I think what is important from our perspective, as a government agency, is to let them know subcontracting accomplishments are important to us.

Mr. BOOZMAN. Have you all got any other things or——

Mr. MARTOCCIA. No. I agree with Scott. You know, when the contracting officer negotiates a subcontracting plan, everything is negotiable, including if he is going to adhere to it. And at DoD, we are implementing a reporting system with the contractor. We report directly every six months the results of how they are implementing and meeting the goals of the subcontracting plan. So we are looking for more oversight, more direct involvement of the acquisition people, talking to their primes, like Scott mentioned. Tell them it is important. Tell them it is going to be a factor in their performance, or even put a penalty in that, you know, everything is negotiable. So I think we are going to take some actions so those plans are adhered to.

Lieutenant Colonel BLANCO. Just to follow up on what Tony said, yeah, we also look at positive means of incentivizing the contractor through war fee and also through war term, so money if you meet it, additional time in the contract if you meet it. And we talk to major primes and a lot of times they say hey, you are beating us with a stick. Why don't you give us a carrot? So we try to use a combination of both.

Mr. JENKINS. And I guess from the SBA's perspective, we have what we call commercial marketing representatives. They are responsible for evaluating the large business primes to investigate if there is small business concerns that a particular large business is not putting forth a good effort, we have the ability to go into that large business prime either solo, by ourselves, or with the various agency officials. We commonly go in with the Department of Defense folks to review their plans and to look at what the concerns of the small businesses and then coordinate that back with the Federal agency.

Mr. BOOZMAN. Thank you.

Thank you, Madam Chair.

Ms. HERSETH SANDLIN. Thank you, Mr. Boozman.

I just need some clarification here. Mr. Martoccia, you said that when the contract is bid on and awarded, everything is negotiable.

Mr. MARTOCCIA. No, before it is awarded. During negotiation and the solicitation, you could put an advanced understanding that the government expects that the contractor will comply with their subcontracting plan and that will be a factor in the evaluation and the selection, you know, how much subcontracting opportunities are available. So those are the critical issues that the acquisition team has to address when they put together the procurement plans.

Ms. HERSETH SANDLIN. Okay. Although the large companies are required to submit the plan and——

Mr. MARTOCCIA. But not the percentages. They are recorded—they can submit a plan with zero subcontracting opportunities. I mean so they submit a plan so the idea is to get the most opportunities that are reasonable to the small businesses that are veteran-owned companies.

Ms. HERSETH SANDLIN. Are you aware of any cases in which liquidated damages have been imposed?

Mr. MARTOCCIA. I don't think in the government there has been one case. No, because it is not written into the contract. I mean——

Ms. HERSETH SANDLIN. Even though the FAR includes a mechanism for enforcement called liquidated damages?

Mr. MARTOCCIA. If it is appropriate, but usually it goes to performance on the job and not necessarily to the accomplishment of subcontracting goals.

Ms. HERSETH SANDLIN. What was the Department of Defense's percentage in reaching the set-aside in 2005 and in 2006?

Mr. MARTOCCIA. For veterans?

Ms. HERSETH SANDLIN. Yes.

Mr. MARTOCCIA. In 2005, it was about a half a percent. In 2006, we came up to .7 of one percent, although it is .7 of one percent I think is over one and a half billion dollars and we have come a long way in the last five years, although obviously, we have a lot of work to do.

Ms. HERSETH SANDLIN. I would agree.

Mr. DENNISTON. If I could just add from a VA perspective. We have a policy that we don't accept a subcontracting plan from a large business that doesn't meet the statutory goals. And if it doesn't meet the statutory goals, there has to be some justification in the submission of the plan as to why they can't meet the statutory goals.

Ms. HERSETH SANDLIN. Okay.

Lieutenant Colonel BLANCO. Ma'am, if I may also, to clarify. On the subcontracting for contracts over $550,000, up to $550,000, the subcontracting plan is required. And our subcontractor, our small business specialists work with all of the contracting officers to put those goals in place prior to the contract being awarded.

Ms. HERSETH SANDLIN. I appreciate the additional comments on what different agencies and offices are doing. I do have to come back to Mr. Martoccia, however.

The first panel raised the issue of favoritism toward large companies over small businesses as prime on the contract and noted that there may be this sense that bigger is better. How many total contracts were awarded, how many of those are bundled contracts, and then how many of those bundled contracts were awarded to small businesses as prime? If you dont have the information available you can supply it to the Subcommittee after the hearing.

Mr. MARTOCCIA. Okay. There is some, you know, issue. I think the small businesspeople, when they talk about bundling, they are pretty much talking about consolidated large contracts. They are talking about indefinite quantity multiple award. They are talking about these massive contracts that are being awarded that are not necessarily bundled where a small business was displaced. They are talking about consolidating requirements that have been going on and maybe recompeted over the last 20 years. So they have already been consolidated and there is no way for them to get in. So——

Ms. HERSETH SANDLIN. There is no way for them to get in. There is no on ramp.

Mr. MARTOCCIA. No. No. They are ten-year contracts. They have already been——

Ms. HERSETH SANDLIN. Do you think there should be an on ramp?

Mr. MARTOCCIA. Well, that is why we have our small business specialists. Every time a requirement comes up, once the contract is completed, that they work with the program officer and the contracting officer to try to make available opportunity to maybe break apart a very large requirement so that the small businesses can participate as primes.

Ms. HERSETH SANDLIN. Okay. Whether it is a consolidated contract, an IDIQ, a MAC, or contract bundling, do you feel the Department of Defense should have a similar approach? Maybe you and the Colonel have already indicated that there is, given what Mr. Denniston said. Should there be a requirement that if the prime on those contracts is a large company they must submit and fulfill plan for small businesses?

Mr. MARTOCCIA. I agree with that, and that is what we are going to be looking at.

Ms. HERSETH SANDLIN. That is where you are headed. That is where it has become a focus area within——

Mr. MARTOCCIA. Yes. And I think the approach that the VA uses to use the statutory goals as subcontracting minimums is a good idea, I mean to the extent practicable.

[The information was provided in the response to the post-hearing questions for the record from Mr. Martoccia, which appears on p. 63.]

Ms. HERSETH SANDLIN. Mr. Boozman, do you have a followup? Okay.

Let me recognize Mr. Hall, if he has any questions.

Mr. HALL. Thank you, Madam Chair, just a couple of quick ones.

And thank you to our panelists. I forgot to say thank you for our first panel. Thank you to you, also.

And Mr. Denniston, I would acknowledge the truth in your statement that there is a lot that you are doing that we don't see here that perhaps the contractors don't see from the procurement side. Everybody is working to try to solve this——

Mr. DENNISTON. Thank you.

Mr. HALL [continuing]. Problem and only see that part of it that they are directly involved with and I appreciate that and the complicated nature of it. You testified that the nine action items provided in the October 30, 2002, Office of Federal Procurement and Policy Report included ensuring accountability of senior agency management for improvement contracting opportunities for small businesses. Could you outline for us what steps the VA has taken to meet this standard of accountability?

Mr. DENNISTON. Every month when the Deputy Secretary hosts the VA senior managers meeting, one of the first topics is VA's accomplishment toward all the small business goals. Obviously, the one that the Deputy Secretary is the most interested in is how are we doing in the service-disabled and veteran-owned small business categories. That brings the visibility to the program and then for those offices that from month to month may not be meeting the goal, the Deputy Secretary requests an action plan, so how are you going to meet the goal by the end of the year?

So that management focus, in my opinion, is huge. And as you know, as we talked at the last hearing, when it comes to the service-disabled veteran-owned small business and veteran-owned small business goals, the accomplishments of those goals are in the performance plans of all of the people that touch the acquisition process within VA and we think that that is a huge motivator.

Mr. HALL. Thank you.

Colonel Blanco, if a small business is doing less than 51 percent of the work on a contract, is that contract still classified as a small business award?

Lieutenant Colonel BLANCO. Well, under FAR part 19, they are required to do 51 percent of the work, if it is under FAR part 19 set-aside. That is what I said. FAR part 19 covers set-asides.

Mr. HALL. Okay. Thank you.

And Mr. Jenkins, I just wanted to ask what actions can a commercial market representative take when the prime contractor fails or refuses to implement their small business plan?

Mr. JENKINS. Yeah. The primary action would be that the CMR would recommend to the contracting officer that the large business be found to be in material breach of the contract.

Mr. HALL. Has any prime contractor loss their contract in recent memory because of failing to implement their small business plan?

Mr. JENKINS. Not to my knowledge. What we try to do is work with the primes. I think someone had mentioned earlier, there has to be a partnership between the various groups to look at the various strategies that are out there. One of the things that the SBA is attempting to do is identify the firms that can perform the subcontracts and contracts that either the prime need or that the government need. And so, we are currently involved in an initiative at the SBA to coordinate better with the agencies so that when we counsel and train small businesses to go into the Federal procurement arena, we are sort of channeling them into the right direction in terms of here is what this particular agency buys, here is what this particular prime buys, and not take a shotgun approach.

Mr. HALL. So, and I guess this could be to you or the Colonel or to anybody. How effective have proactive measures like that been in reality when the Army is meeting a quarter of the set-aside goal from 2003 to 2006? Do you think that perhaps there needs to be more of the stick as well as the carrots? I mean it sounds to me like what you told me in answer to the last question is that the primes don't lose their contracts. They are just taught how they should proceed to increase that percentage. But we are still not getting there very fast. So the question is, should somebody lose the contract or should there be some kind of penalty or should there be some kind of set-asides?

Mr. JENKINS. Sure. Well, I mean, I think you have to weigh it in certain respects, that the primary purpose of the contract is for the government to get the product of services that they are intending to purchase. Now, certainly going forward, if a prime does not meet their commitment to award subcontracts to small business in the various socioeconomic categories, then it should be used as a factor for possible future procurements in terms of evaluating their success on a previous plan and weigh that against new contracts in some kind of evaluation factor for future contracts.

Mr. HALL. Thank you.

Thank you, Madam Chair. That is all. I yield back.

Ms. HERSETH SANDLIN. Thank you, Mr. Hall.

We have been joined on the Subcommittee by Mr. Donnelly of Indiana and I know that we all have had other hearings and things going on. We appreciate him being here as we wrap up the second panel.

Mr. Boozman, did you have any further questions?

I have just a few more. Mr. Denniston, Mr. Martoccia and Lieutenant Colonel Blanco, do you have enforcement authority? If your recommendations and suggestions are not followed, maybe deliberately ignored by contracting officers, can you stop a contract from being awarded? What is your enforcement authority?

Mr. MARTOCCIA. We don't have any enforcement authority. But I think Scott, you know, hit a couple good points. I think accountability in performance plans is something we are looking at really strongly for the decisionmakers and communication with the contractors. These big companies, they are very receptive to the customer and if you give them a call, you talk to your program person and say hey, you know, they can do the job and they can do it well and you get a call from the customer, they are going to react. But it is just attention to the needs of the small business community.

Ms. HERSETH SANDLIN. Okay. Do either of the other two of you want to address the issue of accountability for the decisionmakers? Who has the power to stop the contract? Once the contracting officer determines that there is justification for a contract to be bundled, who reviews it? Who is the final decisionmaker there? Who can stop a contract from being awarded if they have concerns about the small business plan and the follow through, or the track record of the large company as to how they have treated small companies in the subcontracting process?

Mr. DENNISTON. We are sort of mixing two different things here. If we are talking about the bundling issue itself, we, in the Office of Small and Disadvantaged Business Utilization, in conjunction with the contracting officer, we review that because that is part of the OMB policy that says the office will do that. When it comes to the subcontracting, no, we don't have the authority to stop the contract from being awarded. But what we do, is go to someone higher in the chain of command of the contracting officer, because that person can do it.

And quite frankly, what it gets down to, it is an issue of leverage and I will give you two examples. If we are buying pharmaceuticals and it is a drug which has a patent which most of them do, those drug companies know that we need their drugs to treat our veteran patients. So we don't have a lot of leverage with them, just like we don't have a lot of leverage with utility companies who we buy electricity, natural gas, and those things, because they are almost monopolies.

Where we have leverage is in things like construction, things like IT services and IT equipment. There we have a lot of leverage because the competitive field that we are working in allows us to have that. So what we find in those areas is that we get subcontract plans that have more aggressive goals and we have companies that are much more willing to work with us than we do in those instances where the companies, you know, they have got a monopoly.

Ms. HERSETH SANDLIN. Okay. IT services has been mentioned a lot in this testimony and Mr. Jimenez indicated that Microsoft is a sub in a bundled contract he got with the VA. How often in sole-source contracting in the VA for IT services is Microsoft the prime?

Mr. DENNISTON. Well, I couldn't answer that offhand. I think though, that what happened in Mr. Jimenez's case is a perfect example of using the flexibilities and creativities that contracting officers have, because what happened in the instant case was, the contracting officers decided to use the Federal supply schedules or GSA because it was a preferred source and it was an easy way to do it. But what we did was, we limited competition on the Federal supply schedules only to service-disabled veteran-owned small businesses, and that is how we were to support them, as opposed to doing a formal service-disabled veteran-owned small businesses set-aside.

Ms. HERSETH SANDLIN. Okay. We may have additional questions to submit to you. We have just under ten minutes to get to votes. I want to thank all of you. It is an interesting area with a lot of progress still to be made. I think you all have acknowledged that, and I think you all have made some great recommendations and would like to see more being done.

We are going to continue to work on the Subcommittee to assist you and improve the process by which people act more aggressively on your recommendations. We will continue to get input from business owners and determine what their experience has been. Hopefully that continues to improve.

I want to thank Colonel Blanco in particular. I understand you are going to be retiring at the beginning of next year and we thank you for your service. Perhaps we will try to make a point of getting you back here before February 1st of 2008 so that we can——

Lieutenant Colonel BLANCO. Quite welcome. Yes, ma'am.

Ms. HERSETH SANDLIN [continuing]. Wish you well.

Lieutenant Colonel BLANCO. My pleasure.

Ms. HERSETH SANDLIN. I want to thank my fellow Subcommittee Members and all of our witnesses on both panels today. Thank you for your insights.

Mr. Donnelly, thank you again for making it over here and for your service on the Subcommittee.

Mr. DONNELLY. I apologize. I was at the Financial Services Committee where there were votes and a markup and got over here as quickly as I could.

Ms. HERSETH SANDLIN. Very good. Thank you very much. I am going to now make sure that we haven't missed anything. I want to thank staff on both sides as well. We are giving particular attention to this for a number of reasons. As we do that, we rely heavily on the hard work and the working relationships that they share with all of you. I want to thank Juan Lara and Mike Brinck and those on both sides for helping us with these hearings and the follow-up that is always so important following the hearings.

Thank you again, and the hearing stands adjourned.

[Whereupon, at 4:04 p.m., the Subcommittee was adjourned.]

A P P E N D I X

Prepared Statement of Hon. Stephanie Herseth Sandlin, Chairwoman, Subcommittee on Economic Opportunity

Some of the panelists may recall a hearing we held in May on the subject of veterans' entrepreneurship and self-employment, and an additional hearing held earlier this month on Federal procurement and the three percent set-aside. During these hearings, many of our panelists expressed several concerns such as the failure of Federal agencies to meet the three percent set-aside for service-disabled small businesses, and lack of knowledge on current laws by many contracting officers. While this is discouraging to me, I am pleased to hear that some agencies are moving ahead to address these concerns.

Veterans of our armed forces have been and continue to be a vital part to securing our Nation's economic prosperity and development. When given the opportunity to start and manage their own small businesses, these brave men and women add tremendous value to the success of our economy, as they strive to lead a successful life back in the civilian workforce. Time and time again, we have seen these veterans, many disabled, return home to live out this American dream that they so bravely fought to protect.

With over 17,000 veteran-owned small businesses back in my home State of South Dakota, I am concerned that we are not able to give veteran entrepreneurs the proper assistance to expand their enterprises. I am also concerned that we are not giving them enough opportunities to compete for more contracts with the federal government.

I applaud the efforts of the Federal agencies to address the needs of our veterans while trying to secure goods and services from competitive suppliers. I know that, if given the opportunity, our veterans can compete as they do so every day.

I appreciate the opportunity to work with Ranking Member Boozman and the distinguished Members of this Subcommittee as we continue to work in a strong bipartisan effort to meet the needs of our nation's veterans and the challenges that they face. I look forward to hearing from our panelists and to discussing ways to mitigate the negative effects of contract bundling on small businesses.

While we, in this subcommittee, have been working diligently to ensure that the voices of our veteran-owned small businesses are being heard, I feel it is important to note that I look forward to working with our colleagues in the Committee on Small Business so that we may focus our energy on addressing the needs of our veteran community while meeting the demands placed upon the Federal Government.

Prepared Statement of Hon. John Boozman, Ranking Republican Member, Subcommittee on Economic Opportunity

Madame Chairwoman, it is important that contracting processes promote small business development, especially those owned by veterans and service-disabled veterans. In the 109th Congress, you and I passed what may be called landmark legislation that improved opportunities for veteran and service-disabled veteran-owned business at the Department of Veterans Affairs.

This hearing is not about bashing large businesses—in fact, I suspect the goal of most entrepreneurs is to be successful and outgrow their small business status. Large companies have capabilities vital to the national economy that cannot be replicated by small business. But small business also provides a significant portion of the Nation's jobs and creative thinking and that too is vital to our economy. I believe Ms. Wolford's testimony provides a good snapshot of that contribution.

I want to hear from the witnesses, especially those representing the government, how we can ensure that our veteran entrepreneurs get their fair share of the Federal procurement pie. Based on their written testimony, I believe we will need to tighten up the procurement changes we made in P.L. 109–461 and I would like to work with you, Madame Chairwoman, to make that happen.

There is also another serious problem facing small business and that is the diversion of dollars meant for small businesses to companies that are often mega-corporations. While there are sometimes valid reasons such as a company outgrowing its small business status over the period of a long contract, an article in the July 16 issue of Defense News states that 37% of small business set-aside dollars, about $11.9 billion, went to the Nation's largest companies.

What we will hear today will be valuable to our work with VA, but I urge you to present their case to the Small Business Committee and other Committees with jurisdiction over Federal agencies.

I yield back.

Prepared Statement of Charles Maurice Baker, President and Chief Executive Officer, MCB Lighting and Electrical, Owings, MD

Broken Spirit/Unrealized Dreams

Executive Summary

The laws for small businesses to participate in our economy were created to help provide governance to those in the Federal Government involved in awarding contracts.

The 8(a) program for example was created to help socially disadvantaged businesses grow and develop into viable, sustainable and competitive businesses. The spirit of the law was to make a demonstrative impact on procurement by giving it the tools it needed to provide the maximum practicable utilization of opportunities to 8(a) participants. The same intent and principles of the laws apply to other socioeconomic groups such as women-owned, HUBZone, service-disabled veterans and small disadvantaged businesses.

As we will discuss today, somewhere and somehow along the way we have become disconnected with this spirit and the intent of the law. We have lost our passion to ensure that there is economic opportunities for all as was envisioned when our laws were enacted. We have set-aside our commitments to support and embrace our socioeconomic companies instead of setting aside business opportunities for them. Results of this broken spirit are more and more unrealized dreams.

Our presentation will focus on some of the major issues contributing to challenges faced by small and socioeconomic businesses. The primary issues are contract bundling, sole source contracts, the rule of two and inconsistent interpretation and application of the rules.

Contract Bundling

The Small Business Reauthorization Act of 1997 defines contract bundling as consolidating two or more procurement requirements for goods or services previously provided or performed under separate, smaller contracts into a solicitation of offers for a single contract that is unlikely to be suitable for award to a small business concern.

Contract bundling is one of the biggest obstacles to small business growth and creates a lack of capacity reducing competition. By combining several smaller contracts into one huge package results in jobs too big for small and minority-owned companies to handle. In a decade-long, David-and-Goliath struggle, small companies are receiving fewer and fewer contracting opportunities. In fact, a smaller number of government contracts are being awarded to small businesses and when combining this effect with increased government spending it is clear evidence that contract bundling is on the rise. Moreover, consolidating multiple government contracts into single contracts limits the participation of small businesses as prime contractors and it is more difficult for small businesses to compete for multiple service contracts due to the high cost of preparing proposals and the low probability of winning against large businesses.

Sole Source Contracts

There is a disparity in contract law for sole sourcing arrangements for large and small businesses. Large businesses can be awarded sole source contracts without competition while small businesses have to compete for contracts under what is commonly known as the rule of two.

The rule of two specifies that a requirement may be set-aside for small business, within the applicable dollar thresholds, as long as there are two or more companies that can satisfy the requirement. However, if there is only one company available with the capability and capacity the contracting officer may award the contract as sole source as long as the contracting officer first advertises the requirement.

Obviously the playing field is not level based on the rule of two. The rule of two along with contract bundling contribute to the proliferation of sole source contracts for large businesses while closing the door for small businesses.

In 2006, according to a Federal Times article, sole source contract spending reached an all time high of $207 billion—up from $145 billion (or 45%) in 2005. At $207 billion, sole source contracts account for 50% of total procurement spending. The growth is even more staggering if we compare 2006 to 2000. Sole source contract spending in 2000 was $67 billion and has increased $140 billion (or 209%) in six years.

While small businesses have the hurdle of the rule of two, big businesses run their races without any obstructions and benefit at significant dollar amounts.

The result of growing sole source spending among large business is the death sentence for small businesses. We have seen from above that contract bundling has had a profound negative effect on small business contracts. Sole source is having the same negative effect. At the end of the day, small businesses will become less economically viable at the Federal level.

Past Vision

The Bush Administration made it a priority in 2002 to address the inequities of contract bundling by tasking the Office of Management and Budget (OMB) to prepare a strategy for unbundling contracts. OMB, in late March 2002, through its Office of Federal Procurement Policy (OFPP), created an interagency working group to develop strategies for unbundling contracts. The strategies are intended to reintroduce competition in contracting.

Contract bundling inevitably leads to sole source contracts as the intent of consolidating products and services into "bundles" reduces the number of companies that have the capability and capacity to compete. This was clearly understood by the task force and their agenda was based on this premise.

Current Reality

Let us fast forward to 2007. The data shows that the landscape and appetite for bundling have not been decreased rather it has increased where from 2004 to 2005 contract bundling increased 16%.

Over the past five years, total government contracting has increased by 60 percent, while the number of small business contracts has decreased by 65 percent. Not only are substantially fewer small businesses receiving Federal contracts, but also the Federal Government is suffering from ***a reduced supplier base***. We constantly hear about competition all the time, yet this is only big businesses propaganda as they look to limit competition further.

In order to increase competition the Federal Government has to increase its supplier base with different supplier and service codes and provide set-asides for ***small businesses and promote and fund business development programs***. If small businesses are not developed and allowed to grow, eventually there will be limited or no competition. This lack of competition resulted in $145 billion of sole source contracts in 2005 and $207 billion in 2006. The sole source spending is not the noncompetitive vehicle provisions in the 8(a), HUBZone or SDVOB programs as some would like us to believe.

There are several reasons for the lack of competition:

- Contract bundling.
- Sole source contracts.
- Lack of small business development.

Competition must be increased in the large business arena and small businesses have to play a major role in that competition. Competition can be increased if bundled contracts are "unbundled" so that small businesses have a viable opportunity to compete. By competing, small businesses will have access and funding to further develop their businesses and bring back much needed dollars to support their communities. Right now there appears to be a gap in the balance of commerce for small businesses with its tax base. Taxes are being removed from small business neighborhoods but revenues are not coming back through business opportunities. Small businesses continue to contribute their fair share of tax dollars to Federal spending yet have never received their fair share of the money in Federal contracting.

What the Law Says

The basic premise of the law is to shape the programs it addresses for the benefits of the groups included. It is the intent of the law that is important as well as the underlying enforcement guidelines that sets out governance rules and mandates compliance.

The Small Business Reauthorization Act of 1997 lists several factors that might cause unsuitability for award to a small business. The Act requires each Federal department and agency, to the maximum extent practicable, to: (1) structure contracting requirements to facilitate competition by and among small business concerns, taking all reasonable steps to eliminate obstacles to their participation; and (2) avoid unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors.

Prior to bundling any contracts, agencies are required to conduct market research to determine whether contract bundling is necessary and justified. To justify contract bundling, agencies must demonstrate "measurably substantial benefits," such as cost savings, quality improvements, reduction in acquisition cycle times, or better terms and conditions. The Small Business Administration's implementing regulations further define "measurably substantial benefits" by requiring agencies to demonstrate—for contracts of $75 million or less—benefits equivalent to 10 percent of contract value (including options), or contracts over $75 million—benefits equivalent to 5 percent of contract value (including options) or $7.5 million, whichever is greater.

How the Law is Applied

Much latitude has been taken by the procurement community to interpret the rules and regulations to support their procurement decisions.

The law is being ignored.

What is Wrong With the Way the Law is Applied

According to a report prepared for SBA's Office of Advocacy, for every 100 "bundled" contracts, 106 individual contracts are no longer available to small businesses. For every $100 awarded on a "bundled" contract, there is a $33 decrease to small businesses. Because these types of contracts "run longer and encompass a greater scope, competition is reduced in terms of frequency and the number of opportunities."

The Impact of Big Business

If we had spent the increase in Federal procurement in the small business community our economy would be thriving instead we have a few top defense companies with record profits. The war is not about oil, or securing stability in a region, it's really about the defense industry who contributes 10 times more dollars than big oil to its causes. We have CEOs profiting off the veterans yet they are not providing the maximum practical utilization of SDVOB in their subcontracting plans because there is no penalty for them not doing it and they see or understand the benefits of providing this requirement in a good faith effort its all about how to maximize their profits.

Currently, we have about six major defense contractors receiving approximately 30% of the defense budget, and 40% of these contracts are sole sourced!!!!

Lockheed Martin, Boeing, Northrop Grumman, Raytheon, General Dynamics and United Technologies—the Defense Department's six largest contractors get over $100B in defense contracts, mostly on a sole source basis. Yet small businesses, like service-disabled veterans, can not ***sole source unless there are two or more small business competing***. We have already talked above about the rule of two principle.

No-bid contracts have accounted for more than 40 percent of Pentagon contracting since 1998, which amounts to some $362 billion in taxpayer money to companies without competitive bidding. We discovered that out of the top ten contractors, only one—Science Applications International Corp., or SAIC—won more than half it's dollars through full and open competition. All the others won most of their Federal funds through sole source and other no-bid contracts.

Indeed, these are good times for defense contractors. From fiscal year 1998 through 2003, the Pentagon's overall dollars to contractors has risen up 59 percent, from $129 billion in 1998 to $219 billion in 2003. The biggest defense contractors the past six years (1998–2003) have been Lockheed Martin ($94 billion); Boeing ($81.6 billion); Raytheon ($39.9 billion); Northrop Grumman ($33.8 billion); General Dynamics ($33.3 billion); United Technologies ($17.9 billion); General Electric ($10.6 billion); SAIC ($10.6 billion); Carlyle Group ($9.3 billion); and Newport News Shipbuilding ($8.85 billion). These totals do not include the extra billions of dollars these companies collected as partners in joint ventures. Halliburton ($6.8 billion) came in 14th on our list of the biggest 100. These biggest contractors also received the most money in no-bid contracts.

Over 737 companies, including several thousand of their subsidiaries and affiliates have received at least $100 million in contracts over the past six years, with breakdowns of each company's total contract dollars, the types of contracts they won, the competition they faced, a list of their key subsidiaries, analysis of their lobbying and campaign contributions, and a list of the chief products and services they sold to the Pentagon is available on the Internet.

CEOs at the biggest defense contractors are personally profiting from the war in Iraq: Military contractor CEOs received a 200 percent raise since 9/11.

Right now defense contractors are profiting on the deaths and disabilities of our soldiers, and they appear unwilling to provide subcontracting opportunities to the very soldiers who have risked their lives for democracy and a safe America.

Effects of Contract Bundling

Contract bundling creates a decline in new contract awards to small businesses.

The lack of competition has pushed sole source contracts from $67 billion in 2000 to a staggering $207 billion in 2006. This represents a 218% increase. The effect of this shift from competitive contracting to sole source contracting has resulted in less participation by small businesses in the overall economy.

While overall spending has increased 16%, small business contracting actions have decline 65%.

According to data captured in the Federal Procurement Data System—Next Generation (FPDS–NG), the Federal Government spent over $417 billion in Fiscal Year (FY) 2006, but only 43 contracts over $5 million were reported to GAO as bundled and accounted for $5.7 billion. The number of bundled contracts is closer to 928.

For 2005, the SBA's FPDS showed the Department of Defense with 970,009 small business contract actions. Of these, 57,376 were actually awarded to companies that are not small. Therefore, the Department's actual number of small business contract actions was 912,633—a decline of 65 percent from 2004. This should be contrasted with the Department's increase in total contracting dollars of 13 percent from 2004 to 2005. The increase in contracting dollars, compared to the decrease in small business contract actions, is indicative of contract bundling. Let's also not forget the $12B in miscoding of big business as small business.

And How Do We Fix the Procurement System

On July 12, I gave testimony to this Committee on how I believe the procurement system should be fixed. I will reiterate that we must follow the existing laws, rules and regulations and we must comply with the intent of the laws. We advocate that creativity and innovation within the rules are in the best interest of the government and not in the best interests of big business. Our procurement system has migrated toward bundled contracts as the cure for all of its ills created by reduced staff and increased workloads. Somehow we let the people with the gold (money) and political influence change all the rules in their favor. This is why we don't have competition in contracting and sole source contracts have increased 115% over the last 5 years to $145B.

Until Congressman Waxman is successful in implementing additional staffing through his 1% initiative, the procurement workforce needs to begin an intense training regimen, the laws and rules on the books today needs to be followed and enforced and we need to seek out more inclusion of the Service Disabled community for their experience and expertise.

Resolution to Contract Bundling

We have created a logical plan for DoD to use immediately to assist it in reaching its 3% goal.

Currently DoD spending with SDVOB companies is at 0.49% with a goal of 3.0%. In its second year strategic plan, DoD is committed to meeting its statutory 3.0 target. Unfortunately DoD does not elaborate on the specifics of achieving the goal. Our experience is that this goal is similar to the analogy of "covering the waterfront" which past history has demonstrated does not work for the Federal Government because other preference goals have never been met because they never had a logical analytical plan to follow. There has to be a strategy with meaningful targets set with milestones and timelines attached.

Our plan creates an implementation strategy based on the historical data of SDVOB procurements with DoD from the most current Fiscal Year 2005 data in the Federal Procurement Data System-NG.

Our plan is a goal attainment strategy based on actual data which clearly demonstrates the immediate possibility of delivering 3% using a simple logical thought process using product or service categories where SDVOB companies have the most potential for success. The process identifies product or service categories for all DoD procurement requirements. DoD can use this process to specifically target product and service categories where there is little or no participation currently for SDVOB companies. Our plan is very effective for program managers and contracting officers. Each product or service code is assigned a percentage target for SDVOB participation. The percentage target is based on dollar volume spending in Fiscal Year 2005. There is a tiered percentage scale that is used. The scale is dollar volume driven with the percentage declining the higher the spending. The percentage scale is as follows:

- Up to $100 million—6%
- Up to $500 million—5%
- Up to $1 billion—4%
- Up to $10 billion—3%
- Over $10 billion—2.5%

Our vision is to have DoD implement our plan immediately so that it can contribute to helping SDVOB companies become sustainable, competitive and viable businesses as well as satisfy its goal of 3%.

Our plan was created by MCB Lighting & Electrical of Owings, MD POC Charles Baker 301–812–2591 and Mazyck and Associates of Sacramento, CA POC Edward V. Mazyck, Jr. 650–465–6403. MCB INC. at the request of CEO Charles M. Baker worked with Mazyck & Associates to develop this goal attainment strategy.

How can we fix some of the procurement problems that we are facing today?

We can start by making good management decisions. One decision is considering shifting over a taxing workload to an innovative program that we have.

Over 90% of all procurement transactions are under the $100K threshold and represent only 10% of the total procurement dollars. A significant amount of time and effort is consumed by the procurement workforce processing small dollar transactions. We think this is wasting limited, valuable resources and time. These resources and the associated time can be better focused on the real money and the real acquisition issues.

The time involved in processing smaller transactions not only is burdensome to the acquisition workforce but it's equally time consuming and a nightmare for customers also. I speak with 20 years of frustration of dealing with Federal procurement and trying to accomplish the mission as a government employee. As the ex-chief of facilities for Andrews AFB I can tell you horror stories of having HVAC units broken for weeks and sometimes months for a $5K part my people went and put their hands on but could not fix the units for several months because of the slow procurement process. After all was said and done the procurement rules in the name of competition cost the taxpayers enormously as the administrative cost would some times even exceed the cost of the parts. In addition, the cost of a temporary solution would some times triple the purchase cost of the item ordered.

Conclusion

And finally, we believe that by working together we can all share in the success of our efforts and achieve great things.

Thank you for the opportunity to share some of our thoughts with you today and we hope that it has been informative, educational and helpful.

Prepared Statement of Anthony R. Jimenez, President and Chief Executive Officer, MicroTech, LLC, Vienna, VA

Good afternoon, Chairwoman Herseth Sandlin, Ranking Member Boozman, distinguished Members of this Committee and distinguished guests. It is a privilege to be here today testifying and I want to thank the Committee for allowing me to share my thoughts regarding contract bundling and its effect on Veteran-Owned Small Business and Service-Disabled Veteran-Owned Small Business opportunities in the Federal Government.

My name is Anthony (Tony) Jimenez. I am the Founder and Chief Executive Officer of MicroTech, LLC, a Hispanic-Owned and Service-Disabled Veteran-Owned Small Business (SDVOSB) located in Vienna, Virginia. I retired from the Army in 2003 after serving 24 years on active duty and started MicroTech, LLC in 2004. Today I employ over 50 people and have become a powerful job creation engine and force for economic development in my community and in my State.

MicroTech has over 20 prime contracts with the Federal Government and at least as many subcontracts. Many of the contracts we support as either a prime contractor or a subcontractor are contracts that were "bundled." That is, the contracts were previously satisfied by two or more contractors and were combined to achieve cost savings, price reduction, quality improvements, enhanced performance, or better terms and conditions for the government. Some of these bundled contracts have done exactly what they were intended to do, and have also provided our SDVOSB with great growth and opportunity; others have not, and were not good candidates for consolidation.

Contract bundling can occur for a variety of different reasons and can provide a range of benefits to both the government and contracting organizations. One common motivation for contract bundling is that requirements on two or more different contracts become so similar that it doesn't make sense to have multiple contracts supporting the same requirements. Contract bundling in this situation can save the government money and eliminate unneeded effort and redundant management oversight by the government. Other substantial benefits that can be realized when contracts are bundled in these circumstances may include cost savings or price reduction, quality improvements that will save time or improve or enhance performance or efficiency, reductions in acquisition cycle times, and better terms and conditions for both the government and the contractor (a win-win). When contract bundling is done for these reasons, I think it makes sense.

The problems occur when contract bundling is done for other reasons, it is not properly managed, requirements are poorly defined, the plan for capturing performance/cost savings are not properly documented in the procurement strategy or small business goals are not considered.

As a former Contracting Officer for the Federal Government, I was involved in a number of contract consolidation initiatives. Many of those initiatives started off as great plans that took all the procurement management factors into consideration and established aggressive small business goals that could reasonably be met with appropriate effort and attention. Those plans included steps for cost savings, quality improvements, reductions in acquisition cycle times, and better terms and conditions. However, in many cases, by the time these initiatives became a Request for Proposal (RFP) they had been stripped of all socioeconomic small business goals and there was no mention of any requirement to subcontract to Veteran or Service-Disabled Veteran Small Business.

The normal procedures for contract bundling requires agencies to provide justification for bundling decisions and have the decisions reviewed at higher levels. The problem with this procedure is that the decision is often made in a vacuum and the affected small businesses have no means to object to a bundling decision and are at the mercy of the decisionmaker. In most of these cases the small businesses do not even know the decision is being made. Instead, most of the time the small businesses don't find out their contract has been bundled with a larger requirement until just before the RFP comes out. By then is too late to do anything except agree with the decision and figure out how to stay involved in the bid.

The argument in support of contract bundling and strategic sourcing is that it saves the government money in the end. That may be true some of the time, but not in every case. It has been my experience that while contract bundling may save the Contracting Officers time and effort and reduce government overhead; those dollars are often offset by the higher costs that can be associated with large businesses. This is especially true when you consider the added costs associated with large businesses when it becomes necessary for them to subcontract work that is more difficult to staff or perform to small business, which regularly happens on large complex contracts requiring diverse skill sets to perform.

Perhaps the most overlooked contract bundling problem for small businesses is the myth that big businesses who receive these very large bundled contracts will make it up to the small businesses in their subcontracting plans. Large businesses are almost always required to provide small business subcontracting plans as part of any bid they submit. These plans are supposed to match the small business goals laid out in the FAR: twenty-three percent (23%) for small business divided among the different socioeconomic categories. So far, so good. However, in a number of cases, these small business goals are not reached.

Even in instances where the small business subcontracting plan is in place and small business is getting 23% or more of the work, the question remains to be asked: what type of work are they doing? Is it work that will allow the small business to grow its workforce, develop its capabilities and one day prime a contract of the same scope and magnitude themselves?

Today, there is no current standard by which large businesses are measured and graded with respect to their actual subcontracting plan or goals and I know of no case where liquidated damages have ever been assessed against a large business for failing to make a good faith effort to comply with its subcontracting plans in accordance with Federal Acquisition Regulation (FAR) 52–219–16.

Many of the Contracting Officers I have worked with and know feel that any effort to penalize a large business for "Failure to make a good faith effort to comply with the subcontracting plan" as required in FAR 52–219–16 would be a waste of time. What is a good faith effort? How do you establish whether a good faith effort was made? If you are a Contracting Officer with more work than time, are you interested in fighting a battle you cannot win?

The objective for the government should be to find ways to use the power of procurement reforms to help small businesses while at the same time seeking out way to perform services and purchase products more efficiently and for a lower price. One of the unbundling strategies calls for the Small Business Administration (SBA) to collect and disseminate examples of successful strategies for maximizing small business opportunities. I think possible solutions are:

- **Consolidate contracts so small businesses can share the benefits of bundling.** This allows the government to continue to take advantage of cost savings, price reductions, quality improvements (that will save time or improve or enhance performance or efficiency), reduced acquisition cycle times, and better terms and conditions for both the government and the contractor. Make a fair portion of these bundled contracts small business opportunities and don't assume that because it has been bundled that it has to be a large business opportunity. In most cases, making it an SDVOSB opportunity will get you the same team as a full and open opportunity, but when it is made an SDVOSB opportunity the government gets a better distribution of the work among the small and large businesses, SDVOSBs are guaranteed a fair portion of the work, and SDVOSBs will have the ability to grow and someday compete at the large business level.
- **Place orders under a small business GWAC.** The Veteran Technology Services (VETS) Governmentwide Acquisition Contract (GWAC) and the Solutions for Enterprise-Wide Procurement (SEWP) GWAC are two excellent examples of Governmentwide Acquisition Contracts (GWACs) that offers multiple award contracts with highly qualified Veteran-Owned Small Businesses and Service-Disabled Veteran-Owned Small Businesses. U.S. Department of Veteran Affairs (VA) has done an outstanding job of using both of these GWACs. VA's policies for using GWACs with Veteran-Owned and Service-Disabled Veteran-Owned Small Business primes (such as VETS and SEWP) is an outstanding example of their commitment to Veteran-Owned and Service-Disabled Veteran-Owned Small Businesses. This approach should be duplicated throughout the Federal Government.
- **Solicit quotes for GSA Federal Supply Service orders only from small businesses, or socioeconomic small business groups.** Small business set-asides are not authorized under Federal Supply Schedule, but it is permissible to limit consideration for an order to small businesses and socioeconomic small businesses (SDVOSB, 8(a), WOSB, HUBZone, etc.). Once again, the U.S. Department of Veteran Affairs (VA) has done an outstanding job using GSA's Federal Supply Service and limiting consideration to Service-Disabled Veteran-Owned Small Businesses.
- **Create a small business participation enforcement team.** Consider taking a portion of the savings realized through contract bundling and implement a small business plan enforcement team that enforces small business participation in accordance with the Request for Proposal (RFP).
- **Consider hybrid contract bundling.** Small businesses could partner with large businesses using a Contractor Teaming Arrangement (CTA), similar to those used by GSA. The terms and conditions of the CTA are defined up front, payment goes into an escrow account, and disbursements are made based on the agreement in the CTA (51% small business and 49% large business).
- **Establish a Mentor Protégé program at the Small Business Administration (SBA) for Veteran-Owned and Service-Disabled Veteran-Owned Small Businesses.** The benefits of establishing a program at SBA that mirrors the 8(a) Mentor Protégé program are:
  - A mentor and protégé could joint venture as a small business for ***any*** government procurement, including procurements less than half the size standard corresponding to the assigned SIC code and sole source contracts, provided both the mentor and the protégé qualify as small for the procurement and, for purposes of sole source requirements, the protégé has not reached the dollar limit.
  - Notwithstanding the requirements, in order to raise capital for the protégé firm, the mentor could own an equity interest of up to 40% in the protégé firm.

- Notwithstanding the mentor/protégé relationship, a protégé firm could qualify for other assistance as a small business, including SBA financial assistance.
- No determination of affiliation or control may be found between a protégé firm and its mentor based on the mentor/protégé agreement or any assistance provided pursuant to the agreement.

The Federal Acquisition Regulation (FAR) already includes provisions intended to help small business in the event that bundling occurs. The FAR does not include enforcement mechanisms nor does it include reward or punishment mechanisms. If the FAR or Code of Federal Regulations (CFR) were as to include mandatory enforcement, that would go a long way toward assisting small business. When it comes to the FAR requirements for contract bundling, the FAR makes a good start but fails to follow through with the most important part. Bundled contracts are often made so complex that small businesses are precluded from competing for them. FAR Part 7 addresses contract bundling and the requirements for how and when it may be done.

FAR 7.103 states that when considering a bundled acquisition the head of an agency must

> "Structure contract requirements to facilitate competition by and among small business concerns; and [a]void unnecessary and unjustified bundling that precludes small business participation as contractors."

That is much harder done than said. Any time either disparate services are bundled or two or more requirements are combined Contracting Officers make it more difficult for small businesses to compete.

FAR 7.107(c)(2) states that when bundling contracts agency officials must assure, "[t]he acquisition strategy provides for maximum practicable participation by small business concerns." Again, this is nice in theory, but who is ensuring that the strategy becomes certainty?

The proliferation of long-term indefinite-delivery, indefinite-quantity (IDIQ) contract vehicles has also been a serious determent to many small businesses. More and more Federal procurement dollars are being spent through pre-competed IDIQs. These large business IDIQs have the same effect as contract bundling. For example the Army's Information Technology Enterprise Solutions 2 Services (ITES–2S) contract is an IDIQ contract with sixteen (16) primes. This is the Army's premier IT services contract. Yet, when the Army competed this contract it did not provide any prime opportunities for Service-Disabled Veteran-Owned Small Businesses, 8(a)s, Women-owned, or HUBZone small businesses. Originally, awards were made to twelve (12) large business primes and four (4) small business primes. In the last year, two of those small business primes have been acquired. Now only two (2) of the sixteen (16) primes contractors are small businesses and both are likely to be large businesses before the contract ends.

ITES–2s is a great contract that is doing what it was intended to do—reduce prices, produce cost savings, improve quality, reduce acquisition cycle times, and provide better terms and conditions. ITES–2s happens to have a great deal of small business participation through subcontracting. My company, MicroTech, enjoys a great relationship with General Dynamics who has provided us with a great deal of opportunity on ITES, but because of it's size and the length of the contract (a nine-year, $20 billion IDIQ) this contract has to be aggressively managed to ensure that all the primes do as good a job of subcontracting to SDVOSBs as General Dynamics is doing and that small business goals are met and that the right opportunities are provided to Veteran and Service-Disabled Veteran-Owned Small Businesses.

Other than Veteran Technology Services (VETS) and Solutions for Enterprise-Wide Procurement (SEWP), there have been very few large indefinite-delivery, indefinite-quantity (IDIQ) contract opportunities for SDVOSBs. The additional few that the government released were very complex and required a very large investment by the small business to cover the bid and proposal costs, but numerous SDVOSBs still bid.

My company, MicroTech, recently experienced an unfortunate example of this type of solicitation. Tuesday July 17, 2007 MicroTech, was notified that an IDIQ from GovWorks, a Federal Acquisition Center under the Department of the Interior (DOI), had canceled an IDIQ solicitation that was set aside for 8(a) companies with a preference for Service-Disabled Veteran-Owned Small Businesses. This is not unusual and normally something like this would not be worth mentioning, but this IDIQ contract was canceled 18 months after it was submitted for evaluation, and over one year after it was supposed to be awarded. The bid and proposal costs to prepare our proposal and ensure it was fully responsive and compliant with the instructions in the RFP were significant—over $50,000 for our firm, plus the costs borne by our partners. Our SDVOSB team spent hours preparing and responding to numerous exchanges with the Contracting Officer and his staff.

The contract (General IT Services solicitation 1406–04–06–RP–60576) was an IDIQ with a $1B limit. It was an 8(a) set-aside that we (MicroTech) worked very hard to ensure included SDVOSBs (additional evaluation preference was given if the 8(a) was also a SDVOSB). The solicitation came out in Nov 2005 and was the first significant step toward identifying an opportunity at Department of Interior (DOI) that would allow SDVOSBs to compete and provide IT services to GovWorks customers and DOI organizations.

Prior to release of the solicitation my Business Development Staff, my Chief Technology Officer and I made several trips to DOI and met with several people in an attempt to open the doors for SDVOSBs and to identify potential opportunities for SDVOSBs. This solicitation was the perfect opportunity and would have provided a desperately needed contracting vehicle for everyone (including VA and DoD) using GovWorks.

Our proposal was submitted in Jan 2006. It was a complex bid, over 100 pages in length, and containing over 200 separately priced labor categories. Our team developed a complete position description and pricing rationale for each labor category. Since then it was reviewed numerous times and was determined to be in the competitive range twice.

Now, after 18 months of evaluation, two months of proposal preparation, and six months of business development and partner teaming coordination (over two years of hard work) GovWorks and DOI have decided to cancel the solicitation because other contracting vehicles satisfy this requirement. This strikes me as a poor use of both the government's resources as well as small business resources.

We cannot understand why DOI would cancel a solicitation like the General IT Services Solicitation when they are having so much trouble meeting their SDVOSB goals. Wouldn't it stand to reason that awarding an IDIQ to qualified 8(a) small businesses who are also SDVOSBs could help them achieve their small business goals quicker, especially when you consider that the cost to put this contracting vehicle in place has already been spent?

Madame Chairwoman and distinguished Committee Members, I appreciate the time you and the other Members of the Committee on Veterans' Affairs have spent on this and other topics concerning Veteran Entrepreneurship. I think I speak for all the Veteran Entrepreneurs when I say how very proud we are of this Committee and the hard work you and your staff members do for Veterans. Thank you for helping to level the playing field and for believing in us and our ability as business men and women to give back to a Nation that has given us so much. This concludes my testimony and I would be happy to answer any questions you may have.

Prepared Statement of Lisa N. Wolford, President and Chief Executive Officer, CSSS.NET, Bellevue, NE

I would like to thank all the Members of the Committee for the opportunity to speak today on this critically important issue of contract bundling and it's impact on Service Disabled Veteran Owned Businesses. I have been in business for over ten years now and the last six years exclusively with the Federal Government. I am a veteran of the United States Marine Corps and my firm is a SDVOSB, WOB and 8(a)/SDB. My firm provides information technology engineering systems and solutions to the Federal Government and therefore the majority of my testimony regarding contract bundling will concentrate on that sector. My firm has an excellent record of past performance and yet even with this my firm has been dramatically impacted by the issue of contract bundling.

Therefore, I submit to you that new firms owned by SDVOSBs that have returned or will return from Iraq or Afghanistan will have an even greater struggles since they are newer in the marketplace. I would also like to remind you that veterans have vested into their citizenship rights in a way that no other group has through the sacrifices we have made in the service of our country. SDVOSBs are owned by people from both genders and any race you can think of, therefore we are both diverse in characteristics and united in our history. Small businesses do not have access or money for PACs and/or lobbyists. Instead we spend 180% of our energy in growing and maintaining our businesses. Consequently, many laws and modifications to regulations make it into the FAR and business practices of the government that favor large business and are harmful to small businesses.

Fact-finding related to the impact of contract bundling on SDVOSBS is difficult to attain since the majority of the data is related to the small business market in general. As a result, I will speak to you regarding the issue as it relates to small businesses in general. However, please remember, the economic preference for SDVOSBs is fairly new to the Federal market and therefore the impact to SDVOSBS is even greater than the average small business.

The U.S. Government has an economic interest and responsibility to enable and encourage the growth of small businesses. Small businesses are the economic engine that fuels the growth of our economy. Therefore, if the government wants a healthy economy and job market they have a fiduciary responsibility to grow small businesses. The fact that the government has goals of only 23% of prime contracting dollars to go to small businesses is actually a travesty of justice to our American economy. Small businesses generate two thirds of net new jobs and over 50% of the private sector output. If the goal of this administration is to build an even stronger economy, the government should tie the goals of prime contracting dollars to the percentage of growth of our economy that small businesses are responsible for creating.

Some of the facts that I would like to remind you of in respect to contract bundling are:

- Small businesses employee over half of all private sector workers
- Small businesses generate more than half of private sector output
- Small businesses create more than two-thirds of net new jobs
- Information Technology services and technology purchases represent the largest portion of the Federal budget
- Bundled contracts represented 16.4 percent of all prime contracts in 2001 and 51 percent of all reported contract spending
- Majority of bundled contracts occurs in defense contracting
- Over the past five years, total government contracting has increased by 60 percent, while the number of small business contracts has decreased by 55 percent (1)
- Total prime contract obligations solicited by the Federal Government in FY 06 88 percent obtained by large businesses (1)
- Increasing subcontracting goals for large prime contractors winning a bundled contract is not a sufficient mitigation or solution
- Multiple Award Contracts (MAC) are a tool that are increasingly used to bundle contracts but are not viewed as contract bundling (2)(3)
- Use of GSA contract vehicles to use small businesses as pass throughs by Federal agencies

As a result of reviewing these facts I ask you: Why do firms that generate only one third of new jobs get 88% of the total prime contracts obligations? Why are small business prime contracting goals overall not 50% or greater? Would that not be more equitable to the firms that are responsible for the growth of the country? Would that not spur greater economic growth across our great country? If you think that number is out of range, consider HUD whose small business prime contracting goal is 45% and they regularly exceed it? The Army has a record of 27.2 % of prime awards to small businesses, exceeding their small business prime contracting goals. In 2001, 35% of that was through the Army Corps of Engineers and now that all Information Technology services contracts have been bundled their achievements will go down substantially. It is a known fact that the majority of contract bundling occurs within DoD and I consider this particularly reprehensible, since if anyone in the Federal Government bears a greater responsibility to veteran businessowners I think DoD and the Veterans Administration should be held to a higher standard and culpability. I can say that I have great respect for the substantial challenges and changes that Mr. Scott Denniston has wrought in the Veteran's Administration.

Instead, due to contract bundling we have seen a market decrease in the number of small businesses effectively competing in the Federal marketplace. Federal agencies continue to deny that contract bundling is an issue; however, the decreased opportunity for prime contracts for small businesses inhibits their growth. Federal agencies have felt that increased subcontracting goals on bundled contracts mitigates the damage to the small business market and relieves them from the responsibility of prime contracting with small businesses. When small businesses are relegated primarily to the role of subcontractors, they do not have the opportunity to control their own destiny or truly add innovation to the Federal marketplace. This is because the Federal Government's contract is only with the prime contractor, they do not have privity of contract with the subcontractor.

Small businesses are responsible for innovation and research much more frequently than large businesses, and as a result of contract bundling those opportunities are decreased and the entire Nation, as well as the Federal Government suffers.

Multiple Award Contracts (MACs) are subject to FAR clauses that require the contracting officer to allow all awardees fair opportunity to compete on the individual task orders. (2) The problem with this is that it means that small businesses have to compete head to head with the largest of the Federal contractors. This is just another form of contract bundling although it doesn't get measured as contract bundling and therefore, has the same negative impact on the small business community. Forcing a small business to compete toe to toe with large businesses is in direct contradiction with small business contracting rules and standard operating practices.

Another abuse of the small business community is the way GSA schedule contract buys occur that are not set-asides. If a contracting officer sends out an opportunity to be bid to only SDVOSBs on a Schedule 70, they can count the entire award as 100% to a small business. Now on the surface that sounds great, but since it is not a set-aside the 51% rule doesn't apply. So the way the game is typically played is that the contracting officer sends out the opportunity to three to four small businesses with the schedule and the socioeconomic credits they want. They notify the incumbent contractor of who they have sent the opportunity to, they also let them know that it is NOT a set-aside and, therefore, set-aside prime contracting workshare rules do not apply. What then happens is the incumbent contractor negotiates with each of the possible bidders and gets the largest workshare they can, up to 100% and also they set the rules about what type of rates can be billed to the government. This then sets the small business up to be used as a pass through, the small business can do as little as 0% and still the agency will get credit for 100% of the work as small business. If the contract goes south the firm that gets debarred from government contracting is the prime contractor even though the prime has no control over the contract and they have been put into a squeeze play between the incumbent large and the government. Is this really the way we should be treating SDVOSBs and other small businesses? This practice is legal through the rules of the FAR and GSA contracting, these rules must be modified to prevent such atrocities. My firm has regularly been asked to bid on such opportunities by multiple Federal agencies.

Since Information Technology purchases represents such a large portion of the Federal budget it is particularly imperative that attention is paid to this sector. This represents an area for great improvement in the Federal budget for achievement of small business goals. Unfortunately it also represents an area that is particularly prone to contract bundling.

Examples of contract bundling:

- ITCC contract at USSTRATCOM in Nebraska bundled all Information Technology maintenance contracts, many of which had previously been held by small businesses. The contract value total is a minimum of $550 million over a period of ten years. Effectively shutting out all opportunities for small business prime contracts in the Information Technology sector at that base for ten years. In this geographic region, Offutt Air Force Base and the Corps of Engineers are the only Federal agencies that use Information Technology contractors. Therefore, the impact to small business functioning in this area effectively wipes out all opportunities for prime contracts.
- Corps of Engineers has bundled all of their Information Technology Services contracts. The net effect of this effort is that all Corps of Engineers I/T opportunities nationwide have shut out thousands of small businesses across the Nation.

Solutions:

- Do not allow contract bundling if it will prevent a command or agency in a particular geographical region from meeting its small business prime contracting goals.
- Do not allow contract bundling if it will bundle all requirements for a particular NAICS code at that command or agency in a particular geographical region.
- Require GSA schedule buys that are not set-asides to only allow the government to count toward their small business goals that percentage of the business that the small business actually executed vice their large business subcontractor.
- Change FAR part 16 to allow awardees under a MAC to have restricted small business competitions for any reason post award of the BPA. Also allow the contracting officer to do direct awards to any small business awardee under the MAC subject to the limitation on small business direct award amounts.
- Implement the findings from the OMB report titled "A Strategy for Increasing Federal Contracting Opportunities for Small Business" dated October 29, 2002.

Thank you for holding this hearing today and thank you for giving me the opportunity to share my knowledge and experience with you today. I am glad that this hearing is being held and I hope that my testimony will help you to develop real solutions to this critical issue. I appreciate your willingness to listen and receive input from the frontlines of small businesses that are dealing with this issue on a daily basis. I would be happy to answer any questions this Committee may have.

Appendix A

1. **Fernando V. Galaviz Testimony Before Senate Committee on Small Business and Entrepreneurship, 22 May 2007.**
2. FAR—Part 16.
   DFARS 216
   (a) All multiple award contractors shall be provided a fair opportunity to be considered for each order in excess of the micro-purchase threshold as defined in FAR 2.101.
3. OMB report titled "A Strategy for Increasing Federal Contracting Opportunities for Small Business" dated October 29, 2002.
4. Audit of the Contract Bundling Process, Audit Report Number 5–20, dtd May 20, 2005 from SBA—Office of Inspector General.
5. Government Executive, "Bush Advocates Reduction in Contract Bundling," Amelia Gruber, dtd October 14, 2004.
6. SBA Small Business Research Summary, "The Impact of Contract Bundling on Small Business, FY 1992–FY 2001 #221," Eagle Eye Publishers.
7. Office of Advocacy, SBA, News release, "Federal Contract Bundling Increases to the Detriment of Small Business," SBA Number: 02–36 ADVO, John McDowell, dated October 2, 2002.

Prepared Statement of Calvin Jenkins, Deputy Associate Administrator, Office of Government Contracting and Business Development U.S. Small Business Administration

Chairwoman Sandlin and Ranking Member Boozman and distinguished Members of the Committee, thank you for inviting me here today to discuss contract bundling and its impact on veteran-owned small businesses. Contract bundling affects the ability of all small businesses to compete in the Federal procurement arena. I'd like to begin with a brief background and then discuss what the Administration, SBA and Federal agencies are doing to mitigate the effects of bundling and how that, in turn, has increased the ability of all small businesses, including veteran-owned small businesses to compete for and be awarded prime Federal contracts and subcontracts. Mitigation of unnecessary contract bundling creates and helps sustain jobs in the small business community.

The Small Business Act defines "bundling of contract requirements" as: ". . . consolidating two or more procurement requirements for goods or services previously provided or performed under separate small contracts into a solicitation of offers for a single contract that is likely to be unsuitable for award to a small business concern due to—diversity, size or specialized nature of the elements of the performance specified; the aggregate dollar value of the anticipated award; the geographical dispersion of the contract performance sites; or any combination of these factors."

In addition, the Small Business Act specifically directs each Federal agency, to the maximum extent practicable, ". . . to foster the participation of small business concerns as prime contractors, subcontractors, and suppliers; structure its contracting requirements to facilitate competition by and among small business concerns taking all reasonable steps to eliminate obstacles to their participation; and avoid unnecessary and unjustified bundling of contract requirements that precludes small business participation in procurements as prime contractors."

When justified, bundling or consolidating contract requirements are an acceptable practice for Federal agencies. However, the key is for agencies to document and justify their actions by demonstrating that there are measurably substantial benefits. The benefits may include cost savings and/or price reduction, quality improvements that will save time or improve or enhance performance or efficiency, reduction in acquisition cycle times, better terms and conditions, and any other benefits that individually, in combination or in aggregate would lead to benefits equivalent to 10 percent of the contract or order value where the order is $86 million, or less or $8.6 million where the order or contract exceeds $86 million.

Contracting agencies must balance the need to obtain goods and services with the need to keep the playingfield as level as possible to maximize contracting and subcontracting opportunities for small businesses by adhering to the mandate of Congress as promulgated in the Small Business Act and Federal procurement regulations.

Early in his Administration, the President recognized that contract bundling posed a serious impediment for small businesses in the Federal procurement arena with their ability to compete for and be awarded Federal contracts. As a result, the President's 2002 Small Business Agenda directed the Office of Management and Budget (OMB) to develop a strategy for unbundling contracts as a means of expanding small business access to Federal procurements.

In response, the Office of Federal Procurement Policy (OFPP), within OMB, issued the October 2002 Bundling Report, providing a nine-point action plan to hold agencies accountable for eliminating unnecessary contract bundling and for mitigating the effects of necessary contract bundling. Five of the nine action items specifically called for regulatory implementation. They were: (1) clarifying the definition of contract bundling to require bundling reviews of task and delivery orders under multiple award contract vehicles; (2) bundling reviews of agency acquisitions above specific dollar thresholds; (3) mandating the identification of alternative acquisition strategies and justification for bundled procurements above established thresholds; (4) requiring measures to strengthen compliance with subcontracting plans of large business prime contractors; and (5) measures to facilitate small business teaming arrangements.

On January 31, 2003, SBA published a proposed rule to revise its bundling regulations to solicit comments on implementing several recommendations included in OFPPs October 2002 report. SBA published final regulations on October 20, 2003. The regulations, among other things:

- Revises the definition of contract bundling to include multiple award contract vehicles and task and delivery orders competed against those vehicles.
- Requires contract bundling reviews for contracts and orders under multiple award contracts above established thresholds for unnecessary and unjustified bundling ($7 million for DoD, $5 million for GSA, NASA, and DoE, and $2 million for all other agencies).
- Requires procuring activities to coordinate with their small business specialist proposed acquisition strategies for contracts and orders above the established thresholds. Require the small business specialist to coordinate with the OSDBU when those strategies include bundling that is unnecessary and unjustified or not identified.
- Reduces the threshold for substantial bundling (from $10 million annually) to the above established thresholds and revise the documentation to the agency OSDBU.
- Requires agencies to identify alternative strategies that involve less bundling when they contemplate a bundled contract.
- Requires agencies to strengthen compliance with subcontracting plans.
- Requires the Agency Offices of Small and Disadvantaged Business Utilization to perform certain oversight functions and submit a report annually to the Agency Head and the SBA Administrator and conduct periodic reviews to assess:
  - the extent to which small businesses are receiving their fair share of Federal procurement;
  - the adequacy of contract bundling documentation and justification; and
  - the adequacy of actions taken to mitigate the effects of necessary contract bundling on small business (e.g. Review agency oversight of prime contractor subcontracting plan compliance).

SBA assist small businesses in obtaining a larger share of Federal procurements through a variety of programs and services. The prime and subcontracting programs benefit small businesses by assisting them to obtain procurement opportunities. In Fiscal Year 2005, Federal agencies spend about $77 billion in prime contract awards to small businesses and in Fiscal Year 2003, the most recent year data is available, about $45.4 billion in subcontracting awards to small businesses. We estimate that each $133,500 spent supports one small business job. Thus, for fiscal year 2005, Federal prime contract dollars awarded to small businesses supported approximately 590,000 jobs and subcontract dollars awarded to small businesses by Federal prime contractors supported approximately 340,000 small business jobs. From Fiscal Year 2001 to 2005, contract dollars to service-disabled small businesses increased from $550 Million to more than $1.9 Billion.

Through the prime and subcontracting programs, SBA provides policy direction and guidance to Federal agencies and works with them to develop acquisition strategies that will help to increase opportunities for small businesses in Federal procurement. As an example, we recently submitted a request to the Federal Acquisition Regulatory Council to revise Federal procurement regulations to address "parity" among SBA's HUBZone, 8(a) and SDVOSBC programs. The revisions are intended to give agencies discretion in structuring procurements, permit a balanced approach to meeting small business goals, and will enhance Federal contract participation for small businesses eligible to participate in each of those programs.

SBA Headquarters staff also negotiates prime contracting and subcontracting goals with Federal agencies, monitors progress and submits reports to the President and Congress. Additionally our responsibilities include providing contract assistance to small businesses, including service-disabled veteran-owned small businesses; managing the Natural Resources Sales Assistance Program; performing formal size determinations on firms in connection with Federal Government prime contracts; and administering the Certificate of Competency Program that allows an apparent successful small business to demonstrate that it has the capability to perform on a specific Federal prime government contract.

Our staff of Procurement Center Representatives (PCRs), located at major Federal buying activities are responsible for reviewing all unrestricted and bundled procurements and assisting small businesses to participate in Federal procurements as both prime contractors and subcontractors. PCRs work with the buying activities to mitigate the effects of contract bundling and work with Federal buying activities to help identify small business program participants, such as Service-Disabled Veteran-Owned Small Businesses, so agencies can conduct set-aside procurements. We also have a staff of Commercial Market Representatives (CMRs) located in the GC Area Offices, that implement the Subcontracting Assistance Program by conducting compliance reviews of large business prime contractors and various other activities, such as counseling small businesses and matchmaking. CMRs monitor the large prime contractors to ensure that they are meeting the small business goals in their subcontracting plans, and make recommendations to prime contractors on how to strengthen their small business programs.

I'd like to bring to the Committee's attention to three of the many instances where our PCRs were successful in recommending Federal agencies set-aside procurements for Service-Disabled Veteran-Owned Small Businesses:

The Veterans Administration Boston Healthcare System, Boston, MA, set-aside a procurement for the Replacement of Steam Piping for Service Disabled Veterans. The Contracting Officer agreed with the PCR's recommendation and issued a solicitation for a SDVOSB set-aside. It has an estimated cost of $1 Million.

Our Philadelphia PCR was successful in convincing the Naval Inventory Control Point in Mechanicsburg, PA, to convert an unrestricted procurement to a Service-Disabled Veteran-Owned Small Business set-aside. The 5-year contract is estimated to be worth $2.7 million.

Our PCR in Philadelphia, PA was successful in convincing a Defense Logistics Agency buying activity to partially set-aside a requirement for Marine Corps Sweat Shirts and Sweat Pants for Service Disabled Veteran Owned (SDVO) firms. The total requirement is estimated at $7.7 million and will be 60% set-aside for small business and 40% set-aside for SDVO firms.

SBA has highlighted the Department of Defense's "Benefit Analysis Guidebook, A Reference to Assist Department of Defense Acquisition Strategy Teams in Performing a

Benefit Analysis before Bundling Contract Requirements" as an Federal agency source reference for Best Practices for mitigating the effects of contract bundling and as a guide on how to perform and document measurably substantial benefits to justify contract bundling. This guidebook is available on SBA's Internet homepage.

SBA continues to work with Federal procuring agencies' small business directors to identify unnecessary contract bundling and develop acquisition strategies that will provide maximum opportunities for small businesses. We are expanding use of technology to help provide broader coverage of our resources to identify increase procurement opportunities for small business.

In conclusion, SBA is committed to the President's Small Business Agenda and his proposals to create jobs and growth through the small business sector. We must ensure that small businesses including Service Disabled Veteran-Owned Small Business Concerns and Veteran Owned Small Business Concerns receive their fair share of contract opportunities. Increased opportunities for firms will result in savings to the taxpayers, a stronger economy, and a stronger America. This concludes my remarks, and I will be happy to respond to any questions that you may have.

Thank you.

Prepared Statement of Lieutenant Colonel James A. Blanco, Assistant to the Director, Office of Small Business Programs, Department of the Army, U.S. Department of Defense

Chairwoman Herseth Sandlin, Ranking Member Boozman and distinguished Members of the Committee: on behalf of Department of the Army, thank you for the opportunity to appear before you to talk about the Army's Service-Disabled Veteran-Owned Small Business (SDVOSB) Program and to provide testimony on the impact of contract bundling.

The Army Office of Small Business Programs (OSBP), whom I represent here today, has responsibility under the Small Business Act to promote contracting opportunities for all small businesses. The Director, Ms. Tracey L. Pinson, reports directly to the Secretary of the Army. Bundling policy is not the responsibility of our office; however, we play a key role in recommending acquisition strategies that mitigate the impact of contract bundling on small businesses.

We are an Army at war and the Army leadership is committed to supporting our soldiers, their families, our wounded warriors, and all Veterans who have served in defense of our Nation. Consistent with that commitment, the Army is dedicated to developing an SDVOSB procurement program that not only meets, but exceeds the three percent goal mandated by Public Law 106–50. Since Public Law 108–183 was implemented through the Federal Acquisition Regulation in May of 2004, the Army has awarded the highest number of contracts and dollars to SDVOSBs in the Federal Government. Between FY2003 and FY2006, the dollar amount awarded annually to SDVOSBs by the Army increased from $100 million to $691 million (preliminary). As a further commitment to the program, the Army OSBP recently published a forecast of over $1.7 billion in potential set-asides for SDVOSBs.

Our strategy is to significantly increase the number of capable SDVOSBs doing business with the Army, through a proactive Business Development Program delivered both virtually and by our over 250 full-time and part-time small business specialists located throughout the Army. Identifying and growing SDVOSBs that possess core capabilities to meet Army requirements is the most important factor in reaching the three percent goal. Our office also invests in meaningful training and focused outreach to educate both the Army acquisition community and SDVOSBs to maximize opportunities for SDVOSBs while delivering "best value" solutions to the warfighter.

We are proud of our accomplishments in support of the SDVOSB Program. The Army was the first Department of Defense (DoD) agency to approve a Mentor-Protégé agreement with an SDVOSB, between Oak Grove Technologies and SAIC. This relationship received the Nunn-Perry Award for excellence in the program. Three years ago, the Army founded the National Veteran Small Business Conference, which has become the largest Veteran Entrepreneur Conference in the Nation attracting more than 1300 attendees. This year the conference was cosponsored by 11 other Federal and DoD agencies, including our major partner the Department of Veterans Affairs. In an effort to train the Army leadership on the value of utilizing SDVOSBs, we recently released a senior leader training video that provides guidance on the SDVOSB procurement program and solicits their support for the program.

The Army faces unique challenges in meeting the three percent goal for awards to SDVOSBs. Although the dollars awarded to SDVOSBs and other small businesses have increased exponentially over the years, the Army's contracting base is also increasing. Much of this increase is attributable to the purchase of high dollar military hardware and services in support of the Global War on Terrorism. Also, in some instances where the Army provides direct support of domestic disaster relief missions, such as Hurricane Katrina, awards to SDVOSBs are impacted by statutory requirements to use local businesses. Additionally, mandated small business market research is forfeited for expediency to support mission requirements.

Bundling does impact contract awards to SDVOSBs and is an overall concern to the small business community. Bundling is the practice of consolidating two or more requirements for supplies or services, previously provided or performed under separate contracts by small business, into a single contract requirement likely to be unsuitable for a small business award. The potential adverse impact of this practice is significant. Due to the negative impact of bundling on small business, the Army OSBP generally opposes this practice.

While the Army has taken a proactive approach to mitigate the impact of bundling on small business, we believe that the dollar amount of realized savings required to justify bundling is unrealistically low. For example, to justify bundling a contracting officer must demonstrate a realized savings of ten percent of the estimated contract or order value if the value is $86 million or less; or five percent of the estimated contract value if the contract value exceeds $86 million.

The DoD Benefit Analysis Guidebook provides direction for avoiding or mitigating the impact of bundling, and how to a conduct benefit analysis. To supplement the DoD Benefit Analysis Guidebook, the Army OSBP published a policy letter providing direction and guidance to ensure compliance related to contract bundling and consolidation. The policy outlines the criteria for bundling and the required review procedures. It mandates coordination with the assigned small business specialist and the Small Business Administration Procurement Center Representative for review of the proposed acquisition strategy and bundling justification. More importantly, it requires the identification of alternative acquisition strategies to the proposed bundling of contracts. Written justifications are required when alternative strategies are not adopted. To verify compliance with these procedures, Army OSBP conducts program reviews of all of our buying commands. Findings are communicated and reported through Command channels for corrective action if appropriate.

When bundling is justified in accordance with the Federal Acquisition Regulation, Army OSBP takes proactive measures to advocate the interest of small business participation by facilitating partnering and teaming among small business contractors to compete for bundled contracts. The teaming strategy proved successful for a bundled requirement for ammunition when a small business team was awarded a $1.5 billion contract representing the largest small business set-aside in the history of our program. Successful practices such as this are documented and shared during small business training and on the Army OSBP website. The Army OSBP has identified teaming and partnering as a major component of the Army SDVOSB strategic plan.

In acquisitions where bundling is deemed necessary and the requirement is not likely to be awarded to a small business prime contractor, Army OSBP advocates aggressive subcontracting procedures to ensure that small businesses are provided a fair and equitable opportunity to participate in the performance of the contract. The Army OSBP reviews acquisition strategies and makes recommendations on subcontracting goals based on market research. Subcontracting requirements are incorporated into the source selection plan and evaluated as a factor for award. Many contracts include incentives, both monetary and increased contract length, for meeting subcontracting goals. These concepts have proved successful in terms of accountability and enforcement of subcontracting requirements.

Overall, while there are instances where bundling occurs and will probably continue to occur, the Army OSBP takes the necessary action to ensure that there is compliance with regulations justifying bundling. We are proactive in recommending acquisition strategies that mitigate the impact of bundling on small businesses. We are an advocate for small business and we work very closely with the acquisition community responsible for awarding contracts, to accomplish our statutory goals. The Army believes that this is a healthy relationship and the main reason why a considerable amount of requirements are committed to the small business program.

In conclusion, men and women who have served in uniform and sacrificed on behalf of our Nation deserve the opportunity to do business with the Army, Department of Defense and the Federal Government. Important to the Army, these businessowners bring unique skills and leadership vital to our success in winning the Global War on Terrorism. The Army is committed to leveraging these vital resources and remains dedicated to meeting the three percent goal for companies owned by service-disabled Veterans.

Prepared Statement of Anthony R. Martoccia, Director, Office of Small Business Programs, Acquisition, Technology and Logistics, U.S. Department of Defense

Chairwoman Sandlin, and distinguished Committee Members, I welcome the opportunity to speak with you concerning Service-Disabled Veteran-Owned Small Business (SDVOSB). The Department of Defense (DoD) is greatly indebted to the men and women who have served so valiantly to preserve the freedom of this Nation. As loyal supporters of the SDVOSB community, DoD is thoroughly committed to achieving the government-wide 3% SDVOSB prime and contracting goals. We are taking all reasonable steps to identify and enhance procurement opportunities for

SDVOSBs, and to remove obstacles hindering their participation in DoD acquisitions.

You have asked me to speak to you about how contract bundling affects SDVOSB. We believe that the impact of bundling on SDVOSB is the same as that of all the other subcategories. Thus my testimony today about contract bundling applies to SDVOSBs and applies equally to other small businesses.

When I testified recently before the Senate Committee on Small Business and Entrepreneurship, I realized, based upon the testimony of some of the other panelists, that there is a great deal of confusion about consolidation and bundling. The definitions have changed a number of times leading to this confusion. Let me take time to explain the basics of the current definitions of these concepts.

Contract Bundling and Contract Consolidation

In the mid-1990's, Congress passed several statutes requiring the government to buy products and services more efficiently. At the same time the Federal Workforce Restructuring Act led to an unprecedented downsizing of DoD acquisition personnel. As a result, DoD acquisition professionals became adept at leveraging the immense buying power of the government to enable prudent stewardship of public funds with fewer internal resources. The consolidation of several requirements into a single contract to save money and gain other benefits is one such methodology. Consolidation occurs when requirements previously performed by either large business or small business under two or more separate, smaller contracts are combined into one contract or order. Benefits of such consolidated actions must be documented, justified, and approved prior to such action being taken. Although consolidation reduces the number of available contract opportunities, consolidated actions are awarded to a small business and may even be awarded under one of the special target small business set-aside or sole source authorities. If the requirement is awarded to a small business, it is a consolidated, but not a bundled action.

Contract bundling occurs when requirements that previously were, or could have been, performed by small business are consolidated into a single procurement, resulting in an acquisition that is unsuitable for award to small business. The bundled action may be unsuitable for award to a small business due to its dollar value, geographic dispersion, technical diversity, size or specialized nature, or any combination thereof. Bundled actions not only reduce the number of available contract opportunities but displace small business as well.

Analysis When a Contract is Bundled or Consolidated

Due to its negative impact on small business, DoD has long discouraged the practice of contract bundling. Any acquisition strategy that contemplates bundling or consolidation must undergo an extremely rigorous justification and approval process prior to the action being taken. Only when the Department has determined it will derive a measurable and substantial benefit can this type of acquisition strategy be used.

The Department requires analysis of alternatives including methods for mitigating the impact on small business, even if the bundling or consolidation can be justified by its anticipated benefits. If small business prime contracting opportunities are not available, DoD acquisition professionals are obliged to develop strategies that set aggressive small business subcontracting goals, including methods for ensuring that the goals are achieved.

Things Essential for Dealing With Bundling

The Department has been monitoring data to determine the full effect of bundling and consolidation for several years. This has led us to several conclusions: (1) data must be accurate; (2) the acquisition workforce needs training on the consolidation and bundling concepts; (3) tools are needed to assist the acquisition workforce, as well as small business; and (4) small business participation must be a primary consideration in strategic sourcing. I will discuss our progress as we are attempting to address each of these areas.

Data Accuracy

The Office of Small Business Programs is working within the Department and with other Federal agencies to ensure data systems are programmed with built-in edits that will, to the degree possible, prevent the most common miscoding errors. Accurate recordkeeping is paramount. It is difficult to understand the full effect of bundling and consolidation if we cannot rely on our ability to obtain accurate data. In May of 2007 the Under Secretary of Defense for Acquisition, Technology, and Logistics issued a memorandum to the Administrator, Office of Federal Procurement Policy, Office of Management and Budget, affirming the Department's commitment to the establishment of infrastructure, policies and processes to ensure continuous improvement of data quality. DoD has dedicated a significant number of resources to ensure the successful transition into Federal Procurement Data System—Next Generation (FPDS–NG). Additionally, the DoD Office of Small Business Programs is currently developing a "Data Monitoring and Analysis Plan." The intent of the Plan is to ensure small business data is reviewed for anomalies and to perform analysis of the data.

We can already see that our Monitoring Plan will help us find and solve data problems early. For example, as a result of this initiative, OSBP recently discovered 2,066 actions in FY 2007 that were coded as bundled by one DoD agency. Further investigation revealed that all 2,066 of these actions had been miscoded as a result of issues related to migration of data into the FPDS–NG. We were pleased to facilitate a prompt correction of the data. We are encouraged by this example which demonstrates the usefulness of our Monitoring Plan even though it is still in its development stages.

Training

DoD has established a small business training program as a joint initiative between the DoD Office of Small Business Programs and the Defense Acquisition University. The Department has placed emphasis on educating the acquisition workforce in the area of bundling and consolidation during the past year and a half. In fiscal year 2006, we presented a live webcast on bundling and consolidation still available for viewing online. The Air Force has also developed an online bundling course that is available on their Web site. Additionally, we have provided train-the-trainer sessions at many conferences throughout the past two years. We plan to continue an aggressive training program in this area.

Tools

The Department is working to provide tools that will assist the acquisition workforce, further ensuring that requirements are not improperly consolidated or bundled. One such tool is the Benefit Analysis Guidebook which the DoD Office of Small Business Programs developed and posted online in 2002 to assist DoD acquisition personnel with the justification and analysis requirements necessary prior to bundling or consolidating. We are in the final stages of revising this Guidebook and will post it online soon. Additionally, OSBP is developing a Teaming/Joint Venture Guidebook as well as training to assist small businesses in pursuing larger procurements. This Guidebook and training will be available by the end of the year.

Thanks to the Small Business Administration's regulations, the DoD veteran-owned small business program is able to count the SDVOSB prime contractor work-share and also SDVOSB subcontractor work-share in the limitations in subcontracting requirement on service-disabled veteran-owned small business set-asides. For example, on a service or supply acquisition, a prime SDVOSB contractor may perform 35% of the work in-house and subcontract to several SDVOSBs who perform a total of 25% of the work, with the 40% balance of the work going to other small businesses or other-than-small businesses. The action remains a SDVOSB contract since at least 50% of the cost of personnel for contract performance (in this case 60%) is spent for employees of SDVOSB concerns. Similarly, a provision exists for the Historically Underutilized Business Zone (HUBZone) small business program. This encourages the use of SDVOSB and HUBZone set-asides on larger contracts and still preserves the integrity of the statute through support of SDVOSBs and HUBZone small business concerns.

Size Standards

The Department is optimistic that adjustment of the small business size standards will improve SDVOSBs ability to take on an even greater role in DoD procurement. The Defense Department believes that a number of size standards in critical Defense industries have not kept pace with the U.S. economy. DoD would favor the adjustment of small business size standards as needed to keep them in line with the dynamics of the U.S. economy and the U.S. military. Earlier this year DoD OSBP met with representatives from the Small Business Administration (SBA) and the Office of Federal Procurement Policy, Office of Management and Budget. All parties agreed that a comprehensive review of the size standards is needed.

Strategic Sourcing

Strategic sourcing initiatives began in the late nineties within Military Departments (MILDEPs) and Defense Agencies. Strategic sourcing is a collaborative and structured process of critically analyzing an organization's spending and using this information to make business decisions about acquiring commodities and services more effectively and efficiently. Centralization of strategic sourcing efforts began in 2004 when the Office of the Secretary of Defense created the Strategic Sourcing Directors Board (SSDB), an organization to champion defense-wide strategic sourcing efforts. In May of 2005 the Office of Management and Budget directed agency heads to identify no fewer than three commodities that could be purchased more effectively and efficiently through the application of strategic sourcing.

In 2007, the Department identified “services” as primary targets to benefit from strategic sourcing due to the growth in spend and other factors (e.g., the number of suppliers and types of commodities). Today, “services” represent over 50% of DoD’s total spend. The Department is working to ensure that strategic sourcing does not result in bundling; however, it can many times result in consolidation. Each strategic sourcing action includes a small business advocate and seeks to increase, rather than decrease, achievement of socioeconomic goals.

One such example is the Department of Navy, Clerical Support Services contracts awarded October 13, 2006. The solicitation limited competition to 8(a) small disadvantaged businesses, Historically Underutilized Business Zone (HUBZone) small business concerns, and service-disabled veteran-owned small businesses. Over 100 proposals were received and evaluated and nine contracts were awarded. Contracts were awarded to one service-disabled veteran-owned small business, one service-disabled veteran-owned small business who is also a Historically Underutilized Business Zone concern, one service-disabled veteran-owned small business who is also a woman-owned small business, one Historically Underutilized Business Zone small business who is also a veteran-owned small business, one 8(a) small disadvantaged business who is also a veteran-owned small business, three 8(a) small disadvantaged businesses who are also woman owned small businesses, and one 8(a) small disadvantaged business.

Conclusion

Today I have given a brief overview of contract bundling and the efforts taken by the Department to eliminate or lessen its effects on all small business, particularly, SDVOSBs. The Department is developing new training and guidance and implementing acquisition strategies to provide the maximum contracting and subcontracting opportunities for small business.

I will close by stating that the achievement of the 3% contracting goal for SDVOSBs has become a focus area within the DoD Office of Small Business Programs as well as the entire Departmental acquisition workforce. DoD is working aggressively to fulfill its obligation to SDVOSBs.

I welcome your questions and any comments you may have that will guide us toward working more effectively with this important segment of the small business community.

Thank you.

Prepared Statement of Scott F. Denniston, Director, Office of Small and Disadvantaged Business Utilization, U.S. Department of Veterans Affairs

Madame Chairwoman and Committee Members, thank you for convening this hearing on Contract Bundling Oversight. I am honored to represent Secretary Nicholson, Deputy Secretary Mansfield and the dedicated employees throughout the Department of Veterans Affairs who serve our veterans daily.

As you know, VA puts Veterans first! We work to ensure not only veteran-owned small businesses, but all small businesses receive the maximum practicable opportunity to participate in VA’s procurement program. This approach is an important goal of VA. To demonstrate our level of commitment we have issued a number of directives, Informational Letters (IL) and memoranda to improve opportunities for small businesses and to encourage all VA procurement officials to consider small businesses whenever possible. For example, on December 28, 2005, IL # 049–06–1, Increasing Opportunities for Awards to Veteran-Owned Small Business (VOSB) and Service Disabled Veteran-Owned Small Businesses (SDVOSB) was issued to provide guidance to contracting officers on awarding contracts to small business concerns owned and controlled by veterans and service-disabled veterans. Additionally, most recently, IL #049–07–08, Veterans First Contracting Program was issued to provide guidance to contracting officers concerning the award of contracts to VOSB and SDVOSB under Public Law 109–461, Veterans Benefits, Health Care, and Information Technology Act of 2006.

VA’s Office of Small and Disadvantaged Business Utilization (OSDBU) plays a vital role in fulfilling President Bush’s strong commitment to the small business community and the unbundling of contracts. This commitment was reinforced when VA’s OSDBU and the Office of Acquisition and Materiel Management (OA&MM) implemented the nine action items provided in the October 30, 2002, Office of Federal Procurement and Policy's report, "Contract Bundling, a Strategy for Increasing Federal Opportunities for Small Business," as follows:

1. Ensure accountability of senior agency management for improving contracting opportunities for small business.
2. Ensure timely and accurate reporting of contract bundling information through the President's Management Council.
3. Require contract bundling reviews for task and delivery orders under multiple award contract vehicles.
4. Require agency review of proposed acquisitions above specified thresholds for unnecessary and unjustified contract bundling.
5. Require identification of alternative acquisition strategies for the proposed bundling of contracts above specific thresholds and written justification when alternatives involving less bundling are not used.
6. Mitigate the effects of contract bundling by strengthening compliance with subcontracting plans.
7. Mitigate the effects of contract bundling by facilitating the development of small business teams and joint ventures.
8. Identify best practices for maximizing small business opportunities.
9. Dedicate agency OSDBU's to the President's Small Business Agenda.

Recognizing the potential impact contract bundling has on small businesses, VA took the extraordinary step of lowering its contract bundling review threshold to one half of the $2 million threshold required by the Federal Acquisition Regulation (FAR) for civilian agencies. In reviewing all acquisitions equal to or greater than $1 million, VA's OSDBU greatly increases the number of acquisitions subject to review, which provides more opportunities to scrutinize acquisitions and reduces contract bundling. A lower review threshold in VA signals a serious commitment to mitigating the effects of contract bundling on small and veteran-owned small businesses.

Contract bundling may be necessary and justified if an agency would derive a measurably substantial benefit. Measurable substantial benefits include cost savings (10% of the estimated contract, quality improvement), that will save time or enhance performance, reduction in acquisition cycle times, better terms and conditions and any other benefits. VA's justified and necessary contract bundling requirements have included eyeglasses, medical equipment, prescription medicine, professional services and prosthetic devices.

Much progress has been made since the commencement of VA's OSDBU contract bundling reviews in March 2004. Since that time, IL #049–05, Contract Bundling and Contract Bundling Reviews was issued to provide guidance on the FAR final rule for implementing contract initiatives in the VA. In response, VA's OSDBU has considered and recommended various strategies to mitigate the scope of necessary and justified contract bundling.

Since Fiscal Year (FY) 2004, VA's OSDBU has received over 1,000 acquisitions for contract bundling/small business program review. Of this number about 800 actions were determined not to be bundled actions. Approximately 36 acquisitions were determined to be necessary and justified contract bundling. The remaining 164 actions were received with inadequate justification to support contract bundling. In such cases, the acquisitions were returned to the acquisition professional after OSDBU provided assistance in developing an alternative acquisition solution that will provide maximum participation for small businesses. VA's OSDBU addressed contract bundling through three program initiatives: prime contracting reviews, subcontracting development and outreach/training.

Our prime contracting team conducts contract bundling reviews and recommends appropriate strategies such as: small business teaming, joint ventures and partnering agreements, and multiple awards on a line item and or facility basis, which may include an award by a facility. The VA Prime Vendor and Standardization Programs are cited most often as the basis for the consolidation and contract bundling. The overwhelming majority of requirements determined to be necessary and justified were based upon cost saving exceeding 10% and quality improvement of care to veteran patients. Reduction in acquisition cycle time and better terms and conditions were cited less often, as the basis for justifying contract bundling.

The prime contracts team takes a proactive role in making recommendations to VA procurement professionals to increase awards for small businesses particularly when a bundled requirement is deemed necessary and justified. For example, in a collaborative effort between VA's OSDBU and a contracting officer, a waiver for the non-manufacturer rule was obtained when market research demonstrated that no small businessmanufacturers existed for desktop and lap computers and peripheral equipment under VA's Procurement of Computer Hardware and Software (PCHS–3) solicitation. The PCHS–3 solicitation was subsequently canceled. However, this wavier created a partial SDVOSB set-aside for the re-competed Information Technology (IT) hardware and software acquisition, where in it's the absence, none would have existed. As a result of this wavier, a government-wide Solutions for Enterprise Wide Procurement (SEWP IV) contract was awarded by the National Aeronautics and Space Administration (NASA) on June 1, 2007. SEWP IV resulted in six SDVOSBs and three additional VOSBs receiving contracts. We review, modify and add to our list of recommendations of various strategies to mitigate the adverse effects of necessary and justified contract bundling.

VA's contract bundling review process also considers subcontracting when opportunities exist. Our subcontracts team plays an important role in ensuring that prime contractors' subcontracting plans are in compliance with the subcontracting program. The team reviews subcontracting plans from VA contracting activities, reviews large solicitations to ensure subcontracting opportunities exist, and recommends that small business subcontract goals be based the amount of dollars to be subcontracted. In addition, the team provides subcontract training to VA procurement professionals and prime contractors on a continual basis, requests conference calls and meetings with large prime contractors, assists prime contractors in locating various small business concerns and provides large businesses with electronic tools such as our Vendor Information Page (VIP) to locate VOSB and SDVOSB. This team also provides information to large businesses about where they can advertise subcontracting opportunities.

As an example, in support of VA's Loan Guaranty Program our subcontracting team partnered with program officials to coordinate outreach sessions around the country for potential small businesses interested in subcontracting. Our subcontracts team was instrumental in providing small business concerns assistance with subcontracting opportunities for this acquisition by posting information about these outreach sessions on VA's website. A contract valued at $90 million was awarded to Ocwen to manage all VA's Real Estate Owned Properties (REO) throughout the United States, and its territories for the life of the contract.

Since the inception of the REO contract with VA, Ocwen has shown progressive improvement in 3 socioeconomic categories. In FY 2006, alone Ocwen subcontracted 100% or $75.4 million to small businesses. The goal for veteran-owned small business was 7% and they attained 9.62% or $7.2 million. Also, Ocwen surpassed the 3% goal by attaining 3.32% or 2.5 million for subcontracting with SDVOSB.

Outreach/training is critical since it provides guidance, information and training to small business and the veteran's community. Our outreach/training team conducts monthly face-to-face vendor counseling sessions as well as attends a wide variety of tradeshows and conferences to provide outreach assistance to small businesses. Additionally, OSDBU works with local VA procurement professionals to ensure coverage at conferences in the local areas and provides educational material to assist small businesses who contact us by letter, electronically, or telephonically. Also, VA conducts unique events for specific contract opportunities. These industry day events are acquisition specific conferences and are conducted to disseminate information to small businesses. Examples of industry days are: VA's PCHS–3 and VA's Vocational Rehabilitation and Employment Services acquisition. I have included a chart with the results of the industry events as an attachment to my statement for the record.

We believe these efforts are starting to pay dividends as evidenced by increases in VA's FY 2006 socioeconomic accomplishments in nearly all small business categories. VA was successful in achieving and exceeding all of the statutory goals as well as VA Secretary's Small Business Program Goals for FY 2006 to Small Business, Small Disadvantaged Business, Women-Owned Small Business, Service Disabled Veteran-Owned Small Business and HUBZone. A chart highlighting VA's socioeconomic accomplishments for FY 2003–2006 is provided as an attachment, to my written statement for the record.

Madame Chairwoman, let me say that I appreciate what each of you on this Subcommittee is doing to improve economic opportunities for ALL VOSBs. Thank you again for convening today's hearing. I will submit my written statement for the record. I welcome your interest and I am prepared to answer any questions that you or the Members may have.

VA's Socioeconomic Accomplishments

FY 2003–2006

Abbreviations

FY = Fiscal Year, SB = Small Business, SDB = Small Disadvantaged Business, WOSB = Women-Owned Small Business, VOSB = Veteran-Owned Small Business, SDVOSB= Service-Disabled Veteran-Owned Small Business

FY	SB	SDB	WOSB	VOSB	SDVOSB	HUBZone
2003	31.83%	8.55%	3.83%	3.08%	0.49%	3.00%
2004	28.53	9.27	4.48	4.13	1.25	3.10
2005	27.82	9.49	5.29	4.92	2.09	3.59
2006	29.45	8.85	5.00	6.49	3.39	3.28

FY 2003 accomplishments collected from the OSDBU's final report of 12/8/2003.
FY 2004 accomplishments collected from the OSDBU's final report of 2/2/2005.
FY 2005 accomplishments collected from the OSDBU's final report of 1/12/2006.
FY 2006 accomplishments collected from the OSDBU's final report of 3/9/2007.

Statement of John R. Wheeler,
Executive Vice President, Veteran Corps of America

Chairwoman Sandlin, Ranking Member Boozman and distinguished Members of the Subcommittee, I am pleased to have the opportunity to make this statement regarding contract bundling as it relates to the so called "rule of two" and the impact that it has on Service Disabled Veteran Owned Small Businesses (SDVOSB).

Under the sole source provisions of FAR 19.14, The Service-Disabled, Veteran-Owned Small Business Procurement Program, a contract can only be awarded to an SDVO company without competition if, "two or more SDVO SBCs are not likely to submit offers," and then only if the requirement is valued at less than $3M for services and $5M for products. While some mistakenly believe that this requirement is good for SDVOs because it gives them the ability to compete on any SDVO requirement and thus promotes competition, in practice the effect of the ?rule of two' is to require the time and cost of a full competitive procurement process, even if limited to SDVO companies, and includes the potential of a lengthy bid protest and delay in delivery of goods or services to the end user.

The 8(a) Program does not have a similar 'rule of two' requirement and thus a Contracting Officer's first choice will be to make a sole source award to an 8(a) company as procedurally it helps them perform their function faster and more efficiently where contracting with an SDVO company does not. Therefore, in reality, the "rule of two" does not promote competition as most likely a contract under the $3M/$5M thresholds will be awarded without competition to an 8(a) firm and no SDVO will have the opportunity to compete or participate.

The ability to award sole source contracts has been the cornerstone of the government's success in developing a supplier base of socially and economically disadvantaged companies and exceeding their contracting goals with 8(a) firms. The program is successful because these businesses are able to more quickly gain the resources necessary to develop and maintain corporate infrastructure and capability. SDVO firms deserve at least the same procurement advantages that others enjoy in the Federal Procurement System.

On June 20, 2007 Public Law 109–461, the Veterans Benefits, Health Care and Information Technology Act of 2006 became effective. This legislation gave the Department of Veterans Affairs additional procurement tools to enable them to much more easily contract with service-disabled veterans. Simply stated, at the VA service-disabled and veteran-owned companies are now at the top of the contracting ladder and the "rule of two" has been eliminated. Now, if an SDVO can perform a requirement under $5M it can easily be sole sourced to them if they are a responsible contractor and propose a fair and reasonable price.

I thank you again for this opportunity to appear before you today. This concludes my testimony and I welcome your questions today or in the future.

POST–HEARING QUESTIONS AND RESPONSES FOR THE RECORD

Committee on Veterans' Affairs
Subcommittee on Economic Opportunity
Washington, DC
October 30, 2007

Anthony R. Martoccia
Director of the Office of Small Business Programs
U.S. Department of Defense
Crystal Gateway North
Suite 406—West Tower
201 12th Street South
Arlington, VA 22202

Dear Mr. Martoccia:

Please review and respond to the enclosed hearing questions by the close of business on November 30, 2007. These questions are in reference to our House Committee on Veterans' Affairs Subcommittee on Economic Opportunity oversight hearing on "Contract Bundling" on July 26, 2007.

In an effort to reduce printing costs, the Committee on Veterans' Affairs, in cooperation with the Joint Committee on Printing, is implementing some formatting changes for material for all Full Committee and Subcommittee hearings. Therefore, it would be appreciated if you could provide your answers consecutively on letter size paper, single-spaced. In addition, please restate the question in its entirety before the answer.

Please provide your response to Ms. Orfa Torres by fax at (202) 225–2034. If you have any questions, please call (202) 225–3608.

Sincerely,

Stephanie Herseth Sandlin
Chairwoman

Questions from Hon. Stephanie Herseth Sandlin, Chairwoman, Subcommittee on Economic Opportunity, Committee on Veterans' Affairs, to Anthony R. Martoccia, Director, Office of Small Business Programs, Acquisition, Technology and Logistics, U.S. Department of Defense

Question #1: ***Total Contracts Awarded***

Question: What is the number of the total contracts awarded to small businesses?

Answer: A total of 238,040 basic contracting actions were awarded by the Department to small businesses in FY06. Specifically, DoD reported the award of 13,842 indefinite delivery vehicles (which include indefinite delivery/indefinite quantity contracts, basic ordering agreements and blanket purchase agreements); 13,371 definitive contracts; and 210,827 purchase orders to small businesses.

The specific number of subcontract awards can not be ascertained from existing Federal databases or systems. The Federal Funding Accountability and Transparency Act of 2006 (FFATA), Public Law 109–282, directs the Office of Management and Budget to oversee the creation of a single comprehensive searchable Web site that will provide public access to information about Federal expenditures. In September of 2007, FFATA was amended to establish a pilot program to test the collection and accession of subcontract award data. This pilot program will end January 1, 2009. It is our belief that once the pilot program has ended and the new data retrieval system becomes operational, information regarding the specific number of subcontract awards can be obtained at that point, in conformance with FFATA.

Question #2: ***Prime Contracts***

Question: How many prime contracts have been awarded to small businesses?

Answer: A total of 238,040 basic contracting actions were awarded by the Department to small businesses in FY06. Specifically, DoD reported the award of 13,842 indefinite delivery vehicles (which include indefinite delivery/indefinite quantity contracts, basic ordering agreements, and blanket purchase agreements); 13,371 definitive contracts; and 210,827 purchase orders to small businesses.